

PROTOCOL FOR MEMBER/ OFFICER RELATIONS

(February 2024)

1. Introduction

- 1.1 This protocol seeks to define what should be considered a proper working relationship between Councillors ('Members') and Officers in Tandridge District Council and to provide a framework within which both are able to effectively and efficiently to conduct the business of the Council.
- 1.2 The overriding principle is for Members and Officers to recognise and respect each other's roles and responsibilities. An ethos of mutual respect, trust and courtesy should underpin relations and be reflected in both in-house and public capacities. Neither Members nor Officers should conduct relations in such a way as to bring the Council into disrepute.
- 1.3 Both Members and Officers together bring the critical skills, experience and knowledge required to manage an effective public sector organisation. Members provide a democratic mandate to the Council, whereas Officers contribute the professional expertise needed to deliver the policy framework agreed by Members.
- 1.4 Officers' and 'staff' mean all persons employed by the Council: whether full or part time; fixed term contract; agency; or consultant.
- 1.5 Both Members and Officers are required to observe the 7 'Nolan principles of public life' in their dealings with each other, namely:
 - selflessness
 - integrity
 - objectivity
 - accountability
 - openness
 - honesty
 - leadership

These principles form the basis of the Members' Code of Conduct and are explained in **Annex 'A'**.

- 1.6 This protocol is part of the Council's ethical framework and should be read in conjunction with the Council's Constitution, the Members' Code of Conduct, the Officers' Code of Conduct and the Whistleblowing Policy and Guidance.
- 1.7 Given the variety and complexity of relations, this Protocol does not seek to be comprehensive but instead addresses some of the situations which most commonly arise.
- 1.8 A failure to abide by this Protocol by Members is likely to be a breach of the Code of Conduct for Members and may result in a complaint being made to the Monitoring Officer. As to Officers, a failure to abide by this Protocol may result in a disciplinary investigation.

- 1.9 A Member in need of advice about the application of this Protocol should contact the Monitoring Officer, whereas an Officer in need in need of advice about the application of this Protocol should contact their line manager in the first instance.
- 1.10 Nothing in this Protocol shall prevent or hinder a Member from fully engaging with Officers, including requesting meetings with Officers, attending such meetings or offering information and advice concerning any issue within their wards or wards for which they have responsibility.

2. Respective roles of elected Members and Officers

- 2.1 Members and Officers are servants of the public and they are indispensable to one another but their responsibilities are distinct.

Members

- 2.2 Members are democratically accountable to all of the residents of their Wards and serve only so long as their term of office lasts. The overriding duty of a Member is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. If residents are unhappy about Council services, they will expect their Member to do something about it.
- 2.3 Members will have a strong knowledge of the area they represent and the issues that affect it. This local knowledge is important in ensuring that good decisions are made, and should be respected.
- 2.4 Members are responsible for setting the budget and policy framework within which the Council works. Beyond this, Members may have different roles. Some will be members of a particular committee and will have a wide-ranging responsibility for making strategic and operational decisions on behalf of the Council. Some will be Members of Committees which scrutinise and have oversight of policies and performance. Some will be members of regulatory committees; for example, deciding applications for planning permission and ensuring compliance with licensing conditions.

Officers

- 2.5 Officers are employed by and are accountable to the Council as a whole and not any political group. Their roles and responsibilities are set out in their contract of employment and job description.
- 2.6 Some Officers are mainly responsible for the delivery of services and work within the policies and standards set by the Council. Others will have a role in developing policies and strategies and in providing professional advice aimed at ensuring that the Council operates in an effective and lawful manner.
- 2.7 As employees, it is important that the Council complies with its legal obligations as employer and with good employment practice.
- 2.8 Officers are not politicians and their loyalty is to the Council as a whole. It is important that their professional integrity and impartiality is respected, especially where they are obliged to give advice that is not welcomed.

Relationship between Councillors and Officers

- 2.7 Mutual trust and respect should be the key aim of both Members and Officers, as it is essential for good local government.

- 2.8 It is important that any dealings between Members and Officers should observe reasonable standards of courtesy, should show mutual appreciation of the importance of work / life balance and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.
- 2.9 Members should not raise matters relating to the conduct or capability of an Officer at meetings held in public or before the press. This is a long-standing tradition in public service as an Officer has no means of responding to such criticisms in public. If a Member feels they have not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, they should raise the matter with their immediate line manager. The line manager should look into the facts and report back to the Member. If the Member continues to feel concern, then they should raise the issue with the Deputy Chief Executive. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Procedure.
- 2.10 Where an Officer feels that they have not been properly treated with respect and courtesy by a Member, they should raise the matter with their line manager or an EMT Officer as appropriate. In these circumstances the line manager or the EMT Officer will take appropriate action including approaching the individual member concerned or discussing the matter with the Head of Legal and Monitoring Officer where they consider there may be a breach of the Code of Conduct for Members.
- 2.11 Chairs and Vice-Chairs of committees have additional responsibilities. Although they may have different relationships and more regular contact, these Members must still respect the impartiality of Officers, must not ask them to undertake work of a party political nature, or to do anything which would prejudice that impartiality.
- 2.12 While there should be a close working relationship between a committee chair and the relevant EMT Member, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question Officers' abilities to deal impartially with other Members, individuals or organisations.
- 2.13 Members should not seek to give instructions to Officers other than in accordance with the terms of reference of their committee. Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.
- 2.14 At some meetings a resolution may be passed which authorises a named Officer to take action between meetings in consultation with the Chairman and Vice-Chairs or Group Leaders. In these circumstances it is the Officer, not the Member, who takes the action and is accountable for it. A Member has no legal power to take decisions, neither should he/ she apply inappropriate pressure on the Officer.
- 2.15 A Member should not apply any pressure on an Officer to do work outside of normal duties or normal working hours. In an emergency or when a matter cannot wait until normal working hours, the correct course will be to call the Council's out of hours EMT Officer who will ensure a speedy and coordinated approach. Even in an emergency, pressure should not be put on an Officer to do anything that he or she is not empowered to do.
- 2.16 Members should approach Officers of appropriate seniority when raising queries. Other than for routine service queries, this is likely to be at EMT level. If Members wish to meet Officers, they should generally make an appointment first. This is partly to allow Officers to plan their work and partly because of the need to ensure that personal data,

which may be visible in offices, is not inadvertently disclosed - for instance information relating to housing or benefit applications.

3.0 Communication

- 3.1 Officers should reply promptly and helpfully to correspondence, including emails, received from Members. As a minimum, they should recognise that it will sometimes be appropriate to give priority to correspondence from Members. If an immediate reply is not possible, correspondence should be acknowledged and the Member kept informed about progress.
- 3.2 Similarly, members should reply promptly and helpfully to communications from Officers, especially where a Member's view is sought before action is taken.
- 3.3 Written communication between Members and Officers should always be professional in tone, avoiding the appearance of over-familiarity. There is a particular risk with email of making inappropriate comments. Emails are a permanent record and may be held up to public scrutiny through, for instance, disclosure under freedom of information legislation or in the course of legal proceedings. Officers and Members should always be alert to how correspondence would appear if held up to public gaze.
- 3.4 Written communication may not be the appropriate first step where, for instance, the facts are uncertain or a matter is controversial. A telephone call or personal discussion should be considered instead. In all cases, the preferred communication method of individual Members should be taken into account, if known.
- 3.5 If Members raise issues on behalf of constituents, Officers should reply in terms that will allow Members to give explanations to constituents that are helpful and constructive. Whilst Members will hold Officers to account, Members will, in turn, be held to account by their constituents for the actions of the Council.
- 3.6 Unless a Member or Officer requests confidentiality, it will be assumed that correspondence between a Member and an Officer is not confidential and may be shown to others. (An obvious exception is where an issue relates to an individual constituent and would normally be treated in confidence). If, in an Officer's view, correspondence between an individual Member and an Officer is of interest to other Members, to keep them fully informed, it should be made clear to the original Member that copies have been sent to other Members.
- 3.7 Where issues are raised by, or with, individual Members relating to a matter of general interest in a ward, copies of correspondence may be sent to other Members for the ward. However, a Member may specifically request that correspondence is not copied to other Members.
- 3.8 Members do not need to rely on Freedom of Information rights to ask for information, as they have a statutory right of access to information held by the Council, subject to a "need to know" test. This is wider than the rights given to members of the public. In some cases for instance, where it involves third party personal information) there may be a need for confidentiality. In case of doubt or dispute, the Head of Legal and Monitoring Officer will provide advice.
- 3.9 Access to information on the basis of a 'need to know' does not exist where the Member is considered to be "fishing" for information or seeks access for an ulterior/improper purpose (e.g. for a private purpose). Case law has established that mere idle curiosity as to what is in the documentation will not be sufficient.

- 3.10 Some material (for example if commercially sensitive) may be redacted from information that is disclosed.
- 3.11 Group Leaders and Members who receive advice from Officers marked as confidential must ensure that, if such advice is further shared or disseminated within their groups, their groups understand that the advice is confidential to the Council and not to be disclosed further under any circumstances.
- 3.12 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 Head of Legal and Monitoring Officer.
- 3.13 Members should not send emails to multiple Officers and Members regarding the same issue. Instead, they should only copy in relevant Ward Members and Group Leaders when relevant and utilise one point of contact for Officers where possible.
- 3.14 To ensure compliance with General Data Protection Regulations (GDPR), Members will only use their Tandridge Council email address for communications on matters relating to their role as Members.

4 Involvement of Ward Members

- 4.1 Ward Members should be notified in advance about any issues likely to affect them. This would include press releases relating to a particular Ward or significant matters likely to affect a Ward.
- 4.2 Ward Members should be copied into correspondence with parish councils within their ward unless there is a good reason not to.
- 4.3 Ward Members should be consulted and involved in significant issues affecting their ward. They will have a strong knowledge of the area they represent and the issues that affect it. This local knowledge is important in ensuring that good decisions are made and should be respected.

5.0 Officers' reports and advice

- 5.1 The Officer in whose name a report to a committee (or any part of its formal decision-making structure) is submitted will always be fully responsible for the contents of it. It is essential that any proposals from Members in reports to committees are clearly identified as such.
- 5.2 A draft or final report will only be amended where the suggested amendment also reflects the professional judgement of the author of the report. Any dispute between a Member and the Officer responsible for the report which cannot be resolved shall be referred to the Deputy Chief Executive or to the Chief Executive for resolution.
- 5.3 Members can agree or reject proposals placed before them by Officers, irrespective of the advice or recommendations made by Officers, so long as they generally act in good faith and exercise reasonableness in decision-making and specifically:
 - take into account relevant and dismiss irrelevant matters; and
 - do not come to a conclusion that no reasonable authority would come to.
- 5.4 Prior to Committee Meetings the appropriate Officers will meet with the Chair and Vice-Chairs ('Agenda Run Through/') to discuss matters on a committee agenda, to deal with anything necessary to ensure the smooth running of the meeting and to enable

specific issues to be highlighted for which Officers and Members may need to prepare prior to the meeting.

6.0 Constructive criticism & redress

6.1 It is important that there should be mutual courtesy between Members and Officers. It is important that there are reasonable standards of courtesy and no Member or Officer should seek to take unfair advantage of their position.

6.2 Members have the right to criticise reports or the actions taken by Officers but they should:

- always avoid personal attacks on Officers;
- ensure that criticism is constructive and well-founded;
- take up an individual concern with the Officer privately, where possible;
- avoid criticising Officers in the media or social media.

6.3 The Council operates a confidential whistle-blowing policy. The Council is committed to the highest possible standards of operation, integrity, openness and accountability. It is expected that where an Officer or Member is concerned about potential unlawful conduct of an Officer or Member, they voice those concerns so that they can be dealt with effectively.

7.0 Officers' advice on declarations of interest

7.1 The Council's Monitoring Officer will on request provide advice and information to members on declarations of interest of a personal nature and whether or not such an interest might amount to a disclosable pecuniary interest or a prejudicial interest. However, members will know the nature and extent of any interest they may have. It is the member's responsibility, therefore, to decide whether any interest should be declared.

8.0 Officer decisions taken under delegated powers

8.1 When making a decision under powers delegated to an officer, it must be recognised that it is the officer, and not any member, who takes the action and it is the officer who is accountable for it.

9.0 If Things Go Wrong

9.1 From time to time the relationship between Members and Officers may break down or become strained.

9.2 It will always be preferable to resolve matters informally. Should Officers wish to raise a concern about a Member's behaviour in relation to this Protocol, they can either escalate it to their line manager, the relevant EMT Member or to the Deputy Chief Executive, as appropriate to the circumstances. Officers also have recourse to the Council's Whistleblowing Procedure or can refer the matter to the Head of Legal and Monitoring Officer if they consider that a Member has broken the Code of Conduct.

9.3 Having been notified of a concern in this way, the line manager, Deputy Chief Executive or EMT Member will take appropriate action, including approaching the Member concerned, and raising the issue with the Group Leader (if applicable) or

referring the matter to the Head of Legal and Monitoring Officer where there is a potential breach of the Code of Conduct.

- 9.4 Group Leaders should promote a positive atmosphere of trust, respect and understanding between Members and Officers and must be prepared to deal with and seek to resolve any reported incidents of breaches of this Protocol by their Group Members. In the event of receiving a report of this nature a Group Leader will actively consider the complaint and seek to achieve a satisfactory outcome. The outcome must be reported to the Officer who notified them of the complaint.

Procedure for Members

- 9.5 Where Members have concerns about the way in which a service or part of it is performing, as opposed to the conduct of a specific officer, the most appropriate course of action, if the concerns cannot be resolved informally, is for the Member to request the Committee charged with responsibility for that service to consider the matter, using the powers available under the constitution. Alternatively, where it is considered more appropriate, the Director of Resources may, with the agreement of the Chair of the Audit & Scrutiny Committee, refer the matter to that Committee for consideration.
- 9.6 In the event that a Member is dissatisfied with the conduct, behaviour or performance of an individual Officer, the matter should be raised with the appropriate EMT Member in the first instance. Where the Officer concerned is an EMT member, the matter should be raised with the Chief Executive. Where the Officer concerned is the Chief Executive, the matter should be raised with the Head of Legal and Monitoring Officer. Where there is a prima facie case for a disciplinary investigation, this will be dealt with in accordance with the Council's disciplinary procedures contained in the staff conditions of service.
- 9.7 In recognising that this Protocol is a guideline document, minor breaches may not 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 internal procedure or against the Member through the Standards Committee.

10.0 Responsibility for this Protocol

- 10.1 The Standards Committee and the Head of Legal and Monitoring Officer will jointly keep the Protocol under review and make recommendations for changes as appropriate. Any review will need to take place in time for an updated version to be circulated annually after Annual Council with the Council's Constitution, to all Members and Officers.
- 10.2 The Head of Legal and Monitoring Officer will report annually to the Standards Committee on matters relating to this Protocol.

Annex A

The 7 Nolan principles of public life*

Selflessness – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

Integrity – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness – Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership – Holders of public office should promote and support these principles by leadership and example.

**In 1994, the government established a committee tasked with making recommendations to improve standards of behaviour in public life. The committee was chaired by Lord Nolan and its first report identified “the seven principles of public life” which have since come to be known as the “Nolan principles”.*