



## Loughton and Great Holm Parish Council Protocol for Member/Officer Relations

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## **1. Introduction**

- 1.1 The Council is determined to provide excellent local government for the people of the Parish of Loughton and Great Holm. This protocol for Member/Officer relations has been produced to ensure that the relationship between elected members and the Proper Officer remains one of partnership.
- 1.2 Partnership, based on mutual trust and respect between politicians and paid officers, is essential in achieving good local government. However, this partnership will not be effective unless there is a clear understanding by all of the role and obligations of members and the separate role and duties of an officer. This protocol sets out these roles, obligations and duties and the ground rules for all to observe. The standards in the protocol are binding and apply equally to elected members, voting and non-voting co-opted members and to officers where there is a joint responsibility.
- 1.3 The protocol is based upon legislation, Council policies and documents deriving from legislation as well as guidance from a variety of sources, primarily:
- The Local Government Act 2000
  - The Council's Constitution
  - The Member's Code of Conduct
  - The Corporate Protocol for Member's Enquiries
  - Guidance from the Office of the Deputy Prime Minister
  - Guidance from the Standards Board for England
- 1.4 The protocol is designed to supplement and offer local interpretation of these documents. The protocol refers extensively to the relationship between members and the Proper Officer.
- 1.5 The principles underlying this protocol are as follows:
- 1.5.1 There shall be mutual courtesy and respect between members and the Proper Officer with regard to their respective roles.
- 1.5.2 Members and the Proper Officer shall each carry out their respective duties in the best interests of the Council.
- 1.5.3 This protocol applies to all dealings between members and officers and not only to formal meetings.

## **2. General Obligations of Members**

- 2.1 Members must observe the Council's Code of Conduct whenever they are conducting the business of the Council, conducting the business of their office or representing the Council. Members and voting co-opted members are bound in law by the Code of Conduct, but ex-officio and non-voting co-opted members are also expected to comply with the provisions of the Code of Conduct.

- 2.2 The Code of Conduct places certain general obligations upon members which have a bearing upon member/officer relations:
- 2.2.1 Members must not, in their official capacity or any other circumstance, conduct themselves in a manner which could be reasonably regarded as bringing their office or the Council into disrepute.
- 2.2.2 Members must promote equality by not discriminating unlawfully against any other person. Members must treat others with respect and not to do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council.
- 2.2.3 Members must not disclose information given to them in confidence by anyone, or information which they have reason to believe is confidential unless they have authorisation or are required to do so by law. The convention "Chatham House Rules" will be observed whenever applicable.
- 2.2.4 Members must not prevent another person from gaining access to information to which they are entitled by law.
- 2.2.5 Members must not use their position improperly to gain advantage for themselves or to advantage or disadvantage another person.
- 2.2.6 The Council recognises that it is impractical to state unequivocally that members must not use Council provided facilities, for personal use. However, the Council expects that personal use of Council facilities is not abused.
- 2.2.7 An officer may assist Councillors only in their role as Parish Council members. They should not be asked to assist with any business or political matter.
- 2.2.8 Members are under an obligation to disclose personal interests, in accordance with the Code of Conduct. Members must register financial and other interests as well as gifts and hospitality as set out in the Code of Conduct.
- 2.3 Members have a duty to act, and when taking part in the Council's decision-making process, must
- Take into consideration everything they regard as relevant, or which they are advised is relevant.
  - Disregard anything which they consider is not relevant, or which they are advised is not relevant.
  - Follow the correct procedure.
- 2.4 Members control the Council's assets and finances, are in a position of trust and therefore have a fiduciary duty to act in the interests of all the people of Loughton & Great Holm Parish. In law, someone with a fiduciary duty is someone who occupies a position of such power and confidence over the property of another, that the law requires them to act solely in the interest of the person they represent. This is in contrast with an ordinary business relationship, in which each party is free to seek purely personal benefits from

their transactions with another. So, for example, a guardian, a trustee or an executor is a person with fiduciary duties.

### **3.0 Relationship between Members and Officers**

- 3.1 The relationship between an officer and members will be characterised by mutual respect, which is essential to good local government.
- 3.2 Any close personal or family relationships (e.g. parent/child; spouse/partner) between an officer and members must be disclosed to the Chair of Council, who will then decide how this needs to be disclosed to others. Members must also declare any such relationship with an officer which might be seen as influencing their work as a member, to the Chair of Council.

### **4.0 The Role of Members**

#### **4.1 Members**

- 4.1.1 Develop and set policies that will then be implemented by the Proper Officer.
- 4.1.2 Monitor how those policies are being implemented.
- 4.1.3 Where their office allows them to do so, provide guidance to the Proper Officer on how those policies are to be implemented, either if members wish to do so or if an officer asks for guidance.
- 4.1.4 Represent the views of their communities and ward constituents, and deal with individual casework.
- 4.1.5 Recognise the statutory roles of the Parish Clerk to Council as the Proper Officer, Head of Paid Service and Responsible Financial Officer and the significance attached to their advice.
- 4.1.6 Consult with the communities they represent on the development of policy, particularly Best Value Reviews, the Best Value Performance Plan, Community Planning and other local initiatives.
- 4.1.7 Consult with the Responsible Financial Officer about vires, maladministration, financial impropriety and probity, or where they have any doubt as to whether the particular decisions are, or are likely to be, contrary to the policy framework, or contrary to, or not wholly in accordance with the budget.
- 4.1.8 Respect the officer impartiality.
- 4.1.9 Promote the highest standards of conduct and ethics.

#### **4.2 Members must not:**

- 4.2.1 Insist that any officer take any action, or not taken action that the officer considers unlawful or illegal; is in direct contradiction of any code of guidance, contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.

## **5. The Role of the Officer**

5.1 The Proper Officer is also known as the Parish Clerk

5.1.1 Implement the policies set by members.

5.1.2 Will ask for guidance on implementation of the policies set by members, if they are unclear about any aspect of those policies.

5.1.3 Give such professional advice to Members as may be required of them from time to time, recognising the different needs for advice members may have.

5.1.4 Carry out their delegated functions to the best of their ability and in the interests of the Council.

5.1.5 Must remember that they are employed by the Council for the Parish of Loughton & Great Holm as a whole, and not by any particular part of the Council.

5.1.6 Are under a duty to help all members/co-opted members and all parts of the Council equally.

5.1.7 Must take all relevant matters into account when formulating advice to members.

### **5.2 An Officer must not:**

5.2.1 Set policy other than for the smooth running of office procedures and processes or may have been delegated under the Council's Constitution.

5.2.2 Take any action, or not take action, which would be unlawful or illegal, is in direct contradiction of any code or guidance, contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.

## **6. Relationship between the Chairman, Members, and the Officer**

6.1 The Chairman and members shall be bound by the same provisions set out in paragraph 4 regardless of the capacity in which they are acting.

## **7. Relationship between the Chair of Committees and the Officer**

7.1 This shall apply to all the Council's Committees.

7.2 The Chairman and members of those Council bodies shall:

7.2.1 Be bound by the same provisions set out in paragraph 2 when sitting as a committee/Council body; and

7.2.2 Give the Proper Officer the opportunity to present any report and give any advice they wish to present.

## **8. Members in their Ward Role**

8.1 When acting in their ward role, members:

8.1.1 Need to be mindful of their competing roles, i.e. acting for the Council and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on officer time

8.1.2 Recognise the officers' right to suggest that work requested by an individual member must first be authorised by Council or a Committee or by the Clerk to Council.

## **9. Complaints about Officers or Services**

9.1 Members have the right to criticise reports or the actions taken by officers, but they should always:

- Avoid personal attacks on the officer
- Ensure that criticism is constructive and well-founded

9.2 Members should avoid undermining respect for the Proper Officer at meetings, or in any public forum. This would be damaging, both to effective working relationships and to the public image of the Council. It would also undermine the mutual trust and courtesy that is an essential element of a well-run authority.

9.3 Complaints about Parish Council services should be made to the Parish Clerk. Within 3 days the Parish Clerk will:

- Acknowledge the complaint, and
- Say if they intend to take action, or
- Say how long they need to investigate

9.4 Members have a right to know if action has been taken to correct a matter, but they must not, either:

- Influence the level of disciplinary action to be taken against an officer, nor
- Insist (nor be seen to insist) that any employee is disciplined.

9.5 Members have a right to be told the outcome of any disciplinary case but have no entitlement to detailed information about the hearing or its conduct.

9.6 If a member is not satisfied that action has been taken to deal with the complaint it may be referred to the Chair of Council by the member concerned.

## **10. Member Access to Documents and information**

10.1 Save as provided below every member of a committee and/or sub-committee of the Council has a right to inspect documents about the business of that committee, sub-committee or working group, as set out in the Council's Constitution.

- 10.2 All members can expect to have answers to the queries they raise on behalf of other constituents or about the policies and practices of the Council dealt with within the corporate time standards.
- 10.3 A member who is not a member of a specific committee, sub-committee or working group, may have access to any documents of that part of the Council if:
- they reasonably need to see the documents to perform their duties; and
  - the document or papers or information do not contain “confidential”, in confidence” or “exempt information”.
- 10.4 All requests for advice and information should be directed through the Parish Clerk, who will decide how to meet such requests and must be able to determine what resources, are to be made available.
- 10.5 Members are expected to give reasonable notice of requests for information and to have regard to the cost of producing any new detailed information.
- 10.6 If there is a disagreement, the Parish Clerk will ensure that the request is referred to a committee for decision.
- 10.7 A member should seek advice from the Parish Clerk in circumstances where they wish to inspect any document, or have access to any information about a matter in which they have a personal or prejudicial interest; or where to do so would be in breach of the Data Protection Act 1998, the Data Protection Act 2000, General Data Protection Regulations and the Freedom of Information Act 2000.

## **11. Press Releases**

- 11.1 All Council press releases should be in accordance with the Council’s agreed media guidelines.
- 11.2 All press releases will be issued through the Parish Clerk to the Council.
- 11.3 Press releases should be concerned with matters of policy.
- 11.4 Press releases will not contain anything of a party-political nature. In this respect, regard must be given to the relevant legislation concerning publicity issued by Councils, especially around election time.

## **12. Correspondence**

- 12.1 All correspondence written on behalf of the Council must be written on the relevant headed paper. When Members are writing in their capacity as a member, they must make it clear whether they are writing on behalf of the Council or as a Ward member.
- 12.2 Correspondence between individual members and the Proper Officer should be treated as confidential, unless the member or Proper Officer indicates otherwise. All correspondence should normally be open to the inspection of

the public, in accordance with the Council's adopted policies. This does not apply to correspondence written in connection with legal proceedings, contractual matters or any other matter where papers can remain "exempt" within the meaning of Schedule 12A to the Local Government Act 1972, as amended, or in breach of Data Protection legislation.

**13. Breach of the Protocol by a Member**

13.1 Members are required to report any matter that they believe may be a breach of the Code of Conduct to the National Standards Board for England.

13.2 Where there has been an alleged breach of the protocol which is not a matter for the Standards Committee, for example, an alleged breach by a non-voting, co-opted member, the Chairman of Council may refer the complaint to the Milton Keynes Council Monitoring Officer for consideration.

**14. Breach of the Protocol by an Officer**

14.1 Complaints of an alleged breach should be raised with the Parish Clerk. The provision of section 11 of this protocol will then apply.

14.2 Should the complaint be against the Parish Clerk, the matter should be raised with the Chair of Council in the first instance who may seek the advice of the Milton Keynes Council Monitoring Officer.

**15. Further Advice**

15.1 Advice on the application of this protocol should be sought from the Parish Clerk.

Adopted by a meeting of Council held on Monday 16th May 2016  
Revised and approved 21/5/18