



FROME TOWN COUNCIL

Chapter 7

Member and Employee Protocol

Principles of Good Practice



5 Palmer Street
Frome
BA11 1DS



01373 465757



admin@frome-tc.gov.uk

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PRINCIPLES OF GOOD PRACTICE
including
A PROTOCOL FOR MEMBER/EMPLOYEE RELATIONS

The following guidance has been put together to give all Council members and staff guidance on accepted good practice on Council protocol and is in addition to information and guidance provided by other publications such as “The Good Councillors Guide” and NALC guidelines on Chairmanship.

Copies of this Protocol will be issued to all Members on election and to all Employees on appointment.

It will complement any statutory procedures or legislation enacted from time to time.

CONTENTS

SECTION 1

CHAIRING THE COUNCIL (ROLE OF THE MAYOR)

SECTION 2

COUNCIL DECISION MAKING

- 2.1 DECISION MAKING BY THE FULL COUNCIL OR COMMITTEES
- 2.2 PRINCIPLES OF DECISION MAKING
- 2.3 PREPARATION OF COUNCIL AGENDAS, MINUTES AND REPORTS AND CONDUCT OF MEETINGS
 - 2.3.1 AGENDAS
 - 2.3.2 OFFICERS AT MEETINGS
 - 2.3.3 MINUTES
 - 2.3.4 SUBMISSION OF REPORTS
- 2.4 AUTHORITY TO ACT

SECTION 3

A PROTOCOL FOR MEMBER / EMPLOYEE RELATIONS

PRINCIPLES OF GOOD PRACTICE

SECTION 1 - CHAIRING THE COUNCIL (ROLE OF THE MAYOR)

1.1 The Mayor, who will also be the Chairman of the Council, will be elected by the Council annually and will receive regular briefings by the Chief Executive on current issues. While the title confers no additional powers on the Mayor, as Chairman they will have the following responsibilities:

- to uphold and promote the purposes of the Standing Orders and Financial Regulations, and to interpret the Standing Orders and Financial Regulations when necessary;
- to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who do not hold committee chairs are able to hold the Mayor and committee chairmen to account;
- to promote public involvement in the Council's activities;
- to be the conscience of the Council; and
- to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

SECTION 2 - COUNCIL DECISION MAKING

2.1 DECISION MAKING BY THE FULL COUNCIL OR COMMITTEES

Council meetings will follow the Council's procedural rules set out in Standing Orders and Financial Regulations when considering any matter.

2.2 PRINCIPLES OF DECISION MAKING

All decisions of the Council will be made in accordance with the following principles:

- Proportionality i.e. the action should be proportionate to the desired outcome
- Due consultation and the taking of advice from Employees
- Respect for human rights
- Presumption in favour of openness
- Clarity of aims and desired outcomes
- Reflecting the balance of evidence, or legal or financial advice

2.3 PREPARATION OF COUNCIL AGENDAS, MINUTES AND REPORTS AND CONDUCT OF MEETINGS

2.3.1 Agendas

The designated Proper Officer (usually Lead Officer) for a Committee is responsible under statute for preparing the Agendas for all meetings of the Town Council, Committees and Sub Committees, and for circulation of them to meet statutory

requirements. However, out of courtesy, the Proper Officer may consult with the appropriate Chair during the course of preparation of Agendas.

The Chairman works in partnership with the Proper Officer to make sure that the Council is properly informed for making lawful decisions during meetings.

Matters for inclusion on an Agenda may be considered at the discretion of the appropriate Chair in agreement with the Chief Executive and / or Proper Officer and submitted in accordance with Standing Order No. 9.

2.3.2 Officers at Meetings

The Chief Executive or other appointed officer as delegated by the Chief Executive will be present at all meetings involving Members of the Town Council and will advise on any questions relating to Standing Orders, Financial Regulations, legal requirements or committee procedures and will supervise the production of formal Minutes of the meeting.

Where for whatever reason an Officer is not able to attend a meeting the meeting is not invalidated. The Chairman presides and a Member may take the minutes.

2.3.3 Minutes

The Chief Executive or other appointed officer is responsible for the content of all Minutes and for circulation of them to meet statutory requirements.

2.3.4 Submission of Reports

When a named officer has produced a written report for the consideration of Members, he/she is known as the "Lead Officer" for the particular topic and is always given the opportunity to introduce the report and answer any questions about it.

The Lead Officer may not necessarily be the same officer who attends to give advice on legal requirements or procedures and produce the Minutes as referred to in 2.3.2 and 2.3.3 above.

All Committee reports will usually contain a recommendation which formally sets out the best advice from the officers concerned, although the decision to accept this or not rests with the Members.

2.4 AUTHORITY TO ACT

No individual Councillor (including Committee Chairmen and the Mayor) or informal groups of Councillors can make a decision on behalf of the Council. There is no such thing as 'Chair's Action.'

SECTION 3 - PROTOCOL FOR MEMBER/EMPLOYEE RELATIONS

CONTENTS

1. Introduction and Principles
2. General Points
3. The Relationship: Employee Support to Members General Points
4. Employee Advice to Party Groups and Individual Members
5. Use of Council Resources
6. Members Access to Information and to Council Documents
7. Correspondence (including email)
8. Publicity and Press Releases
9. Involvement of Local Councillors
10. Conclusion
11. Arbitration

1 Introduction and Principles

The purpose of this Protocol is to guide Members and Employees of Frome Town Council in their relations with one another and their dealings with other Members and Employees from any tier of Government in such a way as to ensure the smooth running of the Council.

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 which it adopts to these issues will serve as a guide to dealing with other circumstances.

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 Employees are protected from accusations of bias and any undue influence from Members.

It also seeks to reflect the principles underlying the Code of Conduct which apply to Members. The object of this code is to enhance and maintain the integrity (real and perceived) of local government and the Code, therefore, demand very high standards of personal conduct.

The Council has adopted the Codes of Conduct for Members, and this protocol should be read in conjunction with that Code and the relevant provisions of the Council's other adopted policies.

Principles Underlying Member/Employee Relations:

The Nolan Report on Standards of Conduct in Local Government suggests that 'No local authority can function properly without a good relationship between its Councillors and its Employees. Where the relationship breaks down, an atmosphere of suspicion or dislike can make it very difficult to devise and implement policies in any consistent way.' The general principles which govern the conduct of members (selflessness, honesty and integrity, objectivity, accountability, openness, personal judgement, respect for others, duty to uphold the law, stewardship and leadership) require members to respect the impartiality and integrity of an authority's statutory Employees and other Employees. Those principles are equally appropriate for Employees in their dealings with members.

2 General Points

Both Councillors and Employees are servants of the public and they are indispensable to one another. But their responsibilities are distinct.

Roles of Members:

Councillors are responsible to the electorate and serve only so long as their term of office lasts. Members are democratically elected and are accountable to the electorate for their actions. An important feature of each Member's role is to represent the interests of his/her constituents, irrespective of how they may have voted in an election. The expectation is that Members will be more aware of the views of their constituents on major policy developments before decisions are taken collectively at Council meetings.

Roles of Employees:

All staff are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, their committees and subcommittees.

Employees are responsible for day-to-day managerial and operational decisions within the Council and should provide support to all Members. They are employed by and accountable to the Council as a whole. Members should respect the obligation placed on Employees to serve the Council as a whole.

Employees have a duty to implement decisions of the Council which are lawful, and which have been properly approved in accordance with the requirements of the law recorded in the Minutes and therefore form part of the adopted policies of the Council.

Employer / Employee Issues:

At the heart of this Protocol, is the importance of mutual respect. Member/Employee relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Employees should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

Members should recognise and have due regard to their role as an employer in their dealings with Employees and be conscious that inappropriate conduct or behaviour on their part could lead to a case being brought to an employment tribunal by an aggrieved Employee, it is proper for a Member to make written or oral representations about a matter affecting a constituent who also happens to be an Employee but he/she should avoid taking a proactive part or represent or act as an advocate on behalf of the Employee in any disciplinary or grievance procedures brought against the Council by the Employee.

Members should not place inappropriate pressure on Employees and must ensure that all communication between them (including written communication) does not bring the Council into disrepute, cause any embarrassment to them, or lead to a breakdown of mutual trust respect and courtesy in Member/Employee relations.

In particular, Members and Employees should promote equality by not discriminating unlawfully or otherwise against any person. They should treat people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. Such principles will apply equally to the implementation of personnel and other policies, recruitment and promotion as they apply to day to day dealings with members of the public.

A Member should not raise matters relating to the conduct or capability of an Employee in a manner that is incompatible with the objectives of this Protocol. This is a long-standing tradition in public service. An Employee has no means of responding to such criticisms in public. If a Member feels he/she has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Employee, and fails to resolve it through direct discussion with the Employee, he/she should raise the matter with the relevant Line Manager. The Line Manager will then look into the facts and report back to the Member.

If the Member continues to feel concern, then he/she should report the facts to the Chief Executive who will look into the matter afresh. Any action taken against an Employee in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures contained within the Staff Handbook.

An Employee should not raise with a Member matters relating to the conduct or capability of another Employee or to the internal management of a Section/Division/Department at or in a manner that is incompatible with the overall objectives of this Protocol. This does not, however, prevent an Employee raising a concern with a Member under the Council's whistleblowing procedure

Where an Employee feels that he/she has not been properly treated with respect and courtesy by a Member, he/she should raise the matter with his/her Line Manager or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Line Manager / Chief Executive will take appropriate action either by approaching the individual Member or by referring the matter to the Monitoring Employee in the context of the Standards Committee considering the complaint.

Guidance on personal relationships is contained in the Code of Conduct within the Staff Handbook. Provided these are observed, more informal exchanges may be appropriate between Members and Employees outside business meetings and formal events.

It is important that there should be a close working relationship between Councillors, Chairmen and leaders of political parties with staff. However, such relationships should never be allowed to become so close, or appear to be so close as to bring into question the issue of impartiality into doubt.

3 The Relationship: Employee Support To Members: General Points

Employees are responsible for day-to-day managerial and operational decisions within the authority and will provide support to all Councillors.

Certain statutory officers - the Chief Executive (Town Clerk) and Responsible Financial Officer have specific roles. These are addressed in Standing Orders and Financial Regulations. Their roles need to be understood and respected by all Members.

Independence of the Chief Executive (Town Clerk/Proper Officer)

The Chief Executive is not answerable to any individual Councillor, not even to the Chairman (Mayor). The Chief Executive is an independent and objective servant of the Council as a single corporate body, recognising that the Council is responsible for all decisions and taking instructions from the Council in its capacity as a single corporate body.

As an independent and objective professional, the Chief Executive (or such delegated officer) advises the Council on whether decisions are lawful and ways in which decisions can be implemented.

The Chief Executive (or such delegated officer) can be asked to research topics of concern to the Council and provide unbiased information that helps the Council to make appropriate choices.

The following key principles reflect the way in which the Employees generally relate to Members:

- all Employees are employed by and accountable to the authority as a whole
- support from Employees is needed for all the authority's functions including full Council, Committees and individual Members representing their communities etc.
- day-to-day managerial and operational decisions remain the responsibility of the Chief Executive and other Employees

On occasion, a decision may be reached which authorises the Chief Executive to take action between meetings following consultation with a specific Member. It should be recognised that it is the Chief Executive, rather than the Member or Members, who takes the action and it is the Chief Executive who is legally accountable for it.

Members must not issue orders, instructions or directions to Employees. Authorisation to carry out work on behalf of the Council can only be issued by the Chief Executive. The Office of Mayor or as a Committee Chairman does not confer this status.

It should be remembered that Employees within a department are accountable to their Line Manager and that whilst Employees should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Line Manager.

Officers will do their best to give timely responses to Members' enquiries. However, officers should not have unreasonable requests placed on them. Their work priorities are set and managed by their Line Managers. Members should avoid disrupting officers' work by imposing their own priorities.

Much of the work of the Council is time sensitive and Employees are usually working to tight deadlines. In order to help minimise disruption and to enable Employees, particularly Managers to plan and prioritise their work programme, Members should always seek to make an appointment to see an Employee and give an outline of what issues are to be discussed. This will help officers to provide the most relevant advice as preparation and research where necessary can be carried out before the meeting.

Members should try to give timely responses to enquiries from officers, particularly where the Council must itself comply with legal time limits for making decisions (for example in relation to planning applications).

Officers should not discuss with a Member personal matters concerning him/herself or another individual Employee. This does not prevent an officer raising on a personal basis, and in his/her own time, a matter with his/her ward member.

Members and officers should respect each other's free time. Council business should only be discussed when both Member and Employee are acting in their official capacity.

4 Employee Advice to Party Groups and Individual Members

It must be recognised by all Employees and Members that in discharging their duties and responsibilities, Employees serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council.

In Town Councils there is no statutory recognition for party groups. Employees must at all times maintain political neutrality. All Employees must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.

Certain points must therefore, be clearly understood by all those representing party groups. In particular:

- employee assistance must not extend beyond providing information and advice in relation to matters of Council business. Employees must not be involved in advising on matters of party business.
- where Employees provide information and advice to a party group in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council decision making body when the matter in question is considered.

Whilst support for Members' ward work is legitimate, care should be taken if staff are asked to accompany Members to ward surgeries. In such circumstances:

- the surgeries must be open to the general public, and
- officers should not be requested to accompany Members to surgeries held in the offices or premises of political parties.

Officers must never be asked to attend ward or constituency political party meetings.

It is acknowledged that some Council staff may receive and handle messages for Members on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.

In seeking to deal with constituents' queries or concerns, members should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Members in the requested timescale and may need to seek instructions from their Line Managers.

5 Use of Council Resources

A Member must, when using or authorising the use of the resources of the Council, act in accordance with the authority's requirements and ensure that such resources are not used for political purposes and that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the Member has been elected or appointed.

The Council provides support services such as stationery, typing, printing, photocopying to Members to assist them in discharging their role as Members of the Council. Such support

services must therefore only be used on Council business and should never be used in connection with party political or campaigning activity or for private purposes.

6 Members' Access to Information and to Council Documents

There is a general presumption of open government within the Council. Members are free to approach any Council department to obtain such information, explanation and advice (about that department's functions) as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a department's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the appropriate Line Manager concerned.

Where information is requested on behalf of a third party, this will be treated as a request made under the Freedom of Information Act 2000, and the Council's normal procedures under that Act will be followed.

As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.

Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted by the Council. This right applies irrespective of whether the Member is a Member of the Committee or Sub Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items which may appear as a confidential item on the agenda for a meeting. The items in question are those which contain exempt information relating to Employees, occupiers of Council property, applicants for grants and other services, the care of children, contract and industrial relations negotiations, advice from Counsel and criminal investigations.

The common law rights of Members remains intact, are much broader and are based on the principle that any Member has a prima facie right to inspect Council documents so far as his/her access to the document is reasonably necessary to enable the Member properly to perform his/her 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 an individual Member being able to demonstrate that s/he has the necessary 'need to know'. In this respect a Member has no right to 'a roving commission' to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the 'need to know'. This question must initially be determined by the particular Line Manager whose department holds the document in question, in consultation with the Chief Executive.

In some circumstances (e.g. a Committee Member wishing to inspect documents relating to the business of that Committee) a Member's 'need to know' will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) the Member will normally be expected to justify the request in specific terms. In some circumstances duties of confidentiality to external bodies, or imposed by statute may override the common law right.

Any 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.

A Member must not:

- disclose information given to him/her in confidence by anyone or information acquired which he/she believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so; and
- prevent another person from gaining access to information to which that person is entitled by law'

Any such breach of confidence may result in a complaint to the Standards Board for England or, if sufficiently serious, in civil action against the Member and/or the Council for damages.

7 Correspondence (including email)

Correspondence between an individual Member and an Employee should not normally be copied (by the Employee) to any other Member. Where it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of 'silent copies' should not be employed.

Official letters must be sent on Frome Town Council headed paper. Official letters on behalf of the Council should normally be sent in the name of the appropriate Employee, rather than in the name of a Member. It will, however, be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of the Mayor as Chairman of the Council. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

8 Publicity and Press Releases

Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the authority, explaining its objectives and policies to the electors and Council tax-payers. In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council's activities is, in the words of the Government, "to be welcomed".

Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made in accordance with clear principles of good practice.

The Government has issued a Code of Recommended Practice on Local Authority Publicity. The purpose of the Code is to set out principles that should apply to all publicity at public expense and which traditionally have applied in both central and local government and concerns the content, style, distribution and such other matters as appropriate.

Employees and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, Employees and/or Members should initially seek advice from the Chief Executive. Particular care should be paid to any publicity used by the Council around the time of an election.

Press releases will be issued in accordance with the Press and Media Protocol adopted by the Council.

In essence relations with the media are the responsibility of the Chief Executive in consultation with the Mayor. The Chief Executive may authorise other officers to provide factual information or delegate day to day matters in accordance with the approved policy and protocol.

Members may comment on approved Council policies but may not comment on behalf of the Council on any non policy matter. If any Member wishes to make comments to the press, it must be made clear that the comment is that of the individual Member and not necessarily the corporate view of the Town Council.

As outlined in the protocol there are two types of press release:

- Official Council Releases

An official Council release is made on behalf of the Council as a whole; it will be written by an Officer and issued by the Chief Executive. It is non-party political and includes a quote from the relevant Councillor(s). This is usually the Chairman of the Council or Committee Chairman. In some circumstances it may be appropriate to also include the Ward Councillor or other Councillor promoting the scheme.

- Councillor Press Releases

Councillors' press releases are personal and are written and issued by the Councillor responsible. This release may or may not be political and should not include the name of a Council officer or a Council telephone number as a point of contact. It would be beneficial for copies of intended releases, especially those of a factual nature, to be provided to the Chief Executive. Councillors seeking advice can contact the Chief Executive or the Monitoring Officer.

The Chief Executive will assist members in their relations with the media. Any Employee assisting a Member with media relations must act at all times in the interests of the whole Council and in a politically impartial manner.

Other than factual statements, Members should not seek assistance from an Employee with the preparation or issue of any media statement that will adversely affect the reputation of the Council.

9 Involvement of Local Councillors

Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Electoral Division or Divisions (Wards) affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. More generally, Employees should consider whether other policy or briefing papers, or other topics being discussed with Committee, should be discussed with relevant Ward Members.

10 Conclusion

Mutual understanding, openness on these sorts of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Members and Employees.

11 Arbitration

Where necessary, the Chief Executive will arbitrate on the interpretation of this protocol.