

Protocol 2

Councillor/Officer Relations

1. Introduction

Context

1.1 Mutual trust and respect between councillors and officers is at the heart of the council's governance arrangements. An effective partnership between councillors, and officers is a key element of a successful and high performing council.

Purpose of Protocol

1.2 The purpose of this protocol is to:

- ~~to~~ outline the essential elements of the relationship between councillors and officers;
- promote the highest standards of conduct;
- clarify roles and responsibilities;
- ensure consistency with the law, codes of conduct and the council's values and practices; and
- identify ways of dealing with concerns by ~~members~~ councillors or officers.

1.3 This protocol is for the guidance and assistance of councillors and officers. Any queries about its content or application should be referred to the monitoring officer.

2. Principles

- 2.1 Councillors (including co-opted members) and officers shall observe this protocol at all times.
- 2.2 There shall be mutual courtesy and respect between councillors and officers with regard to their respective roles as set out below.
- 2.3 Councillors and officers shall each carry out their respective responsibilities in the best interests of the council, ~~and in accordance with the key values set out in appendix 1 {One Council One Culture – What will we be like?}.~~
- 2.4 The roles and responsibilities of councillors and officers are distinct yet complementary. Councillors are accountable to the electorate for the performance of the council's statutory functions. Officers are accountable to the council as a whole. Their job is to give advice to ~~members-councillors~~ (individually and collectively) and to carry out the council's work under the direction of the council.
- 2.5 This protocol supports the council's codes of conduct for councillors, ~~members~~ and officers. The council's 'Code of Conduct for Members of Wiltshire Council' is set out in Part 13 of the constitution. ~~adopts the statutory code and includes in its preamble the 10 general principles governing councillors' conduct.~~ The Human Resources 'Code of Conduct for Officers' is set out in Part 16 of the constitution and forms part of an officer's contract of employment. ~~Both Codes are set out in the constitution.~~

2.6 Breach of this protocol may result:

- in the case of a councillor / co-opted member, in a complaint to Wiltshire Council's Standards Committee under the members' Code of Conduct for Members;
- in disciplinary action in the case of an officer.

3. The role of councillors

3.1 Councillors have a number of specific roles, which are set out in detail in Part 12 of the constitution - Roles and Responsibilities of Councillors ~~the councillors' job description. A copy is included in the council's constitution.~~

3.2 Collectively, councillors are the ultimate policy-makers, determining the core values of the council and approving the council's policy framework, strategic plans and budget.

3.3 Councillors represent the community and its constituents, act as community leaders and as the link between them and the council. This includes performing a key role as a member of their local area board.

3.4 Some councillors will have additional roles specific to their position as members of the ~~c~~Cabinet, or overview and scrutiny or other committees of the council.

3.5 Some councillors may be appointed to represent the council on local, regional or national bodies- see further at section 13 below.

3.6 Councillors must respect the impartiality of officers.

3.7 Councillors must promote the highest standards of conduct and will have regard to the council's Behaviours Framework in carrying out their role. -

3.8 Councillors act collectively as the employer of officers.

3.9 Councillors must seek the advice of the monitoring officer and the chief finance officer if they have any concerns about whether the council is acting outside its statutory powers, maladministration, financial impropriety and probity, or whether any decision is or is likely to be contrary to the budget and policy framework.

4. The role of officers

4.1 Officers are employed by the council. They are therefore accountable to the council as a whole - not to individual councillors. There will, however, need to be special relationships between individual councillors and individual officers and these are dealt with specifically under section 6 of this protocol.

4.2 Officers are responsible for giving professional advice to members and for implementing lawful decisions of the council.

4.3 Officers must act impartially at all times and must not allow their professional judgement and advice to be influenced by their own personal views.

4.4 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for ~~members~~councillors, the media or other sections of the public.

4.5 Officers must act in accordance with the Officers' Human Resources Code of Conduct and the Council's Behaviours Framework.

5. Relationship between councillors and officers - general

5.1 The relationship between councillors and officers should be characterised by mutual trust and respect.

5.2 Close personal familiarity between individual members and officers can harm professional relationships and prove embarrassing to other councillors and officers. Situations should be avoided that could give rise to suspicion and any appearance of

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conduct, or the perception that a ~~member~~councillor and officer treat each

other differently from others due to the nature of the personal relationship between them.

5.3 Councillors should not raise matters relating to the conduct or capability of officers either individually or collectively at meetings held in public or in the press. Officers have no means of responding to criticism like this in public. If councillors feel that they have not been treated with proper respect, courtesy or have any concern about the conduct or capability of an officer they should raise the matter with the service director of the department concerned if they are unable to resolve it through direct discussion with the officer – see further at section 15 below.

5.4 Councillors will not publish any material which is derogatory of officers generally, or specific individuals, whether directly or through their agents or political groups.

5.5 What can councillors expect from officers?

- a commitment to the council as a whole and not to individual political groups;
- a working partnership;
- a timely response to enquiries and complaints – (see Appendix 1.2)
- objective, professional advice not influenced by political views or preference;
- integrity, support and confidentiality appropriate to the situation;
- being kept up to date on local issues;
- compliance with the Human Resources 'Officers' Code of Conduct.

5.6 What can officers expect from councillors?

- political leadership and direction;
- a working partnership;
- compliance with the 'Code of Conduct for Members';
- distance from day to day management of the council;
- no improper influence or pressure to gain special treatment for themselves or others;
- recognition of the duty to promote the health, safety and well-being of officers.

6. Relationship between councillors and officers - specific

6.1 Special relationships will exist between certain councillors and officers because of their specific roles. These relationships nevertheless remain subject to the obligations set down in this protocol.

6.2 Members of the cCabinet and the cCorporate Leadership Team will have a distinct and special relationship. In particular the relationship between the leader and the chief executive corporate directors will be key to the success and culture of the council.

6.3 Officers and councillors must ensure that appropriate consultations are undertaken before reports are prepared for decision, either by cabinet or by individual cabinet members under delegated powers.

6.4 Within overview and scrutiny there are two aspects of relationship between members-councillors and officers:

- the relationship between councillors and officers who support the overview and scrutiny function. Councillors lead the scrutiny function. Officers brief scrutiny members, but the decision to pursue any particular issue rests with councillors.
- officers who are asked to attend scrutiny committees or task groups as a witness or special adviser should be treated with respect. They may be expected to answer

questions on the professional advice given to the ~~f~~Full ~~c~~Council ~~or~~ ~~c~~Cabinet in relation to policies and decisions but must not be expected to give a political view. The arrangements for attendance of cabinet members and senior officers at overview and scrutiny meetings to give account are contained in the overview and scrutiny procedure rules ~~within in Part 8 of~~ the constitution.

6.5 Officers may also be ~~called to give evidence asked to speak~~ at a meeting of an area board. Partner organisations such as the police, ~~health and PCT~~, fire, are also likely to be ~~questioned on asked about~~ the provision of local services. In the spirit of partnership working it is important that both officers and the representatives of partner organisations are treated with respect, and from a community perspective it is important that the relationship between ~~members~~councillors, officers and partners is seen to be constructive, with everybody working together and in the same direction.

7. General support to councillors

7.1 Appendix ~~two~~1 summarises the support and facilities provided for councillors at Wiltshire Council and in their constituencies.

8. Support to specific councillors

8.1 To recognise the full-time nature of the role of leader and cabinet members, PA support will be provided, to include diary management and research support in connection with cabinet business.

8.2 PA support will also be provided to the chairman and vice-chairman of the council in recognition of their civic responsibilities.

9. Support to political groups

9.1 Political groups may request private and confidential briefings on matters of policy ~~and factual evidence~~ which are or may become the subject of discussions by the ~~f~~Full ~~c~~Council or ~~c~~Cabinet or any committee.

9.2 The request should be submitted to the ~~chief executive corporate director designated as the liaison officer for the political groups~~, who will discuss it with the appropriate officer. Attendance must be authorised by ~~the chief executive a corporate director~~. If authorised the leaders of all political groups should be notified and a similar briefing offered.

9.3 The briefing should not extend beyond providing information and advice.

9.4 For the avoidance of doubt group meetings cannot make decisions on behalf of the council and it is essential that they are not acted upon as such. Nor does such a briefing negate the need to ensure that all necessary advice and information is provided to the decision-making body when the matter is formally considered.

9.5 Requests for briefings may be declined where these are to take place in premises which are not owned or controlled by the council or where persons who are not members of the council will be present.

9.6 Accommodation for use by political groups will be provided together with reasonable photocopying, postage and ICT facilities. Such use must be in connection with council business.

10. Members' access to information

10.1 This part of the protocol should be read in conjunction with the access to information procedure rules in ~~Part 5 of~~ the constitution and any guidance issued by the monitoring officer.

10.2 Councillors are entitled to see copies of any agenda for meetings of the ~~c~~Cabinet, and of ~~Protocol 2~~ of which they are not appointed members. Councillors' rights to information

are subject to legal rules and, if members have a legitimate interest in a matter in their role as a member of the council, officers should provide the relevant information (including confidential information) to them.

10.3 Councillors should seek advice from the monitoring officer in circumstances where they wish to inspect any document or have access to information about a matter:

- in which they may have an ~~an prejudicial~~ interest; or
- where to do so would be in breach of the Data Protection Act 1998;

10.4 If councillors are not receiving, or are having difficulty in obtaining, information which they feel they need or to which they are entitled to carry out their duties as ~~members-councillors~~ they should contact the monitoring officer for advice.

10.5 Information given to a ~~member-councillor~~ must only be used for the purpose for which it was requested. Councillors and officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so. A councillor must seek the advice of the monitoring officer before disclosing information given in confidence, ~~in order that the councillor can be advised on whether such disclosure would be:~~

- ~~• reasonable and in the public interest~~
- ~~• made in good faith~~
- ~~• in accordance with the reasonable requirements of the council.~~

10.6 Councillors will be informed of local issues in accordance with Protocol 1 of the constitution - ~~the Briefing and Information for Local Members, Protocol, annexed to the constitution.~~

11. Media relations

11.1 Councillors are referred to the Wiltshire Council 'Media Relations Protocol' ~~annexed to at Protocol 7 of~~ the constitution.

12. Use of council resources

12.1 Councillors and officers must comply with the council's policies and requirements concerning the use of its resources, including in particular its ~~'ICT Acceptable Usage Policy', 'E-mail, Internet and Computer Use Policy.~~

12.2 Councillors must not use the council's resources improperly for political purposes (including party political purposes) and shall have regard to the local authority code of recommended practice on publicity annexed to the Media Relations Protocol. Councillors should seek advice from the monitoring officer where clarification is necessary.

13. Representation on external organisations _____

13.1 Councillors are referred to Protocol 3 – Guidance to Councillors on Outside Bodies.

13.2 A councillor appointed to represent the council on an external organisation shall take care to establish the legal status of the appointment and the potential liabilities that may be involved before confirming acceptance. Councillors should seek the advice of the monitoring officer if they have any concerns or are unclear about the nature of such appointments.

13.2 Councillors appointed to represent the council on external organisations shall establish relevant council policy on issues arising in those bodies and shall act in accordance with that policy when engaged in discussions and decision-making.

13.3 Where a ~~councillor member~~ acts as a representative of the council on another relevant authority ~~he or she must comply with the other authority's code of conduct.~~ When acting as a representative of the council on another body, the councillor must comply with the council's Code of Conduct for Members, unless it conflicts with lawful obligations of the other body.

14. Access to premises

14.1 If councillors wish to visit council establishments, other than ~~Bythesea Road and the~~ main area hub offices, they should contact the relevant director or head of the establishment in advance to make the necessary arrangements.

15. How to resolve issues

15.1 Councillors and officers are encouraged to work together and seek to resolve any differences informally, by discussing any concerns at the earliest opportunity.

15.2 If a councillor feels that they have not been treated with proper respect, courtesy or they have any concern about the conduct or capability of an officer, or that an officer has acted in breach of this protocol, they may raise the matter with the individual's service director. If the matter cannot be resolved informally, any such referral will be processed in accordance with the council's employment procedures and policies. The councillor and the officer will be kept informed of progress with the complaint and the action to be taken. An individual councillor does not have the power to discipline any officer.

15.3 If an officer feels that a councillor has acted in breach of this protocol, they should raise the matter with their service director. The service director should discuss the matter informally with the councillor. If the matter is not resolved the officer may refer the issue to the monitoring officer and the corporate director designated as the liaison officer for political groups for consideration and discussion with the appropriate group leader. The officer and councillor will be kept informed throughout.

15.4 In relation to the process in paragraph 15.3 above regard should be had to paragraph 3.1 of the council's arrangements for dealing with complaints under the code of conduct, which requires any complaint to be made within 20 working days of the date on which the complainant became aware of the matter giving rise to the complaint.

15.4 The use of mediation may be considered at any stage as a means of resolving the matter informally.

15.5 If the matter cannot be resolved informally the officer may bring a complaint against the councillor under the Members' Code of Conduct.

~~15. Further advice and complaints~~

~~15.1 Any particular cases of difficulty or uncertainty arising under this protocol should be raised with the monitoring officer who will advise how to proceed.~~

~~15.2 Where a councillor or officer considers that there has been a breach of this protocol a complaint may be made to the monitoring officer who will determine how the complaint should be handled.~~