



**Havant**  
BOROUGH COUNCIL

## **Councillor/Officer Relations Protocol**

**Version:** : 1

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**Due for Revision** :

**Summary** : The purpose of this Protocol is to guide Councillors and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.

**Approved by** : Council

**Owner** : Nick Leach

**Applicability** : This procedure applies to all Councillors and Officers

<b>Version</b>	<b>Date</b>	<b>Updated by</b>	<b>Reason</b>
1.0	8/5/2013	Council	Council agreed as part of the Constitution

# **Councillor/Officer Relations Protocol**

## **1. INTRODUCTION AND PRINCIPLES**

- 1.1 The purpose of this Protocol is to guide Councillors and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.
- 1.2 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.
- 1.3 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 Officers are protected from accusations of bias and any undue influence from Members.
- 1.4 It also seeks to reflect the principles underlying the Code of Conduct for Members (“the Members’ Code”) and the Code of Conduct for Employees (“the Employees’ Code”). The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.5 This Protocol should be read in conjunction with the Members' Code and the Employees' Code, the Council's Constitution and any guidance issued by the Governance and Audit Committee and/or Monitoring Officer.

## **2. GENERAL POINTS**

- 2.1 Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers 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, the Executive, committees and subcommittees.
- 2.2 At the heart of this Protocol, is the importance of mutual respect. Member/Officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers 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.
- 2.3 A Member 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 the respective Chief Officer. The Chief Officer will then 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 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 Rules and Procedures.

- 2.4 An Officer should not raise with a Member matters relating to the conduct or capability of another Officer 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. Such matters should be raised with the officers immediate line manager or Chief Officer as appropriate.
- 2.5 Nothing in this protocol shall prevent an officer expressing a relevant concern under the Council's Confidential Whistle Blowing Policy.
- 2.6 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 Chief Officer or the Chief Executive as appropriate. In these circumstances the Chief Officer or Chief Executive will take appropriate action including approaching the individual member concerned or discussing the matter with the Monitoring Officer where they consider there may be a breach of the Members' Code.

### 3. **OFFICER SUPPORT TO MEMBERS: GENERAL POINTS**

- 3.1 Officers being employees of the Council must act in the best interests of the Council as a whole and must not give politically partisan advice.
- 3.2 Close personal familiarity between individual Members and Officers can damage professional relationships and can prove embarrassing to other Members and Officers. Situations should be avoided therefore that could give rise to the appearance of improper conduct or behaviour.
- 3.3 Certain statutory officers - the Chief Executive, the Chief Finance Officer and the Monitoring Officer have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Members. In particular members are reminded of the duty under the Members' Code to have regard to any relevant advice given by the Chief Finance Officer or Monitoring Officer.
- 3.4 The following key principles reflect the way in which officers generally relate to Members:
  - all officers are employed by, and accountable to the authority as a whole;

- support from officers is needed for all the authority's functions including full Council, Scrutiny Board, the Executive, Regulatory and other ordinary committees, Governance & Audit Committee, Joint Committees and individual Members representing their communities etc;
  - day-to-day managerial and operational decisions should remain the responsibility of the Chief Executive and other officers.
- 3.5 On occasion, a decision may be reached which authorises named Officers to take action between meetings following consultation with a Member or Members. It should be recognised that in these circumstances it is the Officer, rather than the Member or Members, who legally takes the action and it is the Officer who is accountable for it.
- 3.6 Finally, it should be remembered that Officers within a Department are accountable to their Chief Officer and that whilst Officers 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 Chief Officer.

#### **4. OFFICER SUPPORT TO THE EXECUTIVE**

- 4.1 It is clearly important that there should be a close working relationship between Executive Members and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups. Officers must ensure that even if they are predominantly supporting the Executive their political neutrality is not compromised.
- 4.2 Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration on the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a duty to submit a report. Similarly, the Chief Executive, Chief Officer or other Senior Officer will always be fully responsible for the contents of any report submitted in their name.
- 4.3 Where functions which are the responsibility of the Executive are delegated, the Executive will nevertheless remain accountable via the Scrutiny Board, for both its decision to delegate a function and the discharge of those functions.
- 4.2 Under Executive Arrangements, individual Members of the Executive are allowed to take formal decisions. In Havant the circumstances in which individual members of the Executive can take decisions are set out in the constitution. The Executive, Executive members and Officers must satisfy themselves that they are clear what exactly they can and cannot do.

## **5. OFFICER SUPPORT: SCRUTINY BOARD**

5.1 The Scrutiny Board has the following roles:

- to review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- make reports and/or recommendations to the full Council and/or the Executive and/or any joint or area committee in connection with the discharge of any functions;
- consider any matter affecting the area or its inhabitants; and
- exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive and area committees exercising executive functions.

5.2 It is clearly important that there should be a close working relationship between Chairman of the Scrutiny Board and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups. Officers must ensure their political neutrality is not compromised.

5.3 It is not the role of Scrutiny Board to act as a disciplinary tribunal in relation to the actions of Members or Officers. The Scrutiny Board should not act as a 'court of appeal' against decisions or to pursue complaints by individuals (Councillors, Officers or members of the public) which are the subject of other procedures, e.g. the Corporate Complaints Procedure, the Local Government Ombudsman, complaints to the Governance & Audit Committee or legal action in the Courts.

## **6. OFFICER ADVICE TO PARTY GROUPS**

6.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council. The assistance provided by Senior Officers can take many forms ranging from a briefing meeting with an Executive Member, Lead Member, Chair or other Members prior to a meeting, to a presentation, to a full political group meeting. It is an important principle that such assistance is available to all political groups and individual members

### **6.2 Attendance at Party Political Group Meetings**

There is now statutory recognition for 'party groups' and these are recognised in the constitution. It is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Senior Officers may properly be called upon to assist and contribute to such

deliberations by party groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.

- 6.3 Attendance at meetings of party groups is voluntary for officers and must be authorised by the Chief Executive (or in his absence the relevant Executive Director) or the Borough Solicitor.
- 6.4 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
  - 6.4.1 Officer assistance must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. Internal party debates and decision making should take place in the absence of officers.
  - 6.4.2 Party group meetings, whilst they form part of the preliminaries to Council decision making, are not formal decision making bodies of the Council and are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such.
  - 6.4.3 Similarly, where Officers provide information and advice to a party group meeting 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.
- 6.5 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Members' Code (in particular, the provisions concerning the declaration of interests and confidentiality). Officers would not be able to provide the same level of information and advice as they would to a Member only meeting.
- 6.6 Officers must respect the confidentiality of any party group discussions at which they are present. When information is disclosed to an officer during discussions with a party group and that information should not be passed on to other groups. However, Members should be aware that this would not prevent officers from disclosing such information to other officers of the Authority so far as that is necessary to performing their duties.
- 6.7 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

## **7. USE OF COUNCIL RESOURCES**

- 7.1 The use of the Councils resources including the use of computers provided to Members of the Council is governed by a guidance note '**Use of Council Resources Guidance for Members**' which has been adopted by the Council and is contained in the Constitution.

## **8. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS**

- 8.1 The rights of members to inspect council documents are set out in the constitution in the Access to Information Procedure rules.
- 8.2 A Member must not disclose information given to him in confidence by anyone or information acquired which they believe is of a confidential nature, without the consent of a person authorised to give it, or unless they are required by law to do so and must not prevent another person from gaining access to information to which that person is entitled by law. A breach of these requirements is a breach of the Member's Code and actionable by way of referral by the Monitoring Officer of the matter to the Governance & Audit Committee. If the breach is serious a civil action may be brought against the Member and / or the Council for damages.
- 8.3 The Freedom of Information Act 2000 ("the 2000 Act") has brought will bring additional rights and responsibilities regarding the disclosure of information. The right of access under the 2000 Act became fully operational in 2005, alongside the Environmental Information Regulations 2004. The Council is required to proactively publish information via its Publication Scheme and to provide information in response to specific requests, subject to certain conditions and exemptions. The provision relating to access to Council meetings and documentation were amended in 2006 to bring them into line with information rights legislation and those changes are reflected in the Council's constitution.

## **9. CORRESPONDENCE**

- 9.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where it is necessary to copy the correspondence to another Member, (for instance where the Monitoring Officer considers this course of action is necessary to comply with the rules of natural justice), this should be made clear to the original Member. In other words, a system of 'silent copies' should not be employed.
- 9.2 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, 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 an Executive Member or the Leader. 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, Executive or otherwise.

## **10. PUBLICITY AND PRESS RELEASES**

- 10.1 In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. The Government has issued a **Code of Recommended Practice on Local Authority Publicity** and all local authorities must have regard to the provisions of any such Code in coming to any decision on publicity. Further guidance on publicity and extracts from the Code are contained in the guidance note to members '**Use of Council Resources Guidance for Members**'. In particular members and officers should note that during the election period special rules apply with regard to local authority publicity
- 10.2 Officers and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of the Code of Recommended Practice on Local Authority Publicity and any further guidance issued by the Chief Executive. If in doubt Officers and /or Members should seek advice from the Chief Executive or the Monitoring Officer.
- 10.3 All press releases are issued through the Communications Office on behalf of the Council. Press releases are not issued by the Council on behalf of political groups. They can contain the comments of Executive members and committee Chairmen where they are speaking in connection with the roles given to them by Council. Officer's comments can be included on professional and technical issues.

## **11. INVOLVEMENT OF WARD COUNCILLORS**

- 11.1 Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the Ward or 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, Officers should consider whether other policy or briefing papers, or other topics being discussed with an Executive Member, should be discussed with relevant Ward Members.

## **12. OFFICER/MEMBER PROTOCOL**

- 12.1 This protocol forms part of the local framework for standards of behaviour approved by the Governance Committee and adopted by the Council as part of the Constitution.
- 12.2 Monitoring compliance with this protocol is the responsibility of the Governance Committee and the Monitoring Officer.

Questions of interpretation of this Protocol will be determined by the Monitoring Officer.