



# MELKSHAM WITHOUT PARISH COUNCIL

## Code of Conduct/ Protocol on Member/Officer Relations

### Code of Conduct

#### General principles

You are a member or co-opted member of Melksham Without Parish Council and hence you shall have regard to the following principles - **selflessness, integrity, objectivity, accountability, openness, honesty and leadership.**

#### Standards of councillor conduct

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the following requirements, by leadership and example.

Accordingly, when acting in your capacity as a member or co-opted member:

1. You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
2. You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
3. When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
4. You are accountable for your decisions to the public and you must cooperate fully with whatever scrutiny is appropriate to your office.
5. You must be as open as possible about your decisions and actions and

the decisions and actions of your authority, and should be prepared to give reasons for those decisions and actions.

6. You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties, and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out below:
7. You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

### **Registering and declaring pecuniary and non-pecuniary interests**

8. You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living as a husband or wife, or as if you were civil partners.
9. In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interests which your authority has decided should be included in the register.
10. If an interest has not been entered onto the authority's register you must disclose the interest to any meeting of authority at which you are present, whereby you have a disclosable interest in any matter being considered and where the matter is not a sensitive interest.
11. Following any disclosure of an interest which is not on the authority's Register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.
12. Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by your authority.

# Protocol On Member/Officer Relations

## 1. Introduction and Principles

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council and to satisfy the ethical standards required.
- 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 This Protocol is consistent with the Members' Code of Conduct. Consequently, a breach of the provisions of this Protocol may also constitute a breach of these Codes.
- 1.5 This Protocol should be read in conjunction with the Codes of Conduct, and any guidance issued by the Standards Committee and/or Monitoring Officer of Wiltshire Council.

## 2. Limitations of Members' Authority

- 2.1. The authority of Members is collective and, as individuals, they have no authority to issue specific directions to any employee, or make criticism directly. Members must not formally inspect any Parish Council property without authority or issue orders or correspondence.
- 2.2. The long standing requirements on Members, as employers, were re-affirmed in law by an Employment Appeals Tribunal, *Moore v Bude & Stratton Town Council*. This confirmed that the Council collectively was the employer, that the unofficial actions of an individual Member could destroy the entire basis of the employer/employee relationship and that employees were entitled to a "reasonably congenial working relationship".

## 3. The Relationship: General Points

- 3.1 Whilst both Members and Officers are servants of the public and they are indispensable to one another the responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Members are responsible for setting policy. Officers are responsible to

the Council. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council and its various bodies.

- 3.2 At the heart of the Codes and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe 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.
- 3.3 Members must respect the impartiality and integrity of all the Council's Officers. Similarly, all Officers must respect the role of Members as elected representatives.
- 3.4. Inappropriate relationships can be inferred from language/style. To protect both Members and Officers, Officers should address Members at all formal meetings as Councillor or Chair. Save where circumstances clearly indicate that a level of informality is appropriate. Similarly, when addressing Officers at formal meetings of the Council, Members should address Officers by their post title.
- 3.5 A Member should not raise matters relating to the conduct or capability of an Officer in a manner that is incompatible with the objectives of this Protocol. This is a longstanding tradition in public service. An Officer has no means of responding to 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 Officer, he/she should raise the matter with the Clerk. Any action taken against an Officer in respect of a complaint, will be dealt with in accordance with this policy. If the concern relates to the Clerk then the Member should raise the issue with the Chairman.
- 3.6 An Officer should not raise matters with a Member relating to the conduct or capability of another Officer in a manner that is incompatible with the overall objectives of this Protocol.
- 3.7 Where an Officer feels that he/she has not been properly treated with respect and courtesy by a Member, he/she should raise the matter with the Clerk. In these circumstances the Clerk will take appropriate action either by approaching the individual Member and/or the Chairman or by referring the matter to the Monitoring Officer in accordance with the Code of Conduct.

#### **4. Roles Of Members And Officers**

- 4.1 Members have four main roles:
  - Determining the policy of the Council
  - Monitoring and reviewing the performance of the Council in implementing that policy and delivering services

- Representing the Council externally
- Acting as advocates on behalf of their constituents and the wider community

4.2 Officers have the following main roles:

- Initiating policy proposals
- Implementing agreed policy, managing and providing services and being accountable for the efficiency and effectiveness of the services provided
- Providing professional advice to the Council, its various bodies and individual members
- Ensuring the Council always acts in a lawful manner

## **5. The Council Decision Making Process**

5.1 Day to day decision making remains the responsibility of the Clerk as delegated by the Parish Council.

5.2 Members must always remember that decisions and policies, once determined by the Parish Council are binding.

## **6. The Relationship: General Points**

6.1 Officers are responsible for day-to-day managerial and operational decisions within the Council and will provide support to all Members in their various roles.

6.2 In giving such advice to Members and in preparing and presenting reports, it is the responsibility of the Officer to express his/her own professional views and make recommendations. Members should not seek to pressure the Officer to make a recommendation contrary to the Officer's professional view because of their wish to express a contrary view.

6.3 The Clerk has certain statutory roles which need to be understood and respected by all Members. Members must respect these statutory obligations, must not obstruct the Clerk in the discharge of his/her responsibilities and must not victimise him/her for discharging his/her responsibilities.

6.4 The following key principles reflect the way in which Officers generally relate to Members:-

- All Officers are employed by, and accountable to the Council as a corporate body
- Support from Officers is needed for all of the authority's functions
- Day to day managerial and operational decisions should remain the responsibility of the Clerk and other Officers and
- All Officers will be provided with training and development to help them support the various Member roles effectively.

- 6.5. Finally, it must be remembered that Officers within the Parish Council are accountable to the Clerk and 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 the Clerk.

## **7. Preparation Of Council Agendas, Minutes And Reports And Conduct Of Meetings**

- 7.1. The Clerk, or other appointed Officer, although responsible under statute for preparing the agendas for all meetings of the Parish Council, Committees, Subcommittees and Working Parties and for circulation of them to meet statutory requirements, will normally do so in consideration with the appropriate Chair. Additional matters for discussion may only be considered at the discretion of the Chair, in agreement with the Clerk.
- 7.2. The Clerk, or other appointed Officer, is responsible for the content of all Minutes and for circulation of them to meet statutory requirements.
- 7.3. An Officer will be present at all meetings involving Members of the Parish Council and will advise on any questions relating to Standing Orders, Financial Regulations, legal requirements or committee procedures and will produce formal minutes of the meeting.
- 7.4. 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, preferably having received notice verbally or in writing.
- 7.5. 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 7.3 above.
- 7.6. All Committee reports will contain a Recommendation where appropriate, which formally sets out the best advice from the Officer concerned, although the decision to accept this or not rests with the Members. Members should raise issues with that Officer prior to the meeting if at all possible.
- 7.7. Any Member is entitled to submit a Notice of Motion relevant to some question over which the Parish Council has power or which affects its area, for inclusion on the Parish Council Agenda. It must be received by letter or email by 7 days before the council meeting. Any such motion, on being adopted, would stand referred to the relevant Committee if it related directly to the Parish Council's services.
- 7.8. Unless authorised otherwise by the Chair of the meeting concerned, during Committee meetings, all mobile telephones and other electronic devices will be switched to silent.,.

- 7.9 All Members shall seek the advice of the Clerk where they consider there is doubt about the vires for a decision or where they consider a decision might be contrary to pre-determined policies of the Council.
- 7.10 Members and Officers should be mutually supportive in order to minimise any potential embarrassment to the Council. Criticism of officers should be dealt with in private and, by the same token, Officers will never be publicly critical of the Council or its policies.

## **8. The Relationship: Officer Support: Member And Party Groups**

- 8.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities they serve the Council as a whole.
- 8.2 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photo-copying, transport etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity.

## **9. Members' Access To Information And To Council Documents**

- 9.1 Members have the right to ask for information pursuant to their legal rights to information. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Clerk.
- 9.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 9.3 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.
- 9.4 The common law rights of Members remain intact and are much broader and are based on the principle that any Member has 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.
- 9.5 The exercise of this common law right in regard to sensitive information depends therefore, upon an individual Member being able to demonstrate that he/she 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 Clerk.

- 9.6 In some circumstances (e.g. a meeting of the Council or its bodies and a Member wishing to inspect documents relating to the business of that meeting) 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.
- 9.7 Further and more detailed advice regarding Members rights to inspect Council documents may be obtained from the Clerk.
- 9.8 Finally, any Council information provided to a Member must only be used by Members 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.

## **10. Correspondence**

- 10.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally 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.
- 10.2 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. 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.

## **11. Publicity and Press Releases**

- 11.1 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Authority by explaining its objectives and policies to the electors and taxpayer. 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.
- 11.2 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 such principles. The Code develops the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code is issued under the provisions of the Local Government Act 1986 as amended by the Local Government Act 1988 which provides for the Secretary of State to issue Codes of Recommended Practice as regards the content, style, distribution and costs of local authority publicity and such other matters as he/she thinks appropriate. That section requires that all local authorities shall have regard to the provisions of any such Code in coming to any decision on publicity.

- 11.3 Officers and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, Officers and/or Members should initially seek advice from the Clerk. Particular care should be paid to any such publicity used by the Council around the time of an election. Particular advice will be given on this by the Clerk.
- 11.4 The Clerk is the Parish Council's press officer, and as such all press publications should be issued by the Clerk and be the view of the Council as a Corporate Body. This includes publicity on social media platforms as well as press publications.

## **12. Members In Their Ward Role and Officers**

- 12.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected will 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 will be notified at the outset of the exercise.
- 12.2 Should Members or local residents convene a local meeting; Officer attendance will be at the discretion of the Clerk and will take account of the purpose of the meeting.
- 12.3 In all circumstances, the role of Officers at such meetings is to provide information on the topic under consideration and any decision making process which might be relevant, but not to offer or share judgements. Officers will seek to assist in the effective engagement of the community but will be mindful at all times of the integrity of the formal decision making process.
- 12.4 Members attending local consultation meetings, which may on occasion give rise to heated debate, should be mindful of the restrictions on the responses available to Officers and both Officers and Members should act at all times in accordance with their respective Codes of Conduct.

### **13. Access To Premises**

- 13.1 Officers have the right to enter Council land and premises to carry out their work.
- 13.2 Members have a right of access to Council land and premises to fulfil their duties. When making visits as individual members, member should:
- whenever practicable, notify and make advance arrangements with appropriate manager or officer in charge;
  - comply with health and safety, security and other workplace rules;
  - not interfere with the services or activities being provided at the time of the visit;
  - if outside his/her own ward notify the ward members beforehand; and
  - take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

### **14. Use Of Council Resources**

- 14.1 The Council provides all members with services such as typing, printing and photocopying, and may provide goods such as stationery and computer equipment, to assist in them discharging their roles as members of the Council. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political campaigning activities.
- 14.2 Members should not put pressure on staff to provide resources or support which officers are not permitted to give.

### **15. Conclusion**

- 15.1 Mutual understanding and openness on these sort of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Members and Officers.
- 15.2 Questions of interpretation of this Protocol will be determined by the Clerk.
- 15.3 Copies of the Protocol will be issued to all Members, upon election, and all Officers.

Protocol on Member/Officer Relations recommended for approval by the Staffing Committee 12 March 2018 (Min 492/17a(iv)) and approved by Full Council 26 March 2018

Code of Conduct reviewed May 2021 and adopted 27 June 2021

At the Full Council meeting on 26 July 2021 it was agreed to merge the Code of Conduct and Protocol on Member/Officer Relations into one Policy document (Min 164(b)/21)  
Reviewed and adopted by Annual Council 16 May 2022 (Min 11/22)  
Reviewed and adopted by Annual Council 22 May 2023 (Min 10b)