



# Draft Members' and Officers' Protocol

## Swanage Town Council

### 1. Introduction

The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council. It supports both the Members' and Officers' Codes of Conduct, the latter forming part of the Council's adopted Staff Handbook.

This protocol does not seek to be comprehensive, but provides guidance on some of the issues that most commonly arise. It is hoped that the approach that it adopts to these issues will serve as a guide to dealing with other circumstances.

If this protocol is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members. It will also help to maintain and enhance the integrity of local government, which demands the highest standards of personal conduct.

### 2. The Relationship: General Points

While Members and Officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve as long as their term of office lasts. Members are responsible for setting policy.

Officers are accountable to the Council as a corporate body. 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.

Member/Officer relationships are to be conducted in a positive and constructive way. The Council's adopted Codes of Conduct provide that Members and Officers must treat each other with respect, acknowledging the roles and duties of each other. In line with this, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position.

Members must respect the impartiality and integrity of all the Council's Officers. Similarly, all Officers must respect the role of Members as elected representatives. It must be recognised by all Officers and Members that, in discharging their duties and responsibilities, Officers serve the Council as a corporate body and not exclusively any political group, combination of groups or any individual Member of the Council.

Informal and collaborative two-way contact between members and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection. It is not enough to avoid impropriety. Members and Officers should always be open about their

relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived.

Inappropriate relationships can be inferred from language and style. To protect both Members and Officers, Officers should address Members at all formal meetings as Councillor xxx and Chair save where circumstances clearly indicate that a level of informality is appropriate. Similarly when addressing Officers at formal meetings of the Council, Members should address Officers by their post title.

A Member should not raise matters relating to the conduct or capability of an Officer at meetings held in public. This is a long-standing convention in public service. An Officer has no means of responding to such criticisms in public. If a Member feels 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 Town Clerk.

Members and Officers should respect each other's free (i.e. non-Council) time, and avoid any communication outside of office hours wherever possible, except in the case of an emergency. Agenda papers may be sent to official councillor e-mail addresses out of hours in order to comply with statutory deadlines.

### **3. The role of Members and Officers**

Members have the following main roles:

- Determining the core values of the Council and approving the authority's policy framework, strategic plans and budget.
- Monitoring and reviewing the performance of the Council in implementing that policy and delivering services.
- Balancing different interests identified within the community and representing the community as a whole.
- Acting as advocates on behalf of their constituents and the wider community.
- Promoting the social, economic and environmental well-being of the community, often in partnership with other agencies.

Members need to be alert to the potential for conflicts of interest which may arise between their various roles. Where such conflicts are likely, members may wish to seek the advice of senior colleagues, the Town Clerk and/or Dorset Council's Monitoring Officer.

Officers have the following main roles:

- Initiating policy proposals.
- Implementing agreed policy, managing and providing Council services and being accountable for the efficiency and effectiveness of those services provided.
- Providing professional advice to the Council and individual members.
- Ensuring the Council always acts in a lawful manner.

Day to day managerial and operational decisions should remain the responsibility of the Town Clerk and other Officers at all times.

## **4. Officer Support to Members**

Support provided by Officers can take different forms, ranging from the normal briefing with a Chairperson prior to a meeting to responding to telephone queries. Such support is available to all Members regardless of political affiliation and will be available to all political groups should they become formalised in the future. When support such as this is given, both Members and Officers should understand that it must not extend beyond providing information and advice in relation to matters of Council business; Officers should not be involved in advising on matters of party business.

In some town councils it is common practice for political groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. This is not presently the case at Swanage. However, should this situation arise, Officers may properly be called upon to support and contribute to such deliberations by political groups but they must at all times maintain political neutrality. All Officers must, when dealing with political groups and individual Members, treat them in a fair and even-handed manner.

In giving advice to Members and in preparing and presenting reports, it is the responsibility of the Officer to express his/her own professional views. Members should not seek to pressure the Officer to make a recommendation contrary to the Officer's professional view because of their wish to express a contrary view.

The Town Clerk and RFO has certain statutory roles which need to be understood and respected by all Members. Members must respect these statutory obligations, must not obstruct the Town Clerk in the discharge of his/her responsibilities and must not victimise him/her for discharging his/her responsibilities.

It must be remembered that Officers employed by the Town Council are accountable to their line manager and ultimately the Town Clerk and that whilst Officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their line manager or Town Clerk. Except when the purpose of an enquiry is purely to seek factual information, Members should normally direct their requests and concerns to the Town Clerk, at least in the first instance.

Officers will do their best to give timely responses to Members' enquiries. However, Officers should not have unreasonable requests placed on them. Their work priorities are set and managed by the Town Clerk. Members should avoid disrupting Officers' work by imposing their own priorities.

## **5. Support Services to Members and Political Groups**

The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, IT, parking permit etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity, or for private purposes.

## **6. Officer/Chairperson Relationships**

It is important that there should be a close working relationship between the Chairperson of a meeting and the Officers who report to or interact with that meeting. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other political groups.

In relation to action between meetings, it is important to remember that the Council's decision-making structure only allows for decisions relating to the discharge of any of the Council's functions to be taken by a meeting or an Officer. There is no allowance for such decisions to be taken by a Chairperson or indeed by any other single Member.

At some meetings, a resolution may be passed which authorises a named Officer/names Officers to take decisions or actions between meetings in consultation with the Chairperson and/or specified Member(s). It must be recognised that it is the Officer(s), rather than the Chairman and/or Member(s), who makes the decision or takes the action and it is the Officer or Officers who is/are accountable for it. Standing Order 25 provides for Members undertaking certain actions, but only following the resolution of a Council or committee meeting.

## **7. Members' Access to Information and to Council Documents**

Members are free to approach Officers to ask for information. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.

While any Member may ask a relevant Officer for written factual information about a service, such requests must be reasonable. Requests will be met, subject to any overriding legal considerations (such as the Data Protection Act), unless the recipient of any request considers the cost of providing the information requested or the nature of the request to be unreasonable. If that is the case, the Officer will raise the matter with the Town Clerk who will discuss the issue with the Member.

As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by common law. The common law right of Members is based on the principle that any Member has a prima facie right to inspect Council documents so far as his/her access to the document 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.

The exercise of this common law right depends, therefore, upon an individual Member being able to demonstrate that s/he 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". Disputes as to the validity of a Member's request to see a document on a need to know basis will be determined by the Town Clerk.

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. This point is emphasised in the Code of Conduct for Members.

## **8. Access to Premises**

Officers have the right to enter Council land and premises to carry out their work.

Members have a right of access to Council land and premises to fulfil their duties, although in accordance with Standing Order 25, unless authorised by a Resolution, no Councillor shall on behalf of the Council inspect any land and/or premises which the Council has a right or duty to inspect.

When making visits as individual Members, Members should:

- a. whenever practicable, notify and make advance arrangements with the appropriate manager or officer in charge;
- b. comply with health and safety, security and other workplace rules;
- c. not interfere with the services or activities being provided at the time of the visit.

## **9. Correspondence**

Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Member, but this should be the exception rather than the norm. Letters that, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

Correspondence between an individual Member and an Officer should not be copied to another Member unless the author expressly intends and states that this is the case or consents. Where correspondence is copied, this should always be made explicit, i.e. there should be no blind copies.

When writing in an individual capacity as a Member, the author must make clear that fact.

## **10. Communication with Press and Media and Use of Social Media**

The Council's preferred method of communication is via its own website, social media accounts, newsletter and press releases. Members are free to provide information to the press and media on an individual basis, but when doing so should make clear in what capacity they are acting. The Council's established procedure is that official communications should be made via the offices of the Town Clerk, particularly with regard to matters relating to Council policy.

## **11. The Council as Employer**

Officers are employed by the Council as a corporate body.

Members' roles are limited to:

- a. the participation of nominated committee chairmen in the appointment of specified posts within the management team;
- b. the mayor, deputy mayor and chair of the Personnel Committee in the annual appraisal of the Town Clerk;

- b. determining human resources policies and conditions of employment;
- c. hearing and determining appeals.

If participating in the appointment of officers, members should:

- a. remember that the sole criterion is merit
- b. never canvass support for a particular candidate
- c. not take part where one of the candidates is a close friend or relative
- d. not be influenced by personal preferences
- e. not favour a candidate by giving him/her information not available to the other candidates.

## **12. Interpretation, Complaints and Allegations of Breaches**

Members or officers with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Town Clerk.

A member who is unhappy about the actions taken by, or conduct of, an officer should:

- a. avoid personal attacks on, or abuse of, the officer at all times
- b. ensure that any criticism is well founded and constructive
- c. never make a criticism in public
- d. take up the concern with the officer or his/her line manager privately.

If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the member should raise the issue with the Town Clerk.

A serious breach of this protocol by an officer may lead to an investigation under the Council's disciplinary procedure. Any action taken against an Officer in respect of a complaint, will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures, set out in the Staff Handbook.

An officer who believes a Member may have acted other than in accordance with this protocol should raise their concern with the Town Clerk, who will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than approaching the individual Member and/or informally referring the matter to the mayor and deputy mayor. More serious complaints may involve alleged breaches of the members' code of conduct and consequently be referred to the Monitoring Officer.

## **13. Conclusion**

Mutual understanding, openness and basic respect are the greatest safeguard of the integrity of the Council, its Members and Officers.