

Sedgefield Town Council



COUNCILLOR AND STAFF WORKING PROTOCOL

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1.0	09.10.17	Jane Ayre, Town Clerk	01.10.18

SEDFIELD TOWN COUNCIL COUNCILLOR AND OFFICER WORKING PROTOCOL

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COUNCILLOR AND STAFF WORKING PROTOCOL

1. Introduction:

The relationship between Councillors and staff is essential to the successful working of the Town Council. This relationship should be characterised by mutual respect, informality and trust. Councillors and staff must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position, Councillors and staff feel free to speak to one another openly and honestly. The purpose of this protocol is to help Councillors and staff perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. This protocol provides a framework for interaction, acknowledging that the Councillor/staff relationship is a delicate one. It is a relationship that is at the heart of what the Council does and as such needs to be continually nurtured and developed. This Protocol also gives guidance on what to do on the rare occasions when things go wrong.

2. Guiding Principles:

Guiding all aspects of relationship between Councillors and staff should be the seven principles of public life:

- Selflessness – serving only the public interest;
- Integrity – avoiding placing themselves under any obligation to people or organisations, declaring and resolving interests;
- Objectivity – taking decisions impartially and on merit;
- Accountability – to the public and being open to scrutiny;
- Openness – taking decisions in an open and transparent manner;

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- honesty – being truthful;
- leadership – exhibiting these principles in own behaviour and be willing to challenge poor behaviour in others.

This protocol must be read and operated in the context of any relevant legislation, national and local Codes of Conduct and any relevant Town Council procedures. A breach of this Protocol will not automatically also be a breach of the Councillor’s Code of Conduct or Staff Handbook but it may provide contributory evidence and may result in a complaint to the Monitoring Officer of Durham County Council or the commencement of the Town Council’s Grievance or Disciplinary Policies.

3. The Roles of Councillors and Staff:

Councillors are responsible to the electorate and serve as long as their term of office lasts. Staff are responsible to the Council and carry out the Council’s work under the direction of the Council and its Committees.

3.1. Role of Councillors:

Councillors are responsible for:

- Giving political leadership;
- Initiating and determining the policy of the Council;
- Acting as advocates for their constituents;
- Democratic accountability for the delivery of Council services;
- The scrutiny of Council services;
- The promotion of partnership working.

It is not the role of Councillors to involve themselves in the day to day management of the Council’s services.

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Chairmen and Vice Chairmen have additional responsibilities. These responsibilities will result in increased expectations and relationships with staff that are more complex. Such Councillors must still respect the impartiality of staff and must not ask them to undertake work of a party political nature or compromise their position with other Councillors or other staff.

Councillors are not authorised to instruct staff other than:

- Through the formal decision making process;
- To request items to go on to agendas in accordance with Standing Orders;
- To request the provision of consumable resources provided by the Council for Councillors' use;
- Where staff have been specifically allocated to give support to a Councillor or group of Councillors.

Individual Councillors are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council. Authorised signatories, however, may sign cheques when requested by the Town Clerk who will ensure a clear audit trail back to the Council's Policy & Resources Committee.

Councillors must avoid taking actions which are unlawful, financially improper or likely to amount of maladministration. Councillors have an obligation to have regard when reaching decisions, to any advice provided by staff.

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Councillors must respect the impartiality of staff and do nothing to compromise it, e.g. by insisting that a member of staff change their professional advice.

Councillors have a duty under their Code of Conduct:

- To promote equality by not discriminating unlawfully against any person; and
- To treat others with respect.

Under the Code, a Councillor must not, when acting as a Councillor or in any other capacity:

- Bring the Council or his/her position as a Councillor into disrepute; or
- Use their position as a Councillor improperly to gain an advantage or disadvantage for themselves or any other position.

3.2. Role of Staff:

Staff are responsible for:

- Providing professional advice and information to Councillors in developing and implementing policy and in decision-making;
- Implementing decisions of Council;
- Day to day administration of the Council;
- Managerial and operational decisions taken within the Council's Delegation Scheme
- Information to, and consultation with, local people about Council services.

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The Town Clerk & Responsible Financial Officer has responsibilities in law over and above their obligations to the Council and its Councillors, and which they must be allowed to discharge.

Councillors and staff will wish to discuss policy issues and staff will require political guidance in preparing proposals. When staff prepare reports for Councillor decision they have a duty to give advice in accordance with their professional expertise and own professional codes of conduct. In some situations Officers will be under a duty to submit a report on a particular matter. Officers expect to have their professional integrity respected and not to be influenced or required to reduce options, withhold information or make recommendations to the Council, a Committee or Working Group, which they cannot support professionally.

Staff are responsible for giving advice to Councillors to enable them to fulfil their roles. In doing so, staff will take into account all available relevant factors.

Under the direction and control of the Council, staff, led by the Town Clerk, manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.

Staff have a duty to implement decisions of the Council, and Committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's constitution, and are duly recorded in the minutes. Staff must convene Committee meetings at the request of Councillors of that Committee in accordance with Standing Orders.

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Staff have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.

Staff must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.

Staff must 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.

Staff 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. In particular, there is a statutory limitation of officers' involvement in political activities.

4. Expectations:

4.1. Councillors and staff should expect each other to:

- Comply with ethical standards and probity requirements;
- Be part of an effective working partnership;
- Contribute to safeguarding the reputation of the Council;
- Be friendly (but not friends);
- Be reliable;
- Understand and advise on the needs of local communities;
- Ensure the Council acts lawfully and its reputation is safeguarded;
- Fully consider professional advice as part of decision making;

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- Ensure the allocation of physical, financial and human resources;
- Avoid personal criticism;
- Be respectful (but not deferential);
- Be professional (but not jargonistic);
- Trust and respect each other's expertise, knowledge and skills;
- Listen and understand each other;
- Understand the strategic and long term direction of the Council;
- Inform and manage residents expectations;
- Build community capacity and unlock social productivity;
- Understand and explain difficult decisions;
- Provide advice, information and guidance;
- Respect each other's free (i.e. non-Council) time.

4.2. Councillors can expect from staff:

- A commitment to the Council as a whole and not to any political group.
- A working partnership
- An understanding of and support for respective roles, workloads and pressures.
- Timely response to enquiries and complaints.
- Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of staff.
- Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold
- Awareness of and sensitivity to the political environment
- Respect, dignity and courtesy
- Training and development in order to carry out their role effectively
- Integrity, mutual support and appropriate confidentiality

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- Not to have personal issues raised with them by staff outside the agreed procedures
- That employees will not use their relationship with Councillors to advance their personal interests or to influence decisions improperly
- That Officers will at all times comply with the Staff Handbook
- Support for the roles of Councillors as the local representatives of the authority, within any scheme of support for Councillors which may be approved by the Council.

4.3. Staff can expect from Councillors:

- A working partnership;
- An understanding of and support for respective roles, workloads and pressures;
- Political leadership of and support for respective roles, workloads and pressures;
- Respect, dignity and courtesy;
- Not to be subject to intimidation, bullying or to be put under undue pressure. Councillors should have regard to the seniority of staff in determining what are reasonable requests, having regard to the power relationship between Councillors and staff, and the potential vulnerability of staff. Staff should not be asked to deal with matters outside their level of authority;
- That Councillors will not use their position or relationship with staff 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 Code of Conduct.

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5. Normal Conduct of Council Business:

5.1. Working Relationships:

Councillors should bear in mind that unless there is an on-going relationship with a particular member of staff, for example, in relation to a case or application they are dealing with, Councillors are expected to deal in the first instance with the Town Clerk. This is because:

- They are in a better position to provide authoritative information or advice;
- They need to be aware of any questions or complaints raised by Councillors;
- They are able to respond to Councillors requests, for example by making a judgement as to whether action may be taken under Officers' delegated authority; and
- They are able to investigate and deal with any shortcomings there might be at the point of service delivery.

Once work has been assigned the normal conduct of business will mean that Councillors may deal directly with some staff below senior level. These dealings will be conducted according to the principles outlined in this protocol and any difficulties should be reported to the Town Clerk.

Informal and collaborative two way contact between Councillors and staff is encouraged. But personal familiarity can damage the relationship, as might a family or business connection. It is not enough to avoid impropriety. Councillors and staff should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a

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Councillor should not sit on a body or participate in any decision which directly affects that member of staff on a personal basis. Staff shall not discuss with a Councillor personal matters concerning themselves or another individual employee. This does not prevent an Officer raising, on a personal basis, and in their own time, a matter with a Councillor which they would otherwise do as a resident.

Staff work to the instructions of their Line Manager, not individual Councillors. It follows that, whilst such staff will always seek to assist a Councillor, they must not be asked to exceed the bounds of the authority they have been given by their Line Manager. Except when the purpose of an enquiry is purely to seek factual information, Councillors should normally direct their requests and concerns to the Town Clerk, at least in the first instance.

5.2. At Meetings:

Staff and Councillors will most frequently come into contact with each other at the various meetings held to conduct Council business, and at partnership and other consultative bodies. The respective roles of Councillors and staff may vary according to the purpose of the meeting and therefore their relationship to each other will also vary. There are some basic rules that will apply in all situations.

At all times Councillors and staff will show respect to one another. Although Councillors are entitled to question staff at meetings they must avoid personal attacks and ensure that criticism is constructive and well founded. Staff will expect to have the opportunity to explain what appears to be an inconsistency.

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Councillors of a Committee shall take decisions within the remit of that Committee and will not otherwise instruct staff to act.

With the exception of the Town Clerk, Councillors should be aware that any other staff taking minutes of a Working Group is there in the role of minute taker only and is not part of the actual debate of the meeting and should not be drawn into such.

At some Committee meetings, a resolution may be passed which authorises a named staff to take action between meetings in consultation with the Chairman. In these circumstances it is the staff member, not the Chairman, who takes the action and is responsible for it. A Chairman has no legal power to take decisions on behalf of a Committee, neither should they apply inappropriate pressure on the staff member.

Wherever a public meeting is organised to consider a local issue, all the Councillors should, as a matter of course, be invited to attend the meeting. Similarly when the Council undertakes any form of consultative exercise, Councillors should be notified at the outset of the exercise.

5.3 Working with Political Groups:

Currently the Town Council does not have any Political Groups, however, should any form these could have an important role to play in the development of policy and the political management of the Council. Whilst the operation of the Political Groups must be supported by the Council, it is important that staff should remain politically neutral, and avoid being identified with any such group. Staff will be expected to give advice and information to any such Group, however, if the resource implications of providing such information were considerable then the Leader(s) of any

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such Group(s) would need to meet with the Town Clerk to discuss and agree what information could be provided by staff.

5.4. Reports:

Councillors may request the Town Clerk, who may then delegate to another member of staff, to prepare written reports on matters relating to the Council for consideration by either the Full Council, Committees or Working Groups. Staff reports will be factual and may identify options with the merits or otherwise of these. Reports will not deal with any political implications of the matter and will detail options/recommendations for Councillors consideration.

5.5 Correspondence:

Correspondence, in either letter format or email between an individual Councillor and a member of staff should not be copied to another Councillor unless the author expressly intends and states that this is the case or consents. Where correspondence is copied, this should always be made explicit, i.e. there should be no “blind” copies. If Councillors are sending letters or emails to staff then the Town Clerk should be copied in for reference.

Official letters written on behalf of the Council should normally be in the name of the Town Clerk.

The Mayor may initiate correspondence in their own name, but that should not usually be on behalf of the Council.

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Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a Councillor.

When writing in an individual capacity as a Town member, a Councillor must make clear that fact.

No individual Councillor should be the sole custodian of any correspondence or information in the name of the Council, a Committee or Working Group.

5.6 Documents and Information:

Councillors may request the Town Clerk to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as Councillors. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:

- It is in the public domain; and
- It is not barred by the Data Protection Act from being given

Every Councillor of a Committee has a right to inspect documents about the business of that Committee.

A Councillor who is not a member of a specific Committee, may have access to any document of that specific part of the Council provided:

- They can demonstrate a reasonable need to see the documents in order to carry out their role as Councillor (the "need to know" principle) and

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- The documents do not contain “confidential” or “exempt” information as defined by the law

Disputes as to the validity of a Councillor’s request to see a document, on a need to know basis, will be determined by the Town Clerk but a Councillor may request a written justification for refusal.

A Councillor should obtain advice from the Town Clerk in circumstances where they wish to have access to documents or information:

- Where to do so is likely to be in breach of the Data Protection Act, or
- Where the subject matter is one in which they have a disclosable pecuniary interest, as defined in the Councillors’ Code of Conduct

Information given to a Councillor must only be used for the purpose for which it was requested.

Councillors and staff 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. Where the Council agree that information is confidential and it is not required to be in the public domain, a Councillor or staff member should extend the courtesy to other Councillors by informing them that they are not to release information, even if entitled to do so.

When asked to do so, staff will keep confidential from other Councillors, advice requested by a Councillor.

Councillors and staff must not prevent another person from gaining access to information to which that person is entitled by law.

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5.7. Media Relations:

All formal relations with the media must be conducted in accordance with any Town Council agreed procedures and the law on local authority publicity.

Press releases or statements made by staff must promote or give information on Council policy or services. They will be factual and consistent with Town Council policy. They cannot be used to promote a party group.

Staff will keep relevant Councillors informed of media interest in the Council's activities, especially regarding strategic or contentious matters.

Before responding to enquiries from the media, staff will ensure they are authorised to do so.

If a Councillor is contacted by, or contacts, the media on an issue, they should:

- Indicate in what capacity they are speaking (e.g. as an individual Councillor, in a personal capacity, on behalf of the Council, or on behalf of a party group);
- Be sure of what they want to say or not to say;
- If necessary, and always when they would like a press release to be issued, seek assistance from the Town Clerk, except in relation to a statement which is party political in nature;

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- Consider the likely consequences for the Council of their statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions);
- Never give a commitment in relation to a matter which may be subject to claims from third parties and/or are likely to be an insurance matter;
- Consider whether to consult other relevant Councillors; and
- Take particular care in what they say in the run up to local or national elections to avoid giving the impression of electioneering, unless they have been contacted as an election candidate or political party activist.

5.8 Access to Premises:

Staff have the right to enter Council land and premises to carry out their work.

Councillors have a right of access to Council land and premises to fulfil their duties.

6. Limitations Upon Behaviour:

The distinct roles of Councillors and staff necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- Close personal relationships between Councillors and staff can confuse these separate roles and get in the way of the proper discharge of the council's functions, not least in creating the perception in others that a particular Councillor or staff member may secure advantageous treatment.

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- The need to maintain the separate roles means that there are limits to the matters on which they may seek the advice of staff, both in relation to personal matters and party political issues.
- Relationships with a particular individual(s) or party groups should not be such as to create public suspicion that an employee favours that Councillor or group above others. The issue of staff attendance and advice to political group is specifically covered.

7. The Council as an Employer:

Staff are employed by the Council as a whole.

Councillors' roles are limited to:

- The appointment of specified posts
- Determining human resources policies and conditions of employment
- Undertaking the responsibilities of Personnel Committee
- Hearing and determining appeals

If participating in the appointment of staff, Councillors should:

- Remember that the sole criterion is merit
- Never canvass support for a particular candidate
- Not take part where one of the candidates is a close friend or relative
- Not be influenced by personal preferences and
- Not favour a candidate by giving them information not available to the other candidates

A Councillor should not sit on an appeal hearing if the appellant is a friend, a relative, or a member of staff with whom the Councillor has had a working relationship.

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8. If Things Go Wrong:

8.1. Procedure for Staff:

From time to time the relationship between Councillors and staff may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by the Town Clerk or Chair of Council, staff will have recourse to the Grievance Procedure or to the County Council's Monitoring Officer, as appropriate to the circumstance. In the event of a grievance or complaint being upheld, the matter will be referred to the Town Clerk (or if the grievance is against the Town Clerk then the Chair of the Council following consultation with the Chair of the Personnel Committee).

8.2. Procedure for Councillors:

In the event that a Councillor is dissatisfied with the conduct, behaviour or performance of a member of staff, the matter should be raised with the Town Clerk. Where the employee concerned is the Town Clerk, the matter should be raised with the Chairman of the Council. If the matter cannot be resolved informally, it may be necessary to invoke the Council's Disciplinary Procedure.

9. Conclusion:

Mutual understanding and basic respect are the greatest safeguard of the integrity of the Town Council, its Councillors and staff.

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