

Article 12 – Protocol A

Great Aycliffe Town Council



COUNCILLOR AND OFFICER RELATIONS PROTOCOL

April 2023 Update

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Councillor and Officer Relations Protocol

1.0 Introduction and Purpose of the Protocol

- 1.1 Both councillors and officers are servants of the public and indispensable to each other. Together they bring together the crucial skills, experience and knowledge required to manage an effective local authority.
- 1.2 A strong, constructive and trusting relationship between councillors and officers is therefore essential to the effective and efficient running of the Council.
- 1.3 The conduct of Councillors and Officers are governed by the Council's Members' and Officer's Codes of Conduct. Officers are also required to comply with their employment terms and conditions and the requirements of the Council's Financial Regulations and all supporting policies and procedures.
- 1.4 The purpose of this protocol is to reflect the principles underlying the Member and Officer Codes of Conduct and guide Councillors and Officers of the Town Council in their relations with one another.
- 1.5 The intention of the Protocol is to help build and maintain good working relationships between councillors and officers as they work together, with a shared objective of enhancing and maintaining the integrity (real and perceived) of the Council, by setting and demanding very high standards of personal conduct.
- 1.6 The protocol is a written statement of current practice and convention and has been largely based on the Civility and Respect 'Model Councillor and Officer Protocol' issued by the National Association of Local Councils (NALC).
- 1.7 Given the variety and complexity of such relations, the protocol does not seek to be prescriptive, and it may not cover all situations. However, it does seek to provide guidance on some of the issues that most commonly arise. The approach to these issues will serve as a guide to dealing with other issues.
- 1.8 Councillors and Officers depend on each other in carrying out the work of the Council but their responsibilities are distinct.
- 1.9 Councillors are responsible to the electorate and serve only so long as their term of office lasts.
- 1.10 Officers are responsible to the Council. Their job is to give advice to the Council, as well as to individual Councillors, and to carry out the Council's work under the direction and control of the Council and its various committees and sub-committees.
- 1.11 Mutual respect between Councillors and Officers is essential to good local government. However, close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.
- 1.12 The relationship has to function without compromising the ultimate responsibilities of Officers to the Town Council as a whole, and with due regard to such technical, financial, professional and legal advice that Officers can legitimately provide to Councillors. The protocol seeks to set a framework that assists the working relationships between Councillors and Officers.

- 1.12 For the purposes of this Protocol, 'officers' are defined as being those employees who are required to give advice to and work with councillors.
- 1.13 This Protocol covers the following key areas:
- The respective roles and responsibilities of councillors and officers;
 - The relationship between councillors and officers;
 - Respect and courtesy;
 - Provision of advice and information to councillors;
 - Provision of support services to councillors;
 - Political activity;
 - Where and who a councillor or officer should go if they have concerns;
 - Breaches of the protocol;

2.0 Role of Councillors

2.1 Councillors have four main areas of responsibility:

1. To determine Council policy and provide community leadership.
2. To monitor and review Council performance in implementing policies and delivering services.
3. To represent the Council externally.
4. To act as advocates for their constituents.

2.2 A councillor's role broadly includes:-

- a) Councillors express political values and support the policies of the party or political group to which they belong (if any).
- b) Councillors represent their electoral ward and are advocates for the citizens who live in the area.
- c) Councillors are involved in active partnerships with other organisations as community leaders.
- d) Councillors contribute to the decisions taken in full Council and in its various committees, sub-committees and working groups on which they serve, as well as on outside bodies and partnership organisations.
- e) Councillors help develop and review Council policy and strategy.
- f) Councillors monitor and review policy implementation and service quality.

2.3 Councillors have the same rights and obligations in their relationship with officers, regardless of their status and should be treated equally.

2.4 Councillors should not involve themselves in the day to day running of the Council. This is the officer's responsibility, and officers will be acting on instructions from the Council or its committees or sub-committees, in line with their job description.

2.5 In line the Member's Code of Conduct, councillors must treat others with respect, must not bully or harass people and must not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council.

2.6 Officers can expect the following from Councillors:

- to give strategic leadership and direction and to seek to further their agreed policies and objectives with the understanding that councillors have the right to take the final decision on issues based on advice;
- to act within the policies, practices, processes and conventions established by the Council;
- to work constructively in partnership with officers acknowledging their separate and distinct roles and responsibilities;
- to understand and support the respective roles and responsibilities of officers and their associated workloads, pressures and reporting lines;
- to treat them fairly and with respect, dignity and courtesy;
- to act with integrity, to give support and to respect appropriate confidentiality;
- to recognise that officers do not work under the instruction of individual councillors or groups;
- not to subject them to bullying, intimidation, harassment, or put them under undue pressure;
- to treat all officers, partners (those external people with whom the council works) and members of the public equally, and not discriminate based on any characteristic such as age, sex, race, sexual orientation, gender identity, disability or religion;
- not to request officers to exercise discretion which involves acting outside the council's policies and procedures;
- not to authorise, initiate, or certify any financial transactions or to enter into any contract, agreement or undertaking on behalf of the council or in their role as a councillor without proper and lawful authority;
- not to use their position or relationship with officers to advance their personal interest or those of others or to influence decisions improperly;
- to comply at all times with the councillors' Code of Conduct, the law, and such other policies, procedures, protocols and conventions agreed by the council;
- respect the impartiality of officers and do not undermine their role in carrying out their duties;
- do not ask officers to undertake work, or act in a way, which seeks to support or benefit a particular political party or gives rise to an officer being criticised for operating in a party-political manner; and
- do not ask officers to exceed their authority where that authority is given.

2.7 Chairman and Vice Chairmen of the Council and its Committees and Sub-Committees have additional responsibilities and will therefore have a closer relationship with officers than other councillors do. However, they must still respect the impartiality of officers and must not ask them to undertake work or anything else which would prejudice their impartiality.

3.0 Role of Officers

- 3.1 The primary role of officers is to advise, inform and support all members and to implement the agreed policies and decisions of the Council.
- 3.2 Officers are responsible for the day-to-day managerial and operational decisions within the Council, including directing and overseeing the work of any more junior staff.
- 3.3 Councillors should avoid inappropriate involvement in such matters.
- 3.4 An officer's role broadly includes:-

- a) Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services.
- b) Providing advice to the Council and its various committees, sub committees and working groups, and to individual Councillors in respect of the services provided.
- c) Initiating policy proposals.
- d) Implementing agreed policy and decisions.
- e) Ensuring that the Council always acts in a lawful manner.

3.5 Officers must:

- Implement decisions of the Council and its committees which are lawful, which have been properly approved in accordance with the requirements of the law and are duly recorded. This includes respecting the decisions made, regardless of any different advice given to the Council or whether the decision differs from the officer's view;
- Work in partnership with councillors in an impartial and professional manner;
- Treat councillors fairly and with respect, dignity and courtesy;
- Treat all councillors, partners and members of the public equally, and not discriminate based on any characteristic such as age, sex, race, sexual orientation, gender identity, disability or religion;
- Assist and advise all parts of the Council. Officers must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions;
- Respond to enquiries and complaints in accordance with the Council's policies and protocol;
- Be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for councillors, the media or other sections of the public;
- Act with honesty, respect, dignity and courtesy at all times;
- Provide support and learning and development opportunities for councillors to help them in performing their various roles in line with the council's training and development policy;
- Not seek to use their relationship with councillors to advance their personal interests or to influence decisions improperly;
- Comply, at all times, with the Officers' Code of Conduct, and such other policies or procedures approved by the Council.

3.6 Officers have the right not to support councillors in any role other than that of councillor, and not to engage in actions incompatible with this Protocol.

3.7 In giving advice to councillors, and in preparing and presenting reports, it is the responsibility of the officer to express his/her own professional views and recommendations. An officer may report the views of individual councillors on an issue, but the recommendation should be the officer's own. If a councillor wishes to express a contrary view they should not pressurise the officer to make a recommendation contrary to the officer's professional view, nor victimise an officer for discharging his/her responsibilities.

4.0 The Relationship Between Officers and Councillors

- 4.1 Councillors and officers are indispensable to one another. However, their responsibilities are distinct.
- 4.2 Councillors are accountable to the public, whereas officers are accountable to the Council as a whole.
- 4.3 At the heart of this Protocol is the importance of mutual respect and also of civility.
- 4.4 Councillor and officer relationships must be conducted in a positive and constructive way. Therefore, it is important that any dealings between councillors and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party.
- 4.5 Individual councillors should not actively seek to undermine majority decisions of the corporate body, as this could then bring them into conflict with officers who have been charged with promoting and implementing the council's collectively-determined course of action.
- 4.6 Councillors should not raise matters relating to the conduct or capability of an officer, or of officers collectively, in a manner that is incompatible with this Protocol at meetings held in public or on social media. This is a long-standing tradition in public service. An officer has no means of responding to criticisms like this in public.
- 4.7 Section 10 of the Protocol sets out the policy and procedure for when officer and councillor relations go wrong and how either party can raise and deal with any concerns relating to conduct or relations.

5.0 Respect and Courtesy

- 5.1 For the effective conduct of Town Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Councillors and Officers. This plays a very important part in the reputation of the Town Council and how it is seen in public.
- 5.2 It is very important that both councillors and officers remember their respective obligations to enhance the reputation of the Council and to do what they can to avoid criticism of other Councillors, or other Officers, in public places.

Undue Pressure

- 5.3 It is important in any dealings between Councillors and Officers that neither should seek to take unfair advantage of their position and exert undue pressure.
- 5.4 In their dealings with both Officers and other employees (especially junior employees) Councillors need to be aware that it is easy for Officers to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold official and / or political office.
- 5.5 A Councillor should not apply undue pressure on an Officer either to do anything that he or she is not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Town Council property and services.

- 5.6 Similarly, an Officer must neither seek to use undue influence on an individual Councillor or Councillors to make a decision in his favour, nor raise personal matters to do with their job, nor make claims or allegations about other Officers. The Town Council has formal procedures for consultation, grievance and discipline, and Officers have the right to report possible wrongdoing under the Council's Confidential Reporting Policy.

Familiarity

- 5.7 Close personal relationships or familiarity between individual Councillors and Officers can confuse their separate roles, damage the principle of mutual respect and get in the way of the proper conduct of Council business.
- 5.8 It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.
- 5.9 Such familiarity could also cause embarrassment to other Councillors and / or other Officers and even give rise to suspicions of favouritism or the perception that a particular councillor or officer is getting preferential treatment.
- 5.10 For the above reasons close personal familiarity must be avoided.

6.0 Expectations

- 6.1 All councillors can expect:

- A commitment from officers to the Council as a whole, and not to any individual councillor, group of councillors or political group;
- An effective working partnership;
- An understanding of, and support for respective roles, workloads and pressures;
- A timely response from officers to enquiries and complaints;
- Officer's professional and impartial advice, not influenced by political views or personal preferences;
- Timely, up to date, information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities or positions that they hold;
- Officers to be aware of and sensitive to the public and political environment locally;
- Respect, courtesy, integrity and appropriate confidentiality from officers and other councillors;
- Training and development opportunities to help them carry out their role effectively;
- Not to have personal issues raised with them by officers outside the Council's agreed procedures;
- That officers will not use their contact with councillors to advance their personal interests or to influence decisions improperly.

- 6.2 Officers can expect from councillors:

- An effective working partnership;
- An understanding of, and support for, respective roles, workloads and pressures;
- Leadership and direction;

- Respect, courtesy, integrity and appropriate confidentiality;
- Not to be bullied or to be put under undue pressure;
- That councillors will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
- That councillors will at all times comply with the Council's adopted Member's Code of Conduct.

6.3 Councillors should not give instructions directly to the Proper Officer's staff without the express approval of the Proper Officer.

7.0 Provision of Advice and Information to Councillors

- 7.1 Councillors are free to approach Officers of the Council to provide them with such information 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.
- 7.2 The Proper Officer (Town Clerk) is the head of the Council's paid services and has a line management responsibility to all other staff. Communications from Councillors should be made directly with the Proper Officer, unless it is agreed by the Proper Officer that such communications may take place directly with other officers over a particular matter.
- 7.3 The legal rights of Councillors to inspect Town Council documents are covered partly by statute and partly by common law.
- 7.4 The Great Aycliffe Town Council Constitution explains the position with regard to access to papers relating to the business of a Council.
- 7.5 The common law right of councillors is based on the principle that any member has a prima facie right to inspect council documents so far as their access to the documents is reasonably necessary to enable the member properly to perform their 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 the councillor's ability to demonstrate that they have the necessary "need to know". In this respect a Councillor has no right to "a roving commission" to examine any documents of the Town Council. Mere curiosity is not sufficient.
- 7.6 The crucial question is the determination of the "need to know". This question must be determined by the officer. In some circumstances (e.g. a committee member wishing to inspect documents relating to the functions of that committee) a councillor's "need to know" will normally be presumed. In other circumstances (e.g. a councillor wishing to inspect documents which contain personal information about third parties) a councillor will normally be expected to justify the request in specific terms.
- 7.7 Any council information provided to a councillor must only be used by the councillor for the purpose for which it was provided i.e. in connection with the proper performance of the councillor's duties as a member of the council.
- 7.8 For completeness, councillors do, of course, have the same right as any other member of the public to make requests for information under the Freedom of Information Act.

- 7.9 Correspondence between an individual councillor and an officer should not normally be copied (by the officer) to any other councillor.
- 7.10 Where exceptionally it is necessary to copy the correspondence to another councillor, this should be made clear to the original councillor. In other words, a system of “silent copies” should not be employed.
- 7.11 Official letters or emails on behalf of the Council should normally be sent out under the name of the officer, rather than under the name of a councillor. It may be appropriate in certain circumstances (e.g. representations to a Government Minister or in response to a letter of complaint sent direct to that Councillor) for a letter or email to appear over the name of the Chairman, but this should be the exception rather than the norm and it should only be done following consultation with the Town Clerk. Letters or emails which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a councillor.
- 7.12 Correspondence to individual councillors from officers should not be sent or copied to complainants or other third parties if they are marked “confidential”. In doing so, the relevant officer should seek to make clear what is to be treated as being shared with the councillor in confidence only and why that is so.
- 7.13 The information sought by a Councillor should only be provided by the respective Department of the Council as long as it is within the limits of the Department's resources. For their part, Councillors should seek to act reasonably in the number and content of the requests they make.
- 7.14 It is important for the Town Clerk and Council staff to keep Councillors informed both about the major issues concerning the Town Council and, more specifically, about issues and events affecting the areas that they represent. Local Councillors should be informed about proposals that affect their electoral ward and should also be invited to attend Town Council initiated events within their electoral ward.
- 7.15 If a Councillor asks for specific information relating to the work of a particular Department, and it appears possible or likely that at a subsequent meeting an issue could be raised or question asked on the basis of the information provided, then the appropriate Committee or Sub-Committee Chairman concerned should be advised about the information provided.

8.0 Provision of Support Services to Councillors

- 8.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport, etc.) to Councillors is to assist them in discharging their role as Councillors of the Council.
- 8.2 Such support services must therefore only be used on Town Council business. They should never be used in connection with party political or campaigning activity or for private purposes. Please see Article 12 – Protocol B – Use of Council Facilities and Resources by Councillors for further information.

9.0 Media

- 9.1 Councils are accountable to their electorate. Accountability requires local understanding. The Council therefore needs to tell the public about the services it provides and its future plans.

- 9.2 This will be promoted by the Council via various media platforms, explaining its objectives and policies to the electors and customers. Councils use publicity to keep the public informed and to encourage public participation.
- 9.3 Good effective publicity should aim to improve public awareness of the Council's activities. Publicity is a sensitive matter in any political environment because of the impact it can have.
- 9.4 The Council must comply with the provisions of the Local Government Act regarding publicity. All media relations work must comply with the National Code of Practice for Local Government Publicity. The Code is statutory guidance and the council must have regard to it and follow its provisions when making any decision on publicity.
- 9.5 Communication with the media can be an important part of a Councillor's workload.
- 9.6 In general, Councillors provide comment and views while Officers provide factual information.
- 9.7 As per Standing Order 30 – Relations with the Press and Media, all requests from the press or other media for an oral or written statement or comment from the Council shall be cleared by the Town Clerk in consultation with the Chairman of the Council or the Chairman of the relevant Committee.
- 9.8 Press reports from the Council, its Committees, or Working Groups will usually be issued by the Town Clerk or an authorised officer or via the reporters own attendance at a meeting.
- 9.9 Unless a Councillor has been authorised by the Council to speak to the media on a particular issue, Councillors who are asked for a comment by the press should make it clear that it is a personal view and indicate that it be clearly reported as their personal view.
- 9.10 If a Councillor is totally unsure about the circumstances of a particular issue he or she should contact the Town Clerk.
- 9.11 An officer may respond to press enquiries but should confine any comments to the facts of the subject matter and the professional aspects of the function concerned.
- 9.12 On no account must an officer expressly or impliedly make any political opinion, comment or statement.

10.0 Political Activity

- 10.1 There are a number of constraints that apply to an employee who occupies a post that is designated as "politically restricted" under the terms of the Local Government and Housing Act 1989.
- 10.2 In summary, such employees are prevented from:
- a) Being a Member of Parliament, European Parliament or local authority
 - b) Acting as an election agent or sub-agent for a candidate for election as a member of any of the bodies referred to in a)
 - c) Being an officer of a political party or any branch of a political party or a member of any committee or sub-committee of such a party or branch, if his duties would be likely to require him:

- i) To participate in the general management of the party or branch; or
 - ii) To act on behalf of the party or branch in dealings with persons other than members of the party;
 - d) Canvassing on behalf of a political party or a candidate for election to any of the bodies referred to in a);
 - e) Speaking to the public with the apparent intent of affecting public support for a political party;
 - f) Publishing any written or artistic work of which he or she is the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection - if the work appears to be intended to affect public support for a political party.
- 10.3 Officers are employed by the Town Council as a whole. They serve the Town Council and are responsible to the Town Clerk and their respective Manager and not to individual Councillors, whatever office they might hold.

11.0 If Things Go Wrong / Raising Concerns / Redress

Procedure for Councillors:

- 11.1 If a councillor is dissatisfied with the conduct, behaviour or performance of the officer or considers that he or she has not been treated with proper respect or courtesy, he or she should raise it with the Town Clerk without delay if it is not possible to resolve it informally with the officer through direct discussion.
- 11.2 Councillors should:
- avoid personal attacks on, or abuse of, the officer at all times;
 - ensure that any criticism is well founded and constructive;
 - ensure that any criticism is made in private, and not publicly;
- 11.3 If the issue still remains unresolved, appropriate action may be taken by the Town Clerk in accordance with the Town Council's capability, performance management or disciplinary policies and procedures.

Procedure for Officers

- 11.3 From time to time the relationship between councillors and the officer (or other employees) may break down or become strained.
- 11.4 If an officer has concerns about the conduct or behaviour of a councillor a direct discussion is impractical or fails to resolve the matter, he or she should raise the matter with the Town Clerk without delay.
- 11.5 The Town Clerk will take such action as is appropriate either by approaching the individual Councillor and/or Party Group Leader. Feedback will be given to the officer on the outcome.
- 11.6 Whilst it is always preferable to resolve matters informally, the Council's Grievance Policy enables individual employees to raise concerns, problems or complaints about their employment, including concerns regarding councillor conduct or behaviour in an open and fair way.

- 11.7 Where the matter relates to a formal written complaint alleging a breach of the Council's Member's Code of Conduct the matter must be referred to the Durham County Council's Monitoring Officer in the first instance in line with the Localism Act 2011. However it is advisable for the Council to try to resolve any concerns raised informally before they become a formal written allegation.

12.0 Breaches of the Protocol

- 12.1 The workings of this Protocol will be monitored by the Council and the Town Clerk on an ongoing basis.
- 12.2 If it is considered that a Councillor has breached this Protocol, that breach in itself could be regarded as misconduct and could be subject to investigation.
- 12.3 If it is alleged that an Officer has breached this Protocol, the matter would be referred to the Town Clerk for a disciplinary investigation.

13.0 Conclusion

- 13.1 It is hoped that by following good practice and securing sensible and practical working relationships between councillors and officers, the Council can provide one of the cornerstones of a successful Local Authority and thereby enhance the delivery of high value quality services to the people of Great Aycliffe.
- 13.2 Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its councillors and officers.