

**Wiltshire Council
Constitution
Protocol 1
Member-Officer Relations**

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PROTOCOL 1 - MEMBER-OFFICER RELATIONS

1. Introduction

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

2. Purpose of Protocol

2.1 The purpose of this protocol is to:

- 2.1.1 outline the essential elements of the relationship between Members and officers;
- 2.1.2 promote the highest standards of conduct;
- 2.1.3 clarify roles and responsibilities;
- 2.1.4 ensure consistency with the law, codes of conduct and the council's values and practices; and
- 2.1.5 identify ways of dealing with concerns by Members or officers.

2.2 This protocol is for the guidance and assistance of Members and officers. Any queries about its content or application should be referred to the Monitoring Officer.

3. Principles

3.1 Members (including co-opted members) and officers shall observe this protocol at all times.

3.2 There shall be mutual courtesy and respect between Members and officers with regard to their respective roles as set out below.

3.3 Members and officers shall each carry out their respective responsibilities in the best interests of the council.

3.4 The roles and responsibilities of Members and officers are distinct yet complementary. Members 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 (individually and collectively) and to carry out the council's work under the direction of the council.

3.5 This protocol supports the council's codes of conduct for Members and officers. The council's Code of Conduct for Members of Wiltshire Council is set out in Part 12 of the constitution. The Human Resources Code of Conduct for Officers is set out in Part 15 of the constitution and forms part of an officer's contract of employment.

3.6 Breach of this protocol may:

- 3.6.1 in the case of a Member / co-opted member, result in a complaint under the Code of Conduct for Members;
- 3.6.2 result in disciplinary action in the case of an officer.

4. The role of Members

4.1 Members have a number of specific roles, which are set out in detail in Part 11 of the constitution - Roles and Responsibilities of Members.

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

4.3 Members are community leaders representing their division and its residents and forming the link between them and the council. This includes performing a key role as a member of their local Area Board.

4.4 Some Members will have additional roles specific to their position as members of the cabinet, or members of overview and scrutiny or other committees of the council.

4.5 Some Members may be appointed to represent the council on local, regional or national bodies- see further at section 14 below.

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

4.7 Members act collectively as the employer of officers.

4.8 Members must seek the advice of the Monitoring Officer and the Chief Finance Officer if they have concerns about any of the following:

- 4.8.1 whether the council is acting outside its statutory powers,
- 4.8.2 maladministration, financial impropriety and probity
- 4.8.3 whether any decision is or is likely to be contrary to the budget and policy framework.

5. The role of officers

5.1 Members must respect the impartiality of officers. Officers are employed by the council, they are therefore accountable to the council as a whole, not to individual Members. There will, however, need to be special relationships between individual Members and individual officers and these are dealt with specifically under section 7 of this protocol.

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

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

5.4 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive. Officers must be aware of the implications for the council and its Members, and for the community as a whole.

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

5.6 Officers cannot be required to, and must not undertake, work of a political nature.

6. Relationship between Members and officers – general

6.1 The relationship between Members and officers should be one of mutual trust and respect.

6.2 Close personal familiarity between individual members and officers can harm professional relationships and prove embarrassing to other Members and officers. Situations should be avoided that could give rise to the suspicion or appearance of any improper conduct, or the perception that a Member and officer treat one another differently from others due to the nature of a personal relationship between them.

6.3 Members 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 such criticism in public. If Members feel that they have not been treated with proper respect, and courtesy or have any concern about the conduct or capability of an officer and are unable to resolve it through direct discussion with the officer they should raise the matter with the relevant Director concerned – see further at section 16 below.

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

6.5 What can Members expect from officers?

6.5.1 a commitment to the council as a whole and not to individual political groups;

6.5.2 a working partnership;

6.5.3 objective, professional advice not influenced by political views or preference;

6.5.4 integrity, support and confidentiality appropriate to the situation;

6.5.5 being kept up to date on local issues;

6.5.6 compliance with the Human Resources Code of Conduct

6.5.7 a timely response to enquiries and complaints

6.5.8 Emails and telephone calls:

- will be acknowledged within two working days of receipt, giving details of an alternative contact if the officer concerned is absent from the office;
- a substantive response will be provided within ten working days of receipt. If that is not possible an explanation will be given as to the reason for the delay, what action is being taken, and when a response will be sent.

6.6 What can officers expect from Members?

- 6.6.1 political leadership and direction;
- 6.6.2 a working partnership;
- 6.6.3 compliance with the Code of Conduct for Members and observance of the roles and responsibilities of Members as set out at Part 11 of the Constitution;
- 6.6.4 distance from day to day management of the council;
- 6.6.5 no improper influence or pressure to gain special treatment for themselves or others;
- 6.6.6 recognition of the duty to promote the health, safety and well-being of officers;
- 6.6.7 respect for the impartiality of officers.

7. Relationship between Members and officers – specific

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

7.2 Members of the cabinet and the corporate leadership team will have a distinct and special relationship. In particular, the relationship between the Leader and the Chief Executive and Corporate Directors will be key to the success and culture of the council.

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

7.4 Within overview and scrutiny there are two aspects of the relationship between Members and officers:

- 7.4.1 the relationship between Members and officers who support the overview and scrutiny function. Members lead the scrutiny function. Officers brief scrutiny members, but the decision to pursue any particular issue rests with Members;
- 7.4.2 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 full council or 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 to give account at overview and scrutiny meetings are contained in the overview and scrutiny procedure rules in Part 8 of the constitution.

7.5 Officers may also be asked to speak at a meeting of an Area Board. Partner organisations such as the police, health and fire, are also likely to be 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, officers and partners is seen to be a constructive one, with all parties working together harmoniously.

8. Support and facilities for all Members

8.1 The Democratic Services team can offer or facilitate support in the following areas:

8.1.1 Following an election, an IT induction will be arranged and equipment will be issued. Through an authorised broadband connection, Members will have the means to gain secure remote access to the Council's Network.

8.1.2 Following the Member induction programme, Members will be offered a personal development discussion which will enable them to discuss their training needs and find out about what training and development is available.

8.1.3 All Members are entitled to a basic allowance to cover the costs of being a Member. Expenses can also be claimed for travel and subsistence and should be submitted in a timely manner in accordance with the Members' Allowance Scheme. Details of allowances and expenses are set out in the Members Allowances scheme within Part 13 of the Constitution.

8.1.4 Secretariat:

- Keeping Members up-to-date with diary changes;
- Booking onto any sessions from the Member Development Programme;
- All Members' conference arrangements including booking of places, hotel reservations, train tickets and arrangements for other transport;
- Monitoring and maintaining individual Members' registered interests on the council's web-site;
- Members' briefings with key information and details of delegated decisions, links to minutes and agenda for forthcoming meetings;
- A Member's intranet page with links to committee dates, planning applications, highways works and training opportunities;
- invites to relevant training sessions and events;
- Informing Members of post for their collection at Council hubs.

8.1.5 Members will also be provided with:

- An identity badge;
- A pass card to gain entry to the main offices;
- A general retiring lounge know as 'the members room';
- Resources in accordance with the Council's digital programme;
- Car parking whilst attending official meetings.

8.1.6 The Democratic Services staff will, subject to resources being available, support Members in their community leadership roles. This could include:

- Assisting Members in providing a two-way link between the council and the community;
- Supporting the representational role of Members;
- Arranging for office facilities to be made available.

8.2 Members will arrange any surgeries they wish to hold for their residents, using libraries and area hub offices where appropriate

9. Support to specific Members

9.1 In recognition of 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.

9.2 PA support will also be provided to the Chairman and Vice-Chairman of the Council in recognition of their civic responsibilities.

9.3 There will also be specific accommodation provided for the Leader, the Cabinet and the Chairman of the Council.

10. Support to political groups

10.1 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 full council or cabinet or any committee.

10.2 The request should be submitted to the Chief Executive, who will discuss it with the appropriate officer. Attendance must be authorised by the Chief Executive.

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

10.4 For the avoidance of doubt, group meetings cannot make decisions on behalf of the council and decisions made at such meetings are political decisions of the group and are not to be acted upon by officers. Such a briefing does not negate the need to ensure that all necessary advice and information is provided to the decision-making body when the matter is formally considered.

- 10.5 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.
- 10.6 Accommodation for use by political groups will be provided together with ICT facilities and resources to support the Council's digital programme. Such use must be in connection with council business.
- 10.7 Each political group will have a group room and access to a docking station for a laptop, printer, telephone and photocopying facilities for use in connection with council business
- 10.8 No dedicated support is provided to group leaders but photocopying can be provided in connection with group business at an agreed cost and correspondence/communications can be sent with official council communications.

11. Members' access to information

- 11.1 As set out in Part 11, Members fulfil many roles and have a varied range of responsibilities. To assist them with these a wide range of information is readily available to all Members through the following sources, including:
- 11.1.1 Members Elected wire – regular email;
 - 11.1.2 Member briefing notes sent out on specific issues;
 - 11.1.3 Email notification of agenda and delegated decisions;
 - 11.1.4 Electronic subscription services for all council papers;
 - 11.1.5 Electronic subscription services for all council press releases;
 - 11.1.6 Parish council newsletter;
 - 11.1.7 Community Area Joint Strategic Assessments providing facts and figures on the local area.
- 11.2 Officers should ensure Members are informed as appropriate on matters relating to their local division. This includes representations on local issues, where it appears the Member has not already been informed.
- 11.3 Where there are planned initiatives or changes to service provision by partners, which relate to one or a small number of electoral divisions, officers should inform the local division Member. This includes, but is not limited to, the following circumstances:
- 11.3.1 Forthcoming local consultations to be carried out by the council;
 - 11.3.2 Localised issues that may be identified to be subject to scrutiny or review;
 - 11.3.3 Sale of land and/or property owned by the council;
 - 11.3.4 Planned demolition of property, extension or renovation;
 - 11.3.5 Enforcement action: such as action taken by trading standards;

- 11.3.6 Schools being put into special measures;
- 11.3.7 Awards gained by services or facilities that are specific to a local area;
- 11.3.8 Speed restrictions and highways works;
- 11.3.9 Research or statistics on the electoral division.

- 11.4 In most cases an email is an appropriate form of communication, however in other circumstances officers should give consideration to other forms of briefing - such as face to face, online or over the phone.
- 11.5 Officers should rapidly alert local Members to urgent issues affecting local services or facilities, such as unplanned work to public buildings or roads that has not been previously programmed and notified (in such cases a phone call may be more appropriate than other forms of communication such as email). Similarly, the council may be notified at short notice by partner agencies on changes to services (such as a temporary reduction in police staffing) or on the work of statutory undertakers. It is important to inform local Members of any changes affecting their electoral division in particular as soon as realistically possible.
- 11.6 When Members are kept informed on local issues, they are far better equipped to be proactive in handling local issues and in responding to individuals or interest groups on a particular matter. It is the responsibility of each Head of Service to ensure that all relevant staff are aware of the requirement to keep local Members informed and the timely provision of such information allows members to respond appropriately and to contribute to relevant decisions. Local members must also be kept informed about matters affecting their division during the formative stages of policy development, about matters considered by committees of the Council and about any significant operational matters within their local divisions as soon as realistically practical.
- 11.7 All officers will have regard to the Area Boards and delegated decisions checklist to ensure local Members and Area Boards are involved in decisions on local services. The cabinet paper checklist also includes consultation with local Members. In ensuring Members are kept appropriately informed officers should also be mindful of Part 3 of the constitution which covers the scheme of delegation; Part 5 which covers the access to information procedure rules and the Media Relations Protocol. Awareness of this requirement will be supported through relevant training and guidance for officers.
- 11.8 Members have a right to inspect any Council document which contains material relating to any business which is to be transacted by the Council; this right applies irrespective of whether the Member is a member of the relevant Committee or sub-committee.
- 11.9 Members will be entitled to see confidential or exempt information provided that they can demonstrate to the Monitoring Officer, or their representative, that this is

reasonably necessary in order to properly perform their duties as a Member. Any such information provided to a Member must only be used in connection with the proper performance of their duties.

- 11.10 If Members 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 they should contact the Monitoring Officer for advice.
- 11.11 Information given to a Member must only be used for the purpose for which it was requested. Members 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 Member must seek the advice of the Monitoring Officer before disclosing information given in confidence
- 11.12 Heads of Service should ensure that all their members of staff are aware of the requirements within this guidance.
- 11.13 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.

12. Media relations

- 12.1 Members are referred to the Wiltshire Council Media Relations Protocol at Protocol 7 of the constitution.

13. Use of council resources

- 13.1 Members and officers must comply with the council's policies and requirements concerning the use of its resources, including in particular its E-mail, Internet and Computer Use Policy.
- 13.2 Members 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. Members should seek advice from the Monitoring Officer where clarification is necessary.

14. Representation on external organisations

- 14.1 Members are referred to Protocol 3 – Guidance to Members on Outside Bodies.
- 14.2 A Member 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. Members should seek the advice of the Monitoring Officer if they have any concerns or are unclear about the nature of such appointments.

14.3 Where a Member acts as a representative of the council on another body, the Member must comply with the council's Code of Conduct for Members.

15. Access to premises

15.1 If Members wish to visit council establishments, other than the main area hub offices, they should contact the relevant Director or head of the establishment in advance to make the necessary arrangements.

16. How to resolve issues

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

16.2 If a Member 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 relevant 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 Member and the officer will be kept informed of progress with the complaint and the action to be taken. An individual Member does not have the power to discipline any officer.

16.3 If an officer feels that a Member has acted in breach of this protocol, they should raise the matter with their relevant Director. The relevant Director should discuss the matter informally with the Member. If the matter is not resolved the officer may refer the issue to the Monitoring Officer and the relevant Corporate Director for consideration and discussion with the appropriate group leader. The officer and Member will be kept informed throughout.

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

16.5 If the matter cannot be resolved informally the officer may bring a complaint against the Member under the Members' Code of Conduct. The guidance for this process is found under Protocol 12.

Schedule 1 - Supplementary Guidance

Members' Access to Confidential and Exempt (Part II) Information

1. This guidance is issued by the Monitoring Officer pursuant to paragraph 11.13 of Protocol 1 of the Council's Constitution (Member-Officer Relations) to assist members in relation to their access to confidential and exempt information, also referred to as Part II information.
2. This guidance should be read in conjunction with the [Access to Information Procedure Rules](#) in Part 5 of the Constitution and the procedural rules governing the publication of meetings of committees that are, in part, held in private.
3. Paragraph 4 of Part 5 of the Constitution defines confidential and exempt information ('Part II information') as follows:

14. Exclusion of Access by the public to meetings

Confidential information – requirement to exclude public

14.1. The public shall be excluded from meetings during an item of business whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

14.2. Confidential information means information given to the Council by a government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by court order or under any enactment.

Exempt information – discretion to exclude public

14.3. The public may be excluded from meetings during an item of business whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

14.4. Exempt information means information falling within the following seven categories (subject to any condition):

14.4.1 information relating to any individual

14.4.2 information which is likely to reveal the identity of an individual

- 14.4.3 *information relating to the financial or business affairs of any particular person (including the authority holding that information)*
- 14.4.4 *information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority*
- 14.4.5 *information in respect of which a claim to legal professional privilege could be maintained in legal proceedings*
- 14.4.6 *information which reveals that the authority proposes:*
- (a) to give under any enactment a notice by virtue of which requirements are imposed on a person, or*
- (b) to make an order or direction under any enactment.*
- 14.4.7 *information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.*

14.5. *Information which falls into paragraphs 14.4.1 to 14.4.7 above is only exempt if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.*

14.6. *Information is not exempt information if it relates to proposed development for which the local planning authority can grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.*

14.7. *Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.*

In the interests of openness and transparency the council will seek to ensure that as much information as is appropriate is published in the open part of the agenda and that the requirements in paragraph 3 above are applied strictly in determining what information should be contained in Part II.

4. The agenda for a meeting should explain why information is to be considered wholly or partly in Part II of the agenda.

Access by a Wiltshire Council Member

5. If you are a member of the cabinet or a committee and an agenda for a forthcoming meeting contains Part II information you should automatically be able to access that information via the [intranet](#).

6. If you are accessing the agenda via the ModGov app on either a tablet or laptop, you will need to ensure that your device is registered to access Part II information. If you are uncertain if your device is so registered, please contact committee@wiltshire.gov.uk.
7. In relation to executive business members are entitled to any document in the possession or under the control of the Leader of the Council which contains material relating to:
 - 7.1 any business to be transacted at a public meeting;
 - 7.2 any business transacted at a private meeting;
 - 7.3 any decision made by an individual member; or
 - 7.4 an executive decision made by an officer

unless it contains exempt information falling within paragraphs 18.1, 18.2, 18.3 (but only to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract), 18.4, 18.5, and 18.7 of the categories of exempt information; or it contains the advice of a political adviser.

'Private Meeting' means a meeting, or part of a meeting, of the decision-making body during which the public are excluded in accordance with relevant statutory provisions ie formal meetings of Cabinet

8. This means that if a member is not a member of the cabinet or a committee whose agenda contains Part II information, they will not automatically be able to access that information.
9. A member is required by law to demonstrate a 'need to know' confidential and/or exempt information before it is released to that member. On the matter of what is reasonable, in *City of Birmingham v O 1983*, the Court allowed a member to see the adoption files of a particular child, as they had genuine concerns about the implications of this adoption and it would have been the responsibility of the council as a whole, if it had gone wrong. Therefore, although the member concerned was not on the adoption committee, they did have a legitimate reason for wanting to see the file. This shows that members will be able to demonstrate that they meet the legal test, provided they can show that they have a 'bona fide and reasonably based concern' about the issue.
10. By convention Wiltshire Council deems that certain roles held by members do generally require access to Part II information to enable them to discharge their role properly, and in most instances members holding these roles will have access to any Part II information published with an agenda.

These roles are:

- 10.1 Chairman of the Overview and Scrutiny Management Committee;
- 10.2 Chairman of a relevant Overview and Scrutiny Select Committee;
- 10.3 Political Group Leaders.

11. If a member believes that they are entitled to have access to Part II

documentation on an agenda, for example as a local member or some other position, or they are otherwise able to demonstrate a 'need to know' they should submit a request for access via the named officer on the front of the agenda giving reasons in support of their 'need to know'. The request should be submitted at the earliest opportunity in advance of the meeting and will be determined by the Monitoring Officer or his nominee.

12. Any information provided to a Member must only be used in connection with the proper performance of their duties.

13. Any queries relating to this subject or guidance should be directed to:

Perry Holmes (Monitoring officer) or Frank Cain (Deputy Monitoring officer)
(perry.holmes@wiltshire.gov.uk and frank.cain@wiltshire.gov.uk)