SAFFRON WALDEN
TOWN COUNCIL

Member and Officer Protocol

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1	April 2019		April 2021
2	April 2021	FC 208-21 (readopted with no changes)	April 2023
3	March 2023	FC 040-23 (b)	September 2026
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Introduction

1 This Protocol is written as it is considered good practice for a Council to have a Member/Officer Protocol to inform Councillors and Officers of what they might reasonably expect of each other. In the context of this Protocol the term Officer means every paid employee of the Council.

2 The following views might be held:

Members

2.1 Uncertainty as to who may be contacted about a particular matter, and when.

2.2 Uncertainty as to progress on issues referred.

2.3 Acknowledgements of issues raised.

2.4 As to obtaining information, some Members should not be given preferential treatment over others. If there is an equal 'need to know' all Members should be treated equally.

2.5 Clarity on the Officer/Member relationship required.

Officers

2.6 Undue pressure by some Members to be given preferential treatment for issues they have raised.

2.7 Unfair and unwarranted criticism of staff, particularly at a level where a staff member may be overawed or at a disadvantage.

2.8 Uncertainty as to the role of Members.

2.9 Some uncertainty as to whether Officers or Members should respond to constituents on Council business.

2.10 Some uncertainty as to involvement of Officers, at request of Members, at meetings organised by outside agencies or general public.

3 Given the variety and complexity of Member/Officer relations, any Protocol cannot seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise. All successful organisations need to be flexible to suit circumstances but at the same time, to ensure the Protocol does not become a worthless document, it should be recognised that the guidelines should, as far as possible, be uniformly followed.

4 It is also important to note that this Protocol sits together with a number of other Council procedures and that there may be some overlap between the Protocol and those procedures, for example:

4.1 Standing Orders and Delegated Authority to the Town Clerk

4.2 Grievance procedure for staff

4.3 Complaints procedure

4.4 National Code of Conduct for Members

4.5 Code of Conduct for Employees - Register of Interests/Gifts and Hospitality

4.6 Civility and Respect Pledge

Access to Officers

5 With the Council's wider use of e-mail, Members should seek to avoid, as far as possible, entering an Officer's work area and requiring immediate attention. Where an urgent response is required, the Member should seek to telephone the Officer and fix up a convenient meeting, if required.

6 Officers should seek to meet the following performance targets for response to Member enquiries:

6.1 Straightforward enquiries - within 24 hours (provided a weekend does not intervene)

6.2 More complicated enquiries - within 5 working days

6.3 Difficult enquiries involving research - within 10 working days

7 Whenever possible, Members will seek to respond to Officers' enquiries and requests within one week from receipt of the enquiry/request.

8 Members should not expect action to be taken by Officers where such action would lie outside approved budgets or priorities.

Access to Information and Council Documents

9 Members are entitled to such information as they may reasonably need to assist them in discharging their role as Members of the Council.

10 As regards the legal right of Members to inspect Council documents, this is covered partly by statute and partly by common law.

21.10.1 Statutory right (as contained in the Access to Information Act 1985)

21.10.2 Common law right - on a 'need to know' basis

21.10.3 Also note paragraph 26 of the National Code of Local Government Conduct

11 It is important to emphasise that where there is an equal ‘need to know’ all Members must be treated equally, and Officers must not give some Members preferential treatment.

12 Unless there is an equal ‘need to know’, information disclosed by an Officer to a Member, should not be copied to another Member, unless it is made clear to that Member that the information is to be copied.

13 Where a constituent has been in contact with a Member and is seeking a written response, if the matter is dealing with policy or budgetary issues, then it would be advisable if the reply was sent by the Town Clerk.

Undue Pressure

14 In dealing with Officers (especially those at a more junior level), Members need to be aware that it is possible for those Officers to be overawed and feel at a disadvantage. Whilst constructive criticism is acceptable, the manner in which it is delivered should be careful considered.

15 It is important to bear in mind that in severe cases of harassment by a Member, if the Officer resigns as a consequence, there is potential for a successful unfair dismissal claim on the grounds that the implied terms of the employees Contract of Employment have been breached due to failure to maintain mutual trust and confidence and the provision of a reasonable working environment (Moores v Bude-Stratton Town Council (2000) - Employment Appeals Tribunal Case).

16 A Member should not apply undue pressure on an employee, either to do anything that he/she is not empowered to do or to undertake work outside normal duties or budgets. Particular care needs to be taken in connection with the use of the Council’s property, resources and services.

17 An Officer must not seek to use undue influence on a Member and in this regard it is desirable that close personal friendships with Members are not formed. Any Officer who is personally connected to any Member should notify the Town Clerk in writing.

18 Where an Officer has a complaint about a Member then that Officer should initially raise their concerns informally with the Town Clerk. If the Officer feels that these discussions do not resolve the issue, then the formal Staff Grievance Procedure should be followed. In the unlikely event that the matter is not satisfactorily resolved in this way, then the matter could be referred by the Officer for consideration to the Personnel Committee.

Officer /Mayor Relationships

19 It is clearly important that there should be a close working relationship between the Mayor and the Town Clerk and other Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members, individuals or organisations.

20 Whilst the Mayor will routinely be consulted as part of the process of drawing up the Agenda for a forthcoming meeting, it must be recognised that in some circumstances the proper conduct of business may require a particular matter to be included on an Agenda. The Town Clerk will always be fully responsible for the contents of any Report submitted in his/her name. There may also be circumstances in which the Town Clerk will be under a duty to submit a Report.

21 In relation to action under any delegated power, it is important to remember that the law only allows for decisions (relating to the discharge of any of the Council's functions) to be taken by the Council, a Committee or a designated Officer with delegated powers. The law does not allow for any such decision to be taken by the Mayor or a Committee Chairman alone, or indeed by any other single Member. On some occasions when the authority to make a decision is delegated to an Officer, it is on the basis that the Officer will exercise that authority in consultation with nominated Members. The decision, however, is that of the Officer to whom the power is delegated.

22 It must be remembered that Officers are accountable to the Town Clerk, and that whilst Officers should always seek to assist Members, they must not, in so doing, go beyond the bounds of whatever authority they have been given by the Town Clerk. It should also be noted that the Town Clerk has a statutory responsibility for ensuring the proper organisation and management of the Council's staff, and has therefore an overall responsibility for the direction and management of all Officers.

Political Activity

23 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, etc) to Members is to assist them in discharging their role as Members of the Council. They should never be used in connection with any political activity.

24 Officers must not be involved in attending any meetings called by Residents Associations or political parties without the express consent of the Council.

25 Members should refrain from inviting Officers to attend meetings which have political overtones, or could be seen as such.

Publicity and the Media

26 Communications with the media can be an important part of a Councillor's or the Town Clerk's role. In any media contact, Councillors and the Town Clerk should always have regard to the reputation of the Town Council. Generally, Councillors provide comments and views and the Town Clerk provides factual information. This factual information may well include explaining the Town Council's policy on a particular issue. If any Councillor is unsure about the facts of any issue he/she should contact the Town Clerk or ask the media representative to do so. Councillors should avoid being seen to anticipate decisions of the Town Council or its Committees and should not criticise the Town Clerk or any member of the Town Council staff in the media

27 When speaking to the media, Councillors must make it clear that they are not speaking on behalf of the Town Council, and should indicate in what capacity they are speaking, e.g. in a personal capacity, on behalf of their political group, or as the Chairman of a Committee. It may be useful to advise the Town Clerk of the discussion.

28 If the Town Clerk is approached by the media he/she should provide factual information on matters of public record. Where the media are seeking comment on Town Council policy, the Town Clerk will refer them to the Chairman of the appropriate Committee. The Town Clerk should also, at the earliest opportunity, inform the Chairman of the appropriate Committee and the Mayor of questions received from the media.

29 If the Town Clerk is unavailable, his/her delegated deputy may speak to the media on his/her behalf. The Town Clerk and his/her delegated deputy are the only Town Council Officers empowered to speak to the media on behalf of the Town Council.

30 Councillors are reminded of their obligations under Standing Orders and Code of Conduct regarding any limitations in relation to their conduct and activities.

Breaches of the Protocol

31 Recognising that this Protocol is a guideline document, it may be that breaches will not always involve a sanction against the Member or Officer concerned. However, regular or more serious breaches may involve disciplinary action against the Officer through the Council's Disciplinary Procedure or against the Member through the Council. Any breaches of the Protocol will also be reported for information to the Committee with responsibility for Personnel Matters