



# **Part E**

# **Protocol for Council Member/ Staff Relations**

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## **1. Underlying principles**

**1.1** A good working relationships between members and employees is essential to the successful working of the Council.

**1.2** The protocol aims to support this relationship by setting out respective roles and expectations and by giving guidance on what to do on the occasions when things go wrong.

**1.3** This protocol is part of the Council's ethical and corporate governance framework. It sits alongside the Codes of Conduct by which members and officers are bound, contractual requirements for staff, the Anti-Fraud and Corruption Policy and the Whistle Blowing Policy.

**1.4** Co-opted independent members of the Standards Committee and the Harbour Management Board are expected to abide by this protocol in the same way as elected members.

## **2. The roles of members and employees**

**2.1** The roles and responsibilities of Council members and employees are interdependent but distinct. Members serve for a specified term of office. They determine the policy of the Council and provide leadership. Employees are employed by, and responsible to, the Council. Their job is to give advice to members and the Council, and to implement the Council's decisions and policies.

**2.2** Employees do not make policy although they can propose it. In the main, members work at the strategic level and should not involve themselves in the day-to-day management of the Authority.

**2.3** The Council has agreed 'skill profiles' which set out the roles and responsibilities for its members both generally and when they occupy particular positions, such as a committee chair or briefholder. These profiles are available on the intranet or from Democratic Services. Where members have additional responsibilities, through their appointed position, this is recognised in the expectations they are entitled to have in their relationship with employees.

**2.4** Certain officers, e.g. Head of Paid Service (the Chief Executive), Monitoring Officer (the Head of Governance) and the Section 151 Officer (the Chief Finance Officer and currently the Deputy Chief Executive) have responsibilities in law over and above their obligations to the Council and individual members which they must be allowed to discharge. These duties are set out in Part A of the Council's Constitution.

### **3. Expectations**

The Council has agreed values and behaviours which set out what members and employees should, and should not expect from one another

#### **What members can expect from employees:**

- Using their knowledge, skills and expertise to deliver the best services possible
- Listening to views and trying their best to understand and solve problems
- Taking responsibility for problems and getting back to people when they say they will
- Being honest about what they can and can't do
- Giving a balanced view with all the facts
- Being courteous, respectful and helpful
- Recognition of councillors' areas of expertise

#### **What members should not expect from employees:**

- Giving excuses not reasons
- Not responding in a polite and timely way to queries and complaints
- Making assumptions and not checking them out
- Being secretive and withholding information
- Being patronising or condescending
- Discrimination of any sort

#### **What officers can expect from members:**

- Being courteous, respectful and supportive
- Being challenged in a constructive way at the right time and place
- Listening and understanding

#### **What officers should not expect from members**

- Inappropriate level of challenge in public meetings without prior discussion
- Bullying
- Blaming
- Criticising in public
- Discrimination of any sort

#### **4. The relationship between members and employees**

**4.1** The relationship between members and employees should be characterised by mutual trust and respect which is essential to good local government.

**4.2** Members should not expect employees to change their professional advice nor take any action which the employee considers unlawful or illegal or which would amount to maladministration or breach of a statutory code of conduct. Where a member disagrees with the recommendation of an employee this should be expressed in such a manner as not to criticise the employee personally at meetings held in public or in the media.

**4.3** Members should consult with the Monitoring Officer and the Chief Finance Officer about legality, maladministration, financial impropriety and probity or where they have any doubts as to whether the particular decisions were or are likely to be contrary to the policy framework or budget.

#### **Working within agreed plans and policies**

**4.4** In seeking advice and support members should have due regard to the seniority of the employees with whom they are dealing and the fact that while those employees owe duties to the Council as their employer, such duties are first stated contractually to their respective manager and the Chief Executive.

**4.5** Employees are required to work to deliver policies and plans agreed by the Council and nationally. Difficulties can arise when it is not understood that employees must work to the instructions of their senior officers, not individual members of the Council, or groups of members, whatever office they may hold.

**4.6** Difficulties can also arise when members are carrying out their legitimate role as advocates for constituents who are in dispute with the Council. Where members of the public are pursuing a formal complaint against the Council (whether through the Council's own procedure or the Local Government Ombudsman) any member making enquiries should be fully briefed on progress of the complaint. The member should then inform the complainant that no further action can be taken until the process has been concluded. In exceptional cases it will be necessary to apply the Council's

policy for persistent and vexatious complainants. In those circumstances all members will be informed and should not enter into any communication regarding the particular complaint with the persistent complainant.

A copy of the Councils' Policy for persistent and vexatious complainants is on the intranet or available from the Customer Contact Centre Manager.

### **Close personal relationships between members and employees**

**4.7** Members and employees should recognise that giving the appearance of close personal familiarity could undermine public confidence in the Council. It is acknowledged however that close relationships between members and employees will develop from time to time. It is important that such relationships are declared in confidence to the Chief Executive and Group Leader. Where possible members and employees who have close personal relationships should avoid placing themselves in a position where they would come into regular contact on projects and in the day to day business of the Council.

## **5. Dealing with the private interests of members and employees**

**5.1** The Codes of Conduct emphasise the need for both members and employees to avoid behaviour which could be viewed as attempting to use their position improperly to secure an advantage (or a disadvantage) for themselves or anyone else.

### **Private interests of members:**

**5.2** Members need to take particular care when their paid employment or their business interests or the business interests of family members or close associates brings them into contact with officers. Members are required to record some (but not all) business interests in the register of members' interests which is available to view on the council's website at <http://www.weymouth.gov.uk/home.asp?sv=118>

**5.3** Where a member has a significant business or private relationship with a constituent on whose behalf he or she is seeking information an appropriate option may be for another ward member to act for that constituent.

**5.4** On occasion members, or their family members or close associates, will have personal business with the Council (for example a planning or licensing application) and the member concerned will want to obtain information or check progress of that business.

**5.5** Particular care needs to be taken in such cases so as not to appear to compromise the impartiality of officers and to ensure that their own and the Council's reputation for fair and transparent dealing with the public is maintained. The test for members should be – would I need to declare an interest if this business was being considered at committee?

**5.6** Where a member with a business or private interest is dealing with council officers they should:

- Clearly state their interest from the outset. This should be recorded in writing
- Ensure that whenever they approach officers the officer concerned is clear in what capacity the member is acting i.e. as a private individual or as a councillor
- Deal with officers at an appropriate level of seniority, this will usually be Service Manager or above
- Not make unannounced visits to front line services, instead contact the relevant Service Manager in advance to arrange a suitable time to make enquiries about their business
- Follow any Council procedures in the same way as would be required for any other member of the public

**Private interests of employees:**

**5.7** Issues relating to the appointment, management and dismissal of most officers are reserved by law to the Chief Executive and officers appointed by him or her. Member involvement in employment issues generally, including where they relate to senior officers is set out in the Local Authorities (Standing Orders) (England) Regulations 2001 and within the Council's constitution.

**5.8** Where an employee is also a constituent it may be proper for the member to make written/oral representations to the relevant Service or General Manager, or disciplinary hearing, but the member should not take a proactive part representing or in any other way advocating on behalf of any such employee in any disciplinary procedures brought by the Council against the employee.

Members should not:

- Seek to influence individual staffing matters other than as set out in 5.8 above

Employees should not:

- Seek to circumvent agreed staff disciplinary, or grievance procedures before their conclusion by lobbying members on matters which directly concern them as employees

## **6. Equalities**

**6.1** All employees and members are required to:

- Promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion;
- Work towards eliminating unlawful discrimination; and
- Promote good relations between persons of different genders, racial groups, religious beliefs and sexual orientation

**6.2** If a member has a disability this may make it harder for them to carry out their duties and may place greater demands on them. Employees must recognise this and be prepared to make reasonable adjustments to the way they usually do business and give that member additional support to enable him or her to function at the same level as other members. Democratic Services will produce written advice for officers based on the specific member and disability concerned, having first discussed this with the member and having obtained his or her consent.

**6.3** Members also need to be prepared to make reasonable adjustment to the way in which they work with employees who have a disability.

## **7. Employee relationships with party groups**

**7.1** It must be recognised by all employees and members that in discharging their duties, employees serve the Council as a whole and not exclusively any political group, combination of groups, or any individual members.

**7.2** Employees may properly be called upon to give factual information and/or professional advice to the party groups but must at all times maintain political neutrality. All employees must, in their dealings with political groups and individual members, treat them in a fair and even handed manner.

**7.3** The support provided by employees can take many forms, ranging from a briefing with, the leaders of the party groups, or chairs of committees, to a presentation to a full party group meeting.

**7.4** Any request for advice given to a political group or member will be treated with strict confidence by the employee concerned and will not be accessible to any other party groups. Factual information upon which any advice is based will, if requested, be available to all political groups.

**7.5** When attendance is requested for party group meetings:

- (i) The request to attend a group meeting must be made through the Chief Executive;
- (ii) Unless otherwise agreed by the Chief Executive, no employee will attend party group meetings or be present at purely party political discussions;
- (iii) Such a request can only be made in relation to Council business. Any information or advice given by the officer which would come within the usual definitions of confidentiality for Council purposes will not be given in the presence of non-Council members;
- (iv) The attendance must be reported to the next meeting of the Management Committee

**7.6** Employees must respect the confidentiality of any party group discussions at which they are present.

## **8. Members access to documents and information**

**8.1** Members are free to approach any Council service to provide them with such information, explanation and advice (about that service's functions) as they may reasonably need in order to assist them in carrying out their role as members of the Council. The member should allow a reasonable time for the employee to respond making clear any unusual time constraints or urgency. Enquiries can range from a request for general information about some aspect of a service's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the appropriate Service Manager concerned or a person nominated by her/him for the purpose. In cases of doubt, Democratic Services will be happy to channel the request to the appropriate employee. Members should not however put undue pressure on employees to release information and documents to which they are not entitled to have access. (see below).

**8.2** Members have a statutory right under the Local Government Act 1972 to inspect any council document which contains material relating to any business which is to be transacted at a Council, committee or sub-committee meeting. This right applies irrespective of whether the member is a member of the committee or sub-committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. There is a presumption that, except in the case of reports which contain confidential personal information about employees or other persons, reports which are exempt from publication to the public are made available to members on request. In certain rare cases the Monitoring Officer, after consulting the relevant committee chair and briefholder, may advise that the

content of the report is of such a confidential nature that the request should be declined. Reasons for this must be given to the member concerned.

**8.3** The common law right of members is much broader and is based on the principle that any member has a right to inspect Council documents so far as this is reasonably necessary to enable the member properly to perform his/her duties as a member of the Council. This principle is commonly referred to as the "need to know" principle.

**8.4** The exercise of this common law right depends therefore upon the member's ability to demonstrate that he/she has the necessary "need to know". In this respect a member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". The Monitoring Officer is the officer responsible for determining these questions (with an appeal to the Chief Executive).

**8.5** In most circumstances (eg a member wishing to inspect documents relating to the functions of a committee on which they are a member) a member's "need to know" will normally be presumed. In other circumstances (eg a member wishing to inspect documents which contain personal information about third parties or commercially sensitive information while negotiations are still ongoing) a member would be expected to justify the request in writing in specific terms.

**8.6** Any Council information provided to a member must only be used by the member for the purpose for which it was provided i.e. in connection with the proper performance of the member's duties as a member of the Council.

**8.7** A member is not entitled to inspect any document or have access to any information about a matter in which they have a prejudicial interest or where to do so would be in breach of any statutory provision. The duty for members to maintain confidentiality is set out in the Code of Conduct for Councillors

## **Keeping ward councillors informed**

**8.8** One of the key roles of councillors is to act as representatives of their communities. To properly fulfil this role councillors need to be kept informed about matters of significant interest to their ward. The duty to consult with ward councillors is set out in Part C of the constitution

## **9. Working relationships with Chairs and Briefholders**

**9.1** It is clearly important that there should be a close working relationship between the chair of a committee or a Briefholder and the General Manager, Service Manager and other senior officers of any service which provides support to that committee or briefholder. However, such relationships should never become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with issues, with other members, and with

other party groups, nor to undermine public trust and confidence in the Council.

**9.2** A General/Service Manager will always be fully responsible for the contents of any report submitted in his/her name, and even if the Chair/Briefholder is unhappy with its contents, it should not be amended other than with the express approval of that officer. However a Chair/Briefholder is entitled to have his/her comments, clearly shown as such, contained in the report.

**9.3** It is important to remember that the law and the Constitution only allows for decisions (relating to the discharge of any of the Council's functions) to be taken by the Council itself, the Management Committee a regulatory Committee or an officer with delegated powers.

**9.4** Under the scheme of delegation to officers, members should be clear that the final decision rests with the officer rather than a member who is consulted under the scheme and that the officer has a duty to the whole Council rather than to an individual member.

**9.5** Finally, it must be remembered that officers are accountable to their Service Manager, General Manager, and ultimately to the Chief Executive, and that whilst officers should always seek to assist a Briefholder or committee chair and any other member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their General Manager or under the scheme of delegations.

## **10. Public relations and press releases**

**10.1** By law the Council is prohibited from publishing material which appears to be designed to affect public support for a political party. No publicity, whether external or internal may be written in party political terms, use party slogans, expressly advocate policies of a particular party or directly attack policies and opinions of other parties, groups or individuals. Except where a party representative is conveying necessary information as to the stance of his or her party group, references to the party political membership of a member contributing to such publicity should be avoided. Care will be needed to distinguish between promoting a party political policy of the Government in power yet acting in the interests of the Borough's residents.

**10.2** In the period immediately leading up to an election (known as the 'purdah' period) particular care should be taken to ensure that Council publicity or Council communications media are not used in a manner which could be construed as promoting any candidate or party political stance. During the purdah period no Council publicity should promote or oppose matters which are controversial in party political terms, or should identify issues and views with individual members or groups

**10.3** Whilst individual members are free to contact the press at any time they think fit, they should abide by the Code of Conduct in doing so, by

treating others with respect, by not disclosing information obtained in confidence, and by not doing or saying anything which could reasonably be regarded as bringing the member's office or the Council or the Council's employees into disrepute.

**10.4** Both members and employees should seek to ensure that they are identified by name in any statement they make to the media concerning Council business.

**10.5** More detailed procedures for dealing with the press are set out in the Media Protocol available on the intranet or from Corporate Communications.

## **11. When things go wrong**

**11.1** From time to time the relationship between members and employees may break down or become strained. Whilst it will always be better to resolve matters informally this Protocol sets out procedures for dealing with complaints by both members and employees.

### **Members with a complaint**

**11.2** If a member believes that he/she has not been treated with proper courtesy, that there has been any other breach of the Protocol by an Officer, or has a concern about the conduct or capability of an Officer, this should be raised with the relevant Service Manager or General Manager.

**11.3** If this does not resolve the complaint to the satisfaction of the member concerned then the complaint should be referred to the Chief Executive who will look into the matter afresh and provide the member with a written response.

**11.4** If the Chief Executive believes that there is a case to answer he/she may determine the action to be taken which might include the Council's formal disciplinary procedures. If the Officer concerned is the Chief Executive then the Member should raise the matter with their Group Leader, who should initially discuss the issue with the Chief Executive.

**11.5** Members should inform the Standards Committee by completing a complaint form if they reasonably believe another member has broken the Code of Conduct. Where member's conduct is considered inappropriate, and a member believes that there has been a breach of this or any other Protocol by another member, which falls short of a breach of the Code of Conduct, they should refer the matter to the Chief Executive or the Monitoring Officer.

**11.6** If a member feels that an employee is in breach of the employees' Code of Conduct they should refer the matter to the Monitoring Officer.

## **Officers with a complaint**

**11.7** If an officer feels that he/she has not been treated with respect or is concerned about any action or statement relating to him/herself or a colleague by a member, or conduct of a member, he/she should raise the matter with his/her Line Manager.

**11.8** The Line Manager should discuss the matter with his/her Service/General Manager with the aim of resolving the complaint informally. If the complaint cannot be resolved in this way and the General Manager considers it to be sufficiently serious the General Manager will, in consultation with the Monitoring Officer, endeavour to resolve the matter by meeting with the member concerned, and where appropriate, the member's group leader. The employee making the complaint may also attend this meeting, but need not do so.

**11.9** If there is a serious case to answer, the Service Manager, General Manager, or employee concerned after informing the Chief Executive, may submit a formal Code of Conduct complaint to the Standards Committee.

**11.10** Where an officer or member is concerned about potential unlawful conduct of an officer or member, the Council's Whistleblowing Policy is also available.

**11.11** If an employee feels that a Member is in breach of the members' Code of Conduct, they should refer the matter to the Monitoring Officer.

## **12. Review and monitoring**

**12.1** The Standards Committee will review the content and operation of this protocol from time to time and in any event every 3 years. Any suggestions for revisions and refinements should be passed to the Monitoring Officer or Chief Executive who will bring them forward to the Standards Committee at the appropriate time.

**Glossary of terms to be completed)**

Monitoring Officer  
S151 Officer  
Head of Paid Service  
Constitution  
Maladministration  
Policy Framework  
Probity