

WHITCHURCH PARISH COUNCIL

**PROTOCOL FOR
COUNCILLORS & OFFICER RELATIONS**

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1. Introduction

- 1.1 The council is determined to provide excellent local government for the people of the Parish of Whitchurch. This protocol has been produced in order to ensure that the relationship between elected Councillors and Officers remains one of partnership.
- 1.2 Partnership, based on mutual trust and respect between councillors and paid officers, is essential in achieving good local government. However this partnership will not be effective unless there is a clear understanding by all of the role and obligations of councillors and the roles and duties of Officers. This protocol sets out these roles, obligations and duties and also the ground rules for all to observe. The standards in the protocol are binding and apply equally to elected members, voting and non-voting co-opted councillors and to officers where there is a joint responsibility.
- 1.3 The protocol is based upon legislation, Council policies and documents deriving from legislation as well as guidance from a variety of sources, primarily:
- The Local Government Act 2000
 - North Marston Parish Council (NMPC) Standing Orders – adopted on 20th October 2009
 - NMPC Complaints Procedure adopted on 20th October 2009
 - The Council's local Code of Conduct The Code of Conduct – Guide for members May 2007 issued by the Standards Board for England
 - Guidance from the Society of Local Council Clerks
 - Guidance from the National Association of Local Councils
 - Advice from AVDC's Head of Legal & Estates Services
 - Advice from Buckinghamshire Association of Local Councils
- 1.4 The principles underlying this protocol are as follows:
- 1.4.1 There shall be mutual courtesy and respect between Councillors and Officers with regard to their respective roles. Bullying or harassment of any kind are in no-one's best interest and will not be tolerated.
- 1.4.2 Councillors and Officers shall each carry out their respective duties in the best interests of the Council and the Parish it represents.
- 1.5.3 This protocol applies to all dealings between Councillors and Officers.

2. General Obligations of Councillors

- 2.1 Councillors must observe the Council's Code of Conduct whenever they are conducting the business of the Council, conducting the business of their office or representing the Council. Councillors and voting Co-opted Councillors are bound in law by the Code of Conduct, but ex-officio and non-voting Co-opted Councillors are also expected to comply with the provisions of the Code of Conduct.
- 2.2 The Code of Conduct places certain general obligations upon Councillors which have a bearing upon Councillor/Officer relations:

- 2.2.1 Councillors must not, in their official capacity or any other circumstance, conduct themselves in a manner which could be reasonably regarded as bringing their office or the Council into disrepute.
- 2.2.2 Councillors must promote equality by not discriminating unlawfully against any other person. Councillors must treat others with respect and not to do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
- 2.2.3 Councillors must not disclose information given to them in confidence by anyone, or information which they have reason to believe is confidential unless they have authorisation or are required to do so by law. The convention “Chatham House Rules” will be observed whenever applicable.
- 2.2.4 Councillors must not prevent another person from gaining access to information to which they are entitled by law.
- 2.2.5 Councillors must not use their position improperly to gain advantage for themselves or to advantage or disadvantage another person.
- 2.2.6 The Council recognises that it is impractical to state unequivocally that Members must not use Council provided facilities, e.g. computers, for personal use. However Council expects that personal use of Council facilities is not abused.
- 2.2.7 Officers may assist Councillors only in their role as Parish Council members. They should not be asked to assist with any private business or political matter.
- 2.2.8 Councillors are under an obligation to disclose personal interests in accordance with the Code of Conduct. Councillors must also register certain personal interests, including the receipt of any gifts or hospitality worth over £25, as set out in the Code of Conduct.
- 2.3 Councillors have a duty to act reasonably and when taking part in the Council’s decision making process, must
- Take into consideration everything they regard as relevant, or which they are advised is relevant.
 - Disregard anything which they consider is not relevant, or which they are advised is not relevant.
 - Follow the correct procedure.
- 2.4 Councillors control the Council’s assets and finances, are in a position of trust and therefore have a fiduciary duty to act in the interests of all the people of Whitchurch Parish. In law, someone with a fiduciary duty is someone who occupies a position of such power and confidence over the property of another that the law requires him or her to act solely in the interest of the person she or he represents. This is in contrast with an ordinary business relationship, in which each party is free to seek purely personal benefits from his or her transactions with the other.

3.0 Relationship between Councillors and Officers

- 3.1 The relationship between officers and councillors will be characterised by mutual informality and trust.
- 3.2 Any close personal, family or any other relationships (e.g. parent/child;

spouse/partner; business partner) between officers and members, which may unduly effect or influence their work, must be disclosed to the Council.

4.0 The Role of Councillors

4.1 Councillors

- 4.1.1 Develop and set policies that will then be implemented by officers.
- 4.1.2 Monitor how those policies are being implemented.
- 4.1.3 Where their office allows them to do so, provide guidance to officers on how those policies are to be implemented, either if Councillors wish to do so or if officers ask for guidance.
- 4.1.4 Represent the views of their communities and ward constituents, and deal with individual casework.
- 4.1.5 Recognise the statutory roles of the Parish Clerk and the Proper Financial Officer and of the significance attached to their advice.
- 4.1.6 Consult with the community they represent on the development of policy and local initiatives.
- 4.1.7 Consult with the Proper Financial Officer about maladministration, financial impropriety and probity or where they have any doubt as to whether the particular decisions are, or are likely to be, contrary to the policy framework, or contrary to, or not wholly in accordance with the budget.
- 4.1.8 Respect officers' political impartiality.
- 4.1.9 Promote the highest standards of conduct and ethics.

4.2 Councillors must not:

- 4.2.1 Insist that any officer take any action, or not take action that the officer considers unlawful or illegal; is in direct contradiction of any code of guidance, contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.

5. The Role of Officers

- 5.1 Officers (eg. the Parish Clerk, Proper Financial Officer)
 - 5.1.1 Implement the policies set by Councillors.
 - 5.1.2 Will ask for guidance on implementation of the policies set by Councillors if they are unclear about any aspect of those policies.
 - 5.1.3 Give such professional advice to Councillors as may be required of them from time to time, recognising the different needs for advice Councillors may have.
 - 5.1.4 Carry out their delegated functions to the best of their ability and in the interests of

the Council.

5.1.5 Must remember that they are employed by the Council for the Parish of Whitchurch as a whole and not by any particular part of the Council or member of the Council.

5.1.6 Are under a duty to help all Councillors/Co-opted Councillors and all parts of the Council equally.

5.1.7 Must take all relevant matters into account when formulating advice to Councillors.

5.2 **Officers must not:**

5.2.1 Set policy other than for the smooth running of office procedures and processes and as may have been delegated under the Council's Constitution.

5.2.2 Take any action, or not take action, which would be unlawful or illegal, is in direct contradiction of any code or guidance, contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.

6. **Complaints about Officers or Council Services**

6.1 Councillors have the right to criticise reports or the actions taken by officers, but they should always:

- Avoid personal attacks on officers
- Ensure that criticism is constructive and well-founded

6.2 Councillors should avoid undermining respect for officers at meetings, or in any public forum. This would be damaging, both to effective working relationships and to the public image of the Council. It would also undermine the mutual trust and courtesy that is an essential element of a well run parish.

6.3 Complaints about Councillors or Council services should be made to the Parish Clerk in accordance with the Council's Complaints Procedure. If the complaint is about the Parish Clerk the complaint should be directed to the Chairman of the Parish Council. Within five days he/she will:

- Acknowledge the complaint, and
- Say if he/she intends to take action, or
- Say how long he/she needs to investigate

6.4 Councillors have a right to know if action has been taken to correct a matter, but they must not, either:

- Influence the level of disciplinary action to be taken against an officer, nor
- Insist (nor be seen to insist) that any Officer is disciplined.

6.5 Councillors have a right to be told the outcome of any disciplinary case, but have no entitlement to detailed information about the hearing or its conduct.

6.6 If a Councillor is not satisfied that action has been taken to deal with the complaint it may be referred to the Chairman of Council.

7. Councillor Access to Documents and information

- 7.1 Save as provided below every member of a Committee /Working Party of the Council has a right to inspect documents about the business of that Committee or Working Group, as set out in the Council's Standing Orders.
- 7.2 All Councillors can expect to have answers to the queries they raise on behalf of other constituents or about the policies and practices of the Council dealt with within the corporate time standards.
- 7.3 A Councillor who is not a member of a specific Committee or Working Group, may have access to any documents of that part of the Council if:
- he or she reasonably needs to see the documents to perform his or her duties; and
 - the document or papers or information do not contain "confidential", in confidence" or "exempt information".
- 7.4 All requests for advice and information should be directed through the Parish Clerk who will decide how to meet such requests and must be able to determine what resources are to be made available.
- 7.5 Councillors are expected to give reasonable notice of requests for information and to have regard to the cost of producing any new detailed information.
- 7.6 If there is a disagreement the Parish Clerk will ensure that the request is referred to the Chairman (or in their absence the Vice Chairman) for decision.
- 7.7 A Councillor should seek advice from the Parish Clerk in circumstances where he or she wishes to inspect any document or have access to any information about a matter in which he or she has a personal or prejudicial interest; or where to do so would be in breach of the Data Protection Act 1998, the Data Protection Act 2000 and the Freedom of Information Act 2000.

8. Press Releases

- 8.1 All Council press releases should be issued through the Parish Clerk in accordance with the Council's wishes.
- 8.2 They should be concerned with matters of policy.
- 8.3 Press releases will not contain anything of a party political nature. In this respect regard must be given to the relevant legislation concerning publicity issued by Councils, especially around election time.

9. Correspondence

- 9.1 The point of contact for the Parish Council is the Clerk, and it is to the Clerk that all correspondence for the Parish Council should be addressed.
- 9.2 All official correspondence should be sent by the Clerk in the name of the Council using official council headed paper.

- 9.3 Correspondence between individual Councillors and Officers should be treated as confidential unless the Councillor or Officer indicates otherwise.
- 9.4 Councillors or Officers do not have a right to obtain confidential information/documentation unless they can demonstrate a 'need to know.'
- 9.5 Where correspondence from the Clerk to a Councillor is copied to another person, the addressee should be made aware that a copy is being forwarded to that other person (eg. 'cc X' if by email and 'copy to X' if in writing)
- 9.6 Unless a Councillor has been authorised by the Council to speak on its behalf on a particular matter/issue, he/she MUST make clear any communication – verbal, email or written – that they are expressing a personal view.
- 9.7 If a Councillor receives a complaint from a member of the public it should be dealt with under the Council's Complaints Procedure.
- 9.8 All correspondence should normally be open to the inspection of the public in accordance with the Council's adopted policies. This does not apply to correspondence written in connection with legal proceedings, contractual matters or any other matter where papers can remain "exempt" within the meaning of Schedule 12A to the Local Government Act 1972, as amended, or if this would be in conflict with the data protection legislation.

10. Breach of the Protocol by a Councillor

- 10.1 Councillors are required to report any matter that they believe may be a breach of the Code of Conduct to AVDC Standards Committee.
- 10.2 Where there has been an alleged breach of the protocol which is not a matter for the Standards Committee, the Chairman of Council may, as a last resort, refer the complaint to the AVDC Monitoring Officer.

11. Breach of the Protocol by an Officer

- 11.1 Complaints of an alleged breach should be raised with the Parish Clerk unless the complaint refers to them.
- 11.2 Should the complaint be against the Parish Clerk the matter should be raised with the Chairman of Council in the first instance who may seek the advice of BALC.

12. Further Advice

- 12.1 **Advice on the application of this protocol should be sought from the Parish Clerk or the Chairman of the Council.**

The Ten General Principles of Public Life

- 1. Selflessness – members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.**
- 2. Honesty and integrity – members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.**
- 3. Objectivity – members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.**
- 4. Accountability – members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.**
- 5. Openness – members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.**
- 6. Personal judgement – members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.**
- 7. Respect for others – members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.**
- 8. Duty to uphold the law – members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.**
- 9. Stewardship – members should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.**
- 10. Leadership – members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.**