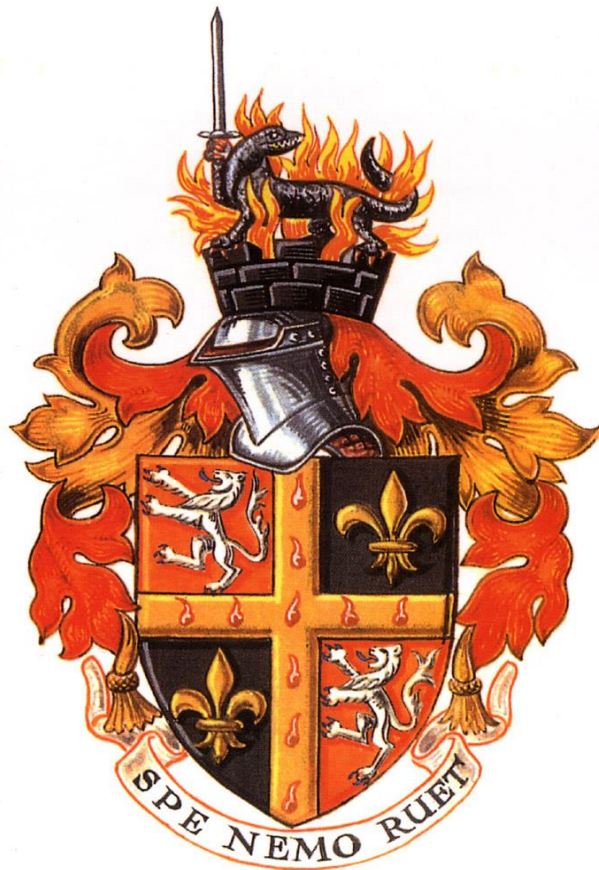


# SPENNYMOOR TOWN COUNCIL



## MEMBER/OFFICER PROTOCOL

<b>Author of Policy:</b>	Town Clerk
<b>Date Effective From:</b>	24 <sup>th</sup> May 2022
<b>Policy Review: When &amp; By Whom</b>	12 <sup>th</sup> May 2022 Constitution Working Group
<b>Next Review:</b>	August 2024

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# Member/Officer Protocol

## 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.
- 1.2 It 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 respective Codes of Conduct, which now apply to Members and to Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes and, therefore, demand very high standards of personal conduct.
- 1.5 It is recommended that this Protocol is a local extension of the Members' Code of Conduct and Employee Code of Conduct. Consequently, a breach of the provisions of this Protocol may also constitute a breach of these Codes.
- 1.6 This Protocol should be read in conjunction with the Codes of Conduct, the Council's Constitution and any guidance issued by the Standards Committee of Durham County Council, The Town Clerk and/or the Council's Monitoring Officer.

## 2 The Relationship: General Points

- 2.1 Both Councillors and Officers are servants of the public and they are indispensable to one another. But the responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Councillors are responsible for setting policy. 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.

- 2.2 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.
- 2.3 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 and the roles of other Officers at all times.
- 2.4 Inappropriate relationships can be inferred from language/style. To protect both Members and Officers, Officers should address Members at all formal meetings as Councillor XXX and Mr or Madam Chairman save where circumstances clearly indicate that a level of informality is appropriate, e.g. a one to one meeting. Similarly when addressing Officers at formal meetings of the Council, Members should address Officers by their post title.
- 2.5 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 long-standing 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, and fails to resolve it through direct discussion with the Officer, he/she should raise the matter with the Town Clerk. If the Member continues to feel concern, then he/she should report the facts to the Town Clerk. 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.
- 2.6 If the issue is with the Town Clerk, a Member should inform the Lead Member for HR who will request a meeting of the Special Committee is held to consider the matter.
- 2.7 An Officer should not raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of the Council in a manner that is incompatible with the overall objectives of this Protocol.
- 2.8 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 his/her Manager, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Manager, will take

appropriate action either by approaching the individual Member and/or Group Leader or by referring the matter to the Monitoring Officer at Durham County Council in the context of the Standards Committee considering the complaint.

- 2.9 Where the matter relates to the Town Clerk, the Lead Member for HR/the Town Clerk's Line Manager will seek to resolve the matter at a local level and if this cannot be achieved then will make a referral to the Monitoring Officer at Durham County Council in the context of the Standards Committee considering the complaint.

### **3 Roles of Members**

- 3.1 Members have four main areas of responsibility:

- Determining the policy of the Council and giving it political leadership;
- Monitoring and reviewing the performance of the Council in implementing that policy and delivering services;
- Representing the Council externally; and,
- Acting as advocates on behalf of their constituents and the wider community.

### **4 The Relationship: Officer Support to Members: General Points**

- 4.1 Officers are responsible for day-to-day managerial and operational decisions within the authority and will provide support to all Councillors in their various roles.
- 4.2 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 recommendations. Whilst an Officer might report the views of individual Members on an issue, a Member should not seek to pressure the Officer to make a recommendation contrary to the Officer's professional view because the Member wishes to express a contrary view.
- 4.3 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 functions including Full Council, and all Committees;
  - Day to day managerial and operational decisions should remain the

responsibility of the Town Clerk and other Officers; and,

- All Officers will be provided with training and development to help them support the various Member roles effectively.

## **5 Relationships Between Members And Officers At Meetings Of The Authority**

- 5.1 Reports should always contain a recommendation unless the issue is clearly one where political judgement is required. Members should raise issues with the Officer responsible for the report prior to the meeting if at all possible.
- 5.2 Members will give Officers the opportunity to present any report and give any advice they wish to give.
- 5.3 In relation to action between meetings, it is important to remember that the law only allows for decisions to be taken by the Council as a whole, unless they are delegated to a Committee, sub-committee or Officers.
- 5.5 Members and Officers should be mutually respectful and 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 should never be publicly critical of Councillors, the Council or its policies.

## **6 The Relationship: Officer Support: Member And 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.
- 6.2 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.

## **7 Officer Relationships With Party Groups**

- 7.1 There is statutory recognition for political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of consideration by the relevant Council body. Meetings between the Town Clerk, the Spokesperson and Deputy Spokesperson of the Majority Group for the Council, and other group leaders will be held when appropriate albeit that they have no decision-making powers.
- 7.2 Any invitation to an Officer to attend a group meeting shall be deemed to include the Town Clerk
- 7.3 Officers will not normally attend and provide information to any political group meeting which includes non-Council Members. Exceptions to this may be approved by the Town Clerk, who shall do so in writing and copy the correspondence to all political group leaders.
- 7.4 In all dealings with Members, in particular when giving advice to political party groups, Officers must demonstrate political impartiality and must not suppress their professional advice in the face of political views.
- 7.5 Officers must respect the confidentiality of any political party group meeting at which they are present. They must not relay the content of any such discussion to another officer or political group unless expressly authorised in writing to do so.
- 7.6 Any particular cases of difficulty or uncertainty in this area should be raised with the Town Clerk who will then discuss them with the relevant group leader(s).

## **8 The Relationship: Officer Support:**

- 8.1 It is clearly important that there should be a close working relationship between 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.
- 8.2 All Members and Officers need to be constantly aware of the possibility of tensions arising and both Officers and Members need to work together to avoid such tensions and conflicts existing or being perceived.

## **9 Members' Access To Information And**

## To Council Documents

- 9.1 Members have the ability 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 Town 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. This right applies irrespective of whether the Member is a member of the meeting 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.
- 9.4 The common law rights of Members remain and 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.
- 9.5 The exercise of this common law right 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 Town Clerk (who may take advice from the Monitoring Officer at Durham County Council). In the event of further dispute, the Town Clerk may, but is not obliged to, refer the matter to the Council for a decision.
- 9.6 In some circumstances (e.g. a meeting of the Authority 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. Furthermore, there will be a range of documents which, because of their nature are not accessible to Members.

An example of this latter category would be draft documents compiled in the context of emerging Council policies and draft committee reports, the disclosure of which prematurely might be against the Council's and the public interest.

- 9.7 Whilst the term 'Council document' is very broad and includes for example, any document produced with Council resources, it is accepted by convention that a Member of one party group will not have a 'need to know' and therefore, a right to inspect, a document which forms part of the internal workings of another party group.
- 9.8 Further and more detailed advice regarding Members rights to inspect Council documents may be obtained from the Town Clerk.
- 9.9 Finally, 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. This point is emphasised in the Members' Code of Conduct.

## 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 never 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. It may be appropriate in certain limited circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of the Leader, but this should be the exception rather than the norm. 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 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.
- 11.3 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 Town Clerk. Particular care should be paid to any such publicity used by the Council around the time of an election.

# 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.

More generally, Officers should consider whether other policy or briefing papers or other topics should be discussed with relevant Ward Members.

- 12.2 When Members or local residents convene local meetings, Officer attendance will be at the discretion of the Town Clerk and will take account of the purpose of the meeting as stated by the convenor.
- 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 in the consultation process 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 Interpretation

- 13.1 Questions of interpretation of this Protocol will be determined by the Town Clerk.