

# **TEWKESBURY BOROUGH COUNCIL**

## **PROTOCOL FOR MEMBER / OFFICER RELATIONS**

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## **1. PURPOSE AND STATUS**

- 1.1 It is vital to the reputation of the Council as a whole that the Codes of Conduct for Councillors and for Officers are not only followed but are seen to be followed. The partnership between Members and Officers is demonstrably based on mutual respect and all should aspire to the highest standards of ethical behaviour. Compliance with the Council's Protocol for Member/Officer Relations is critical to meeting this aspiration.
- 1.2 The Protocol for Member/Officer Relations, whilst not legally prescriptive, will be relevant in judging compliance with the Codes of Conduct. Compliance with the Protocol will ensure that all Members are able to receive objective and impartial advice from politically independent staff who are not subjected to any undue influences.
- 1.3 This Protocol does not seek to be either prescriptive or comprehensive but offers guidance on some of the situations which most commonly arise. It is expected that the approach that it adopts to these issues can be adapted to any situation.

## **2. THE MEMBER/OFFICER RELATIONSHIP**

### **GENERAL PRINCIPLES**

- 2.1 Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and they serve only as long as their term of office lasts. Officers are responsible to the Council. Their role is to give advice to the Councillors and the Council and to carry out the Council's work under the direction and control of the Council and its Committees/Working Groups.
- 2.2 The duties and responsibilities of Members and Officers are different, albeit complementary; however both are bound by the same framework of statutory powers and duties. Furthermore, it is fundamental to the efficient and effective operation of the Council that each understands the limits of their respective roles and that neither asks the other to step beyond those limits.
- 2.3 All Members and Officers have certain basic responsibilities and obligations. There are, however, some Members and Officers who, either because of statute, tradition or decisions of the Council, have extended roles and additional responsibilities. Some Members hold positions of responsibility such as the Leader and Deputy Leader of the Council, the Mayor (Chair of Council), Chairs and Vice-Chairs of Committees/Working Groups, Lead Members and Political Group Leaders. The Statutory Officers are the Head of Paid Service, the Finance Officer and the Monitoring Officer whose roles are defined by statute and within the Council's Constitution.
- 2.4 Members and Officers will:
- a. deal with one another without discrimination;
  - b. observe normal standards of courtesy in their dealings with one another;
  - c. not take unfair advantage of their position;
  - d. promote a culture of mutual respect;
  - e. communicate clearly and openly, avoiding ambiguity and opportunities for misunderstandings;
  - f. work together to convert core values and priorities into practical policies for implementation for the benefit of the community;
  - g. observe the 'Advice for Council Members and Officers During the Pre-Election Period'; and
  - h. refer any observed instances of inappropriate behaviour as necessary (2.23 and 2.24).
- 2.5 Members must not be personally abusive to, or derogatory of, Officers in any correspondence, or during any meeting or discussion, in particular when this takes place in public, whether or not that individual is in attendance. Members should not raise matters relating to alleged misconduct or incapability of an Officer at meetings of the Council, Committee or any other public forum. If a Member feels that he/she has not been treated properly by, or has a concern or complaint about, the conduct or capability of any Officer he/she should raise those concerns in accordance with the provision in Paragraph 2.25 below.

- 2.6 Whilst normal, friendly working relationships between Members and Officers are to be encouraged, close personal familiarity or personal contact of an inappropriate nature between individual Councillors and Officers can harm this relationship, can prove embarrassing to other Councillors and Officers and can damage the public perception of the integrity and objectivity of the organisation, and should be avoided.

### **MUTUAL RESPECT**

- 2.7 Mutual respect and trust between Members and Officers of the Council is essential to good local government and will generate an efficient and unified working organisation. It is important that there are close working relationships between senior Officers and senior Councillors. However, such relationships should never be allowed to become so close, or appear to be close, so that the ability of an Officer to deal impartially with other Members or Political Groups is questioned.

### **ROLE OF MEMBERS**

- 2.8 Members have a complex role, requiring them to act simultaneously in the following capacities:-

- 2.8.1 As Council/Committee Members – in this capacity Members will provide leadership and will take personal, individual and collective responsibility for the authority's decisions and activities. Members have responsibility for the performance, development, continuity and overall wellbeing of the organisation.
- 2.8.2 As Representatives – in this capacity Members interpret and express the wishes of the electorate and are accountable to the electorate for service priorities, allocation of resources and ultimate performance.
- 2.8.3 As Politicians – in this capacity Members may belong to a Political Group represented on the Council and, if so, may express political values and support the policies of the Group to which they belong.

- 2.9 Officers can expect Members to:-

- Provide leadership.
- Take corporate responsibility for policies and other decisions made by the Council.
- Prepare for formal meetings by considering all written material provided in advance of the meeting.
- Leave day to day managerial and operational issues to Officers.
- Adopt a reasonable approach to awaiting Officers' timely responses to calls/correspondence (2.12.6) and not to undertake a proliferation of calls/correspondence designed to elicit an urgent response to a matter which is not of an urgent nature. Members are not entitled to demand urgent responses to correspondence/calls unless the subject matter is deemed by the Officer to be urgent. Any dispute as to urgency should be referred to the Officer's Manager.

- 2.10 It is permissible and sensible for Members to seek straightforward factual information from Officers, and to enquire as to technical or professional matters of appropriately qualified Officers whose duties include advising Members. However, anything contentious, or any matter requiring a complex opinion, a value, or a judgement, should be directed to the Chief Officer or head of the relevant service. Member Services are happy to signpost Members to the correct area as necessary to ensure that queries are resolved.
- 2.11 Members must, when serving on the Council's Planning and Licensing Committees, observe the Protocol for Councillors and Officers involved in the Planning Process and The Licensing System, Protocol and Procedures respectively.

### **ROLE OF OFFICERS**

- 2.12 Officers of the Council have, in broad terms, the following main roles:
- 2.12.1 To manage the services for which the Council has given them responsibility. They are accountable for the efficiency and effectiveness of those services and for proper professional practice in discharging their responsibilities.
  - 2.12.2 To be professional advisors to the Council, its political structures and Members in respect of their service and, as such, their professionalism should be respected.
  - 2.12.3 To initiate policy proposals as well as implementing the agreed policies of the Council.
  - 2.12.4 To ensure that the Council always acts in a lawful manner.
  - 2.12.5 To advise Members on issues and business of the Council.
  - 2.12.6 Members can expect Officers to:
    - maintain due confidentiality;
    - perform their duties to the best of their ability;
    - behave in a professional manner;
    - be helpful and respectful to Members; and
    - respond in a timely manner to telephone calls, email correspondence etc.
- 2.13 Officers are accountable to their Chief Officer or head of their service and whilst Officers should always seek to assist any Member, they should not go beyond the limit of the authority given to them by their Manager.
- 2.14 In their dealings with the public, Officers should be courteous at all times and act with efficiency and timeliness.
- 2.15 In advising Members of the Council, Officers should be able to give honest and impartial advice without fear or favour from Members. It follows that they must serve all Members, not just those of any majority Political Group, and must ensure that the individual rights of all Members are respected. The support provided by Officers can take many forms, ranging from briefing an individual Member on a particular issue to, on occasions, a presentation to the Council.

- 2.16 An Officer should respect a Member's request for confidentiality when dealing with any legitimately delicate matter. Any written reply to a Member where confidentiality is requested in such circumstances should not be copied to any other Member without the original Member's permission, or in order to comply with an unavoidable legal or professional obligation.

### **Officers' Attendance at Political Group Meetings**

- 2.17 In order to ensure that their political neutrality is not compromised Officers must not, in their capacity as Council employees, attend meetings of Political Groups unless the occasion has been specifically authorised by the Chief Executive. Any request for Officer support should therefore be made to the Chief Executive in advance of any meeting. Such support should be available to all Political Groups. Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of Political Group business. Officers must not be invited to be present at meetings, or parts of meetings, when matters of Political Group business are to be discussed. Where a Political Group shares alternative proposals for advice, e.g. the budget, the Officer should treat this as confidential.
- 2.18 Where Officers provide information and advice to a Political Group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee/Working Group or the Council when the matter in question is considered.

### **OFFICER RELATIONSHIPS WITH CHAIRS/VICE CHAIRS, POLITICAL GROUP LEADERS AND LEAD AND SUPPORT MEMBERS**

- 2.19 Chairs of the Council/Committees/Working Groups (and Vice-Chairs in their absence) must:
- 2.19.1 chair meetings impartially;
  - 2.19.2 give all Members of the Council/Committee/Working Group equal right to speak;
  - 2.19.3 manage Council/Committee/Working Group meetings to ensure that the business of the Council/Committee/Working Group is transacted efficiently but fairly; and
  - 2.19.4 ensure that Officers are given every opportunity to give their professional judgement/advice to the Council/Committee/Working Group.
- 2.20 A Committee/Working Group Chair should routinely be consulted during the process of preparing an Agenda for a forthcoming meeting. Chairs must recognise that, in some situations, an Officer is under a duty to submit a report on a particular matter and no influence should be exerted on any Officer to exclude an item from an Agenda.
- 2.21 Prior to Committee Meetings (except Planning and Licensing Committees where their own Protocols apply), the appropriate Officers will meet informally with the Chair and Vice-Chair (Chair's Briefing) to discuss matters on the Agenda, to deal with matters which will ensure the smooth running of the meeting and to enable specific issues to be highlighted for which Officers and Members may need to prepare prior to the meeting.

- 2.22 Political Group Leaders (Deputy Political Group Leaders) should promote a positive atmosphere of trust, respect and understanding between Members and Officers. Political Group Leaders (Deputy Political Group Leaders) must be prepared to tackle, deal with and resolve any reported incidents of breaches of this Protocol by their Political Group Members. In the event of a complaint being made to them under Paragraph 2.26 of this Protocol, a Political Group Leader (Deputy Political Group Leader) will seek to actively pursue the complaint and achieve a satisfactory outcome. The outcome must be reported to the Officer who notified them of the complaint.
- 2.23 Officers must exercise care when dealing with Chairs, Vice-Chairs and Political Group Leaders to ensure that they are not provided with information that the Officer is not prepared to make freely available to other Members of the Council or Committee/Working Group.
- 2.24 Officers shall provide Lead Members, and Support Members, with the information necessary to enable them to effectively undertake their role as a Council spokesperson and ambassador for their strategic theme area. The overriding position is that, whilst Members and Officers work closely together, this relationship should never become, or appear to become, so close that the ability of an Officer to deal impartially with other Members is questioned.

#### **MEMBER/OFFICER COMPLAINTS**

- 2.25 If a Member wishes to complain about the actions or failings of any employee of the Council, the Member should lodge his or her complaint, preferably in writing, with the Chief Officer concerned. If a complaint is against the Chief Officer, the complaint must be lodged in writing with the Chief Executive. If the complaint is against the Chief Executive personally, it must be lodged in writing with the Council's Monitoring Officer. The Officer to whom the complaint is made will take appropriate action to resolve it and will notify the Member of the Council who made the complaint of the action which has been, or is intended to be, taken to resolve it.
- 2.26 Should an Officer have cause to complain about the actions or failings of any Member of the Council, the Officer should draw his/her concern to the attention of a Senior Officer in his/her Directorate who will consider the matter and, acting through the appropriate Chief Officer, will seek to resolve the issue with the Member concerned or, if this is not possible, the Member's Political Group Leader. If the complaint is against a Political Group Leader then it should be drawn to the attention of the Deputy Group Leader or to the Group generally. The Member (or group of Members) to whom the complaint has been made, will deal with it and will notify the Officer making the complaint of the action which has been, or is intended to be, taken to resolve the complaint.

#### **BEHAVIOUR**

- 2.27 Words or actions which are intended unfairly to influence an individual Officer will be regarded as a form of bullying, intimidation or harassment.
- 2.28 Members of the Council must not pressurise Officers to make a particular recommendation to the Council. Members must at all times respect the obligation placed on Officers to exercise professional or technical judgment.



- 2.29 Members are not prevented from discussing issues with Officers or promoting a particular point of view. Whilst Officers will consider the views being put they are not, in any way, compelled to provide advice which coincides with the Member's view. Any pressure by a Member upon an Officer to change their professional recommendation constitutes unacceptable undue pressure and is not permissible.
- 2.30 Members must not give directions, nor make direct criticism, to the Council's employees. Any criticism of an individual employee should be taken up with the Chief Officer, the Chief Executive or the Monitoring Officer as appropriate in the manner set out in 2.25 above. This standard of conduct is not intended to prevent Members from disagreeing openly, courteously and publicly with an Officer's recommendation.

#### **HONESTY AND INTEGRITY**

- 2.31 Members and Officers should not place themselves in situations where their honesty or integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

#### **PUBLIC CONFIDENCE**

- 2.32 Members and Officers of the Council should always act in a way that preserves public confidence.

#### **MEMBERS ACTING AGAINST THE COUNCIL**

- 2.33 If a Member is about to act in a professional or private capacity against the Council, he/she must notify the Borough Solicitor in writing. This applies to any action by a spouse/partner, associate, employer or by a company in which the Member has an interest. This provision also applies to co-opted Members for matters which are within the responsibility of the Committee on which they serve.
- 2.34 Details given will be recorded in a Register which will be open to public inspection.

### **3. ACCESS TO INFORMATION**

#### **Rights of Members to Information/Documents**

- 3.1 Members may approach the Chief Executive, any Chief Officer or head of any service to provide them with such information, explanation and advice (about their functions and responsibilities) as they may reasonably need in order to assist them in discharging their role as Members 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.
- 3.2 Members have, as a starting point, the same rights to any information held by the Council that ordinary members of the public enjoy under the Freedom of Information Act 2000.
- 3.3 In addition, a Member has the right to see any document within the possession or control of the Council that contains material relating to an item to be discussed at a meeting of the Council or a Committee or Sub-Committee/Working Group. However, a Member does not have the right to be provided with "exempt" or "confidential" information (i.e. that which is not available to the public) unless he or she can demonstrate "a need to know" that information to enable them to carry out their duties as a Councillor.

#### **Refusal of Access**

- 3.4 Access may, even in respect of Committee/Working Group Members, be refused if the reasons for inspecting any documents are improper, indirect or ulterior, or are inconsistent with the Council's interests. Examples of such circumstances are where a Member:
- (a) has a private professional or business interest in the information;
  - (b) has a disclosable pecuniary interest in the matter to which the document relates; or
  - (c) has taken up, or is considering taking up, support of a person or body which is hostile to the Council in Court proceedings or at Inquiries.
- 3.5 Furthermore, where a request will require the devotion of a significant amount of staff resources to identify and collate information which is considered to be of marginal benefit, the request for information may be refused.
- 3.6 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 Monitoring Officer. Officers should seek advice from the Monitoring Officer if in any doubt about the reasonableness of a Member's request.

#### **Use of Confidential Information**

- 3.7 Any confidential or "exempt" 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. A Member must never disclose confidential or "exempt" information to anyone who is not themselves entitled to that information.

#### **4. CORRESPONDENCE**

##### **No “Blind” Copies**

- 4.1 If an Officer copies correspondence addressed to one Member to another Member, then this should be made clear to the original Member. A system of "blind copies" must not be employed.

##### **Official Correspondence**

- 4.2 Official correspondence on behalf of the Council should normally be sent out under the name of the appropriate Officer rather than under the name of a Member. It may be appropriate in certain circumstances, for example representations to a Government Minister or where a letter is specifically addressed to the Mayor or a Committee Chair, for the letter to appear under the name of that particular Member, but this should be the exception rather than the norm. Letters which, for example, convene formal meetings, create obligations or give instructions on behalf of the Council should never be sent out under the name of a Member.

## **5. LOCAL MEMBERS AND OFFICERS**

5.1 To enable them to carry out their Ward role effectively, Members need to be fully informed about matters affecting their Ward. Senior Officers must ensure that all relevant staff are aware of the requirement to keep local Members informed, thus allowing Members to contribute to the decision-making process and develop their representative role.

5.2 This requirement is particularly important:

- during the formative stages of policy development, where practicable;
- in relation to significant or sensitive operational matters;
- whenever any form of public consultation exercise is undertaken; and
- during an overview and scrutiny investigation.

5.3 Issues may affect a single Ward. Where they have a wider impact, a number of local Members will need to be kept informed.

### **Member Requests**

5.4 Whilst Officers should provide general advice/assistance to Members on matters of Council business, Officers should not be subjected to pressure to undertake work at the direction of a local Member for Ward business which is not in the Officer's work programme/normal daily responsibilities.

### **Public Meetings**

5.5 Whenever a public meeting is organised by, or on behalf of, the Council to consider a local issue, all the Members representing the Wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the local Members should be notified at the outset of the exercise.

### **Meetings Called by Members**

5.6 Any meeting at which members of the public are in attendance called by an individual Member or group of Members, rather than by a Council Officer, shall not be regarded as a meeting called by the Council. An Officer shall not attend such a meeting (in his/her capacity as an Officer) unless specifically authorised by the Chief Officer / Chief Executive.