

# **UPPER BEEDING PARISH COUNCIL**



## **Protocol on Member / Officer Relations**

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**Adopted: 6<sup>th</sup> November 2007**

# **PROTOCOL ON MEMBER/OFFICER RELATIONS**

## **1. Principles**

- 1.1 The Parish Council adopted a formal code of conduct for Members on the 8<sup>th</sup> May 2007 and shall adopt a similar Code for Officers once the Government introduces the relevant statute. The Members code lays down the rules for Members on the proper conduct of their council role. The statutory Officer Code will mirror this when introduced. Such is the importance of maintaining the integrity of the Parish Council that penalties may be imposed for breaches of the codes – censure, suspension or disqualification in the case of Members; disciplinary action in the case of Officers. The purposes of this Protocol are to aid interpretation and to supplement the Codes and to guide Members and Officers of the Parish Council in their relations with one another in such a way as to ensure the smooth running of the Council.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues, which most commonly arise. It is hoped, however, that the approach that it adopts to these issues will serve as a guide to dealing with other circumstances.
- 1.3 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the 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.
- 1.4 Members and Officers must at all times observe this Protocol and respect the roles and duties of each other.
- 1.5 For the purposes of this protocol the term “Officers” embraces “staff”, “employees”, “workers”
- 1.6 The introduction of the Protocol has been approved in principle by the Parish Council, before final adoption by full Council on 6<sup>th</sup> November, 2007.
- 1.7 The Protocol seeks to maintain and enhance the integrity (real and perceived) of local government, which demands very high standards of personal conduct.
- 1.8 It is important at all times that mutual respect is shown between Members and Officers in any dealings, that reasonable standards of courtesy are observed, and that neither party should seek to take unfair advantage of their position.
- 1.9 Whilst Members and Officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only as long as their term of office lasts. Officers are accountable to the Parish Council as a whole. 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.

## **2. Roles of Members**

- 2.1 Members have a number of roles.
- 2.2 Collectively they are the ultimate policymakers. They are (co-opted or) elected by the people of the Parish, represent the interests of their wards and of individual constituents and act as advocates for their communities.
- 2.3 In addition, most Members have particular roles as Members Committees, Sub-Committees and Working Groups of the Parish Council.
- 2.4 Members who serve on Committees and Sub-Committees collectively have delegated responsibilities. In such circumstances they may determine matters within the bodies' terms of reference but implementation of decisions is the responsibility of Officers.
- 2.5 Members are not authorised to instruct Officers other than through the formal decision-making process. In particular, the management of staff is a matter for senior officers and not of Members.
- 2.6 Members are not authorised to initiate financial transactions, but Council (and the Finance & General Purposes Committee through delegated powers) has the statutory responsibility to authorize invoices for payment and duly signed cheques and direct debit payments. Individual Members cannot enter into contracts on behalf of the Council.
- 2.7 Under their Code of Members' Conduct, Members have a duty to promote equality by not discriminating unlawfully against any person, and an obligation to treat others with respect.
- 2.8 Furthermore, Members in their capacity as Councillors or in any other capacity must not bring the Council or their position as Members into disrepute; and they must not use their position improperly to gain an advantage or disadvantage for themselves or any other person.

## **3. Roles of Officers**

- 3.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles.
- 3.2 Under the direction and control of the Parish Council (including, as appropriate, Committees and Sub-Committees), Officers manage and provide the Council's services within the framework of responsibilities delegated to them, which include the effective management of employees and operational issues.
- 3.3 Officers have a duty to implement decisions of the Parish Council, the Committees and Sub-Committees which are lawful, and which have been properly approved and documented in accordance with the requirements of statute and of the Council's Standing Orders.

## **4. Relationship between Members and Officers: General**

- 4.1 There are two key elements: mutual respect, and a recognition of each others' roles and responsibilities.

- 4.2 It is important that Members and Officers conduct their Council business in a proper and professional way calculated to inspire public confidence and trust. Personal, family or business connections may compromise or may be regarded as influencing that objective. Relationships giving rise to interests must be declared in the usual manner and managed in accordance with the respective Members' and Officers' (employees') Code of Conduct.
- 4.3 Members and Officers should at all times avoid any appearance of improper conduct.
- 4.4 Officers serve the Parish Council as a whole. They have a duty to implement the properly authorised decisions of the Council, Committees and Sub-Committees.
- 4.5 Other staff work to the instructions of the Parish Clerk (or Deputy Clerk) (the Clerks), not individual Members. It follows that, whilst such staff will always seek to assist a Member, they must not be asked to exceed the bounds of authority they have been given by their manager. Members should approach the appropriate Parish Clerk (or Deputy Clerk), in the first instance with respect to controversial or corporate issues.
- 4.6 Officers and staff should not have unreasonable requests placed on them through the Council, its Committees or Sub-Committees. Staff work priorities are set and managed by the Clerks. Members must not disrupt an employee's work by imposing their own priorities on staff.
- 4.7 Officers and staff have a contractual and legal duty to be impartial in their working relationships with Members. Members must not do anything which compromises or is likely to compromise their impartiality.
- 4.8 When reaching decisions, Members have a duty under the Code of Members' Conduct to have regard to any relevant advice of the Parish Clerk in either his/her role as the Council's Proper Officer or Responsible Financial Officer.
- 4.9 Where an employee feels that a Member has not properly treated him or her with respect and courtesy, he or she should raise the matter with one of the Clerks as appropriate, especially if he or she does not feel able to discuss it directly with the Member concerned. In these circumstances the Clerk will take appropriate action either by approaching the individual Member and/or by referring the matter to the Council Chairman.
- 4.10 In formal meetings of the Parish Council and other bodies when the Press and/or the public are present, members should be addressed, in the case of the chairman as "Chairman" or, in the case of other Members by name, e.g. "Mr. (Councillor) John Smith". On such occasions officers should be addressed either by their title, e.g. "the Parish Clerk", or by name, e.g. "Mrs. Caygill".

## **5. Council & Committee meetings and Officers**

- 5.1 The Parish Council will make collective decisions in accordance with Standing Orders and Financial Regulations and will not otherwise direct staff. The Clerks will be responsible for instructing staff to implement the decisions.
- 5.2 Members of a Committee or Sub-Committee will take decisions within the remit of the relevant Committee or Sub-committee and will not otherwise instruct staff to act.

- 5.3 The Parish Clerk (and Deputy Clerk) have the right to submit papers to the Council and Committees or individual Chairmen for consideration.
- 5.4 Debate is an important constituent part of effective democracy and the Parish Council's constitutional arrangements. The Council, Committees and individual Members have a leading role in making it work effectively. In particular, each Committee agrees its work programme. Equally Officers have a leading and significant role in making Committees effective. It is integral to Officers' functions and not an add-on.
- 5.5 The Parish Council, when receiving Committee minutes, accepts Committee resolutions provided they are made within the appropriate terms of reference and the Committee was quorate. Complaints arising from such resolutions by individuals (Members, Officers or members of the public), are dealt with as follows, these are:  
Internal, e.g. the Disciplinary Procedure (staff), the Complaints Panel (public), and  
External / statutory, e.g. Standards Board for England, Local Standards Committee (Members).
- 5.6 Personal criticism of Members or Officers should always be avoided.
- 5.7 At some Council, Committee or Sub-Committee meetings, a resolution may be passed which authorises named Officers to take action between meetings in consultation with the Chairman. In these circumstances, it is the Officer, not the Chairman, who takes the action and is responsible for it.

## **6. Briefing meetings for Chairmen**

- 6.1 Briefing meetings for the Chairmen (and Vice Chairmen) of Council, Committees and Sub-Committees should be arranged at a time that is mutually convenient for the Chairmen and Officers.

## **7. Members in their ward role and Officers**

- 7.1 To enable them to carry out their local representation role effectively Members need to be informed fully about matters affecting their wards. The Clerks must use their best endeavours to keep Ward Members informed.
- 7.2 The requirement to keep Local Members informed is particularly important:
- a) When options for likely decisions are being considered;
  - b) In relation to significant or sensitive operational matters;
  - c) Whenever any form of public consultation exercise is undertaken;
- 7.3 Whenever a public meeting is organised by the Parish Council to consider a local issue, all the Members representing the ward or wards affected should be invited to attend. Similarly whenever the Parish Council undertakes any form of consultation exercise on a local issue, the Local Members should be notified at the outset of the exercise.
- 7.4 If a public meeting is organised by a Local Member in relation to a function or business of the Parish Council, the Member concerned should inform the Parish Clerk, but Officers are under no obligation to attend and cannot be required to do so.

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

- 8.1 The Parish Council's policy on sharing or giving information to Members is to be as open as possible. Members may request the Clerks to provide them with such information, explanation and advice about that service's functions, as they may reasonably need to assist them in discharging their role as Members. This may 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. Where such information is requested on behalf of a third party, it shall only be requested if it is capable of being in the public domain: i.e. it is not confidential, data protected or subject to exemptions from the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.
- 8.2 Any document in the possession or control of the Parish Council, which contains material relating to business to be transacted at a public meeting shall be made available for inspection by any Member.
- 8.3 The rights to inspect documents under paragraph 8.2 above shall not apply to any document (whether a report, background paper or other material) which contains confidential information or the disclosure of which would breach an undertaking of confidentiality.
- 8.4 In addition to all of the above, a Member has a common law right to inspect Council documents so far as his or her access to a document is reasonably necessary to enable the Member properly to perform his or her duty as a Member of the Council. This is commonly known as the "need to know" principle. The exercise of this right depends on a Member being able to demonstrate his or her need to know.
- 8.5 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 Parish Clerk. In the event that the Member is dissatisfied if denied access, he/she may raise the issue with the appropriate Committee or Council for a majority decision.
- 8.6 Members and Officers must not disclose information given to them in confidence without the consent of a person authorised to give it or unless required by law to do so.
- 8.7 Members and Officers must not prevent another person from gaining access to information to which that person is entitled by law.
- 8.8 When requested to do so, Officers will keep confidential from other Members advice requested by a Member.
- 8.9 Any Parish 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. Therefore, for example, early drafts of Committee reports/briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied.

## **9. Media relations**

- 9.1 Press releases and statements made by Officers must promote or give information on Parish Council policy or services. They must be factual and consistent with Council policy. They may not be used to promote one faction of the Council. Publicity dealing with controversial issues in the run up to an election must be avoided. The full rules are set out in Government guidance.
- 9.2 Officers will keep Members informed of press matters relating to their areas of responsibility. In particular, Officers should contact the appropriate Committee Chairman if they have been contacted by the media on a high profile issue. The Council Chairman should also be informed on all issues of a high profile or strategic nature.
- 9.3 Before responding to enquiries from the media, Officers must ensure they are authorised to do so. If in doubt, Officers must confirm their authorisation with the Parish Clerk.
- 9.4 The media's first point of contact will often be the Parish Clerk. Officers should keep the Parish Clerk informed of issues which are likely to be of media interest, and when they are contacted by the media on high profile or strategic issues.
- 9.5 If a Member contacts or is contacted by the media on an issue, he or she should:
  - a) Indicate in what capacity he or she is speaking (e.g. in a personal capacity, as a Local Member, as a chairman, on behalf of the Council or on behalf of some other group).
  - b) Be sure of the facts of the matter.
  - c) If necessary, and in any event whenever he or she wishes a press release to be issued, seek assistance from the Parish Clerk, but not in relation to a statement which is a personal view in nature.
  - d) Consider the likely consequences for the Parish Council of his or her statement (e.g. commitment to a particular course of action, allegations of jumping to conclusions, image), and
  - e) Not speak on behalf of the Parish Council unless authorised to do so.

## **10. Support Services to Members**

- 10.1 Some basic administrative services are provided to Councillors by the Clerks. Such support can only be provided to assist them in discharging their role as Members of the Council and therefore must only be used on Council business. It should never be used in connection with campaigning activity or for private purposes.

## **11 Correspondence**

- 11.1 Correspondence between an individual Member and an Officer, particularly when the Member has initiated it, should not normally be copied to any other Member particularly by the recipient without the prior approval of the originator of the correspondence. Where it is necessary to copy the correspondence, this should always be made explicit. Members and Officers are required to comply with the following with regard to correspondence by e-mail:

They should:

- a) If offended by the content or tone of an incoming message get a second opinion to check out their interpretation and make sure the response is objective.
- b) Comply with the rules of common courtesy and the law when using e-mail.
- c) Always use appropriate language, remembering that misunderstandings frequently arise through the use of e-mail, which offend others without intending to.
- d) Always respect the privacy of others, remembering that e-mail can be just as intrusive as unsolicited 'phone calls or letters.
- e) Respect the confidentiality of information encountered inadvertently in e-mail or other records.
- f) Use personal and professional courtesy and considerations in e-mail.
- g) Check with the sender if there is any doubt about the authenticity of a message.

They should not:

- h) Send unnecessary e-mails, remembering someone else will have to read and respond.
- i) Include anything in an e-mail that would not be put in a letter.
- j) Use code or jargon which might be misunderstood or unknown to the receiver.
- k) Use e-mail that breaches codes of common courtesy or decency (such as harassment, copyright violations, unsolicited e-mails or other material).
- l) Seek out, use, or disclose personal or confidential information unless specifically authorised to do so.
- m) Knowingly restrict or interfere with others' access to and use of e-mail.
- n) Send "Junk e-mail" or chain messages.
- o) Use e-mail to give the impression that you represent the Parish Council (unless authorised to do so).

11.2 Official letters sent out on behalf of the Parish Council should normally be sent out under the name of the appropriate Officer, Chairman of Council or Committee Chairman (subject to the matter being within his or her remit). Most letters will be in the name of an Officer because it is Officers who provide advice, implement decisions, and deal with day-to-day operations.

11.3 It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for letters to appear under the name of the Council Chairman.

11.4 Letters that create obligations or give instructions on behalf of the Parish Council should never be sent out under the name of a Member.



## **12. Complaints**

- 12.1 In a situation where a Member identifies that an Officer may have committed a breach of the Council's disciplinary rules and procedures, he or she shall draw the issue to the attention of the Parish Clerk or if it about the Parish Clerk, to the Council Chairman.
- 12.2 In respect of an Officer who believes a Member has breached the Code of Members' Conduct, he or she should:
  - a) Not offer any opinion or judgment upon that conduct to the Member;
  - b) He or she must advise the Parish Clerk immediately of the circumstances, facts, his or her belief and the rationale behind it, including supplying all and any documents; and
  - c) He or she should not comment further on the issue to any other Officer or Member without the prior consent of the Parish Clerk.
- 12.3 These provisions are to protect both the Member and Officer, avoid Officers from becoming unduly involved in allegations of Member misconduct at an inappropriate level and to ensure that any investigation that may need to be carried out is not in any way fettered or damaged.