



FAIR OAK & HORTON HEATH PARISH COUNCIL

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CONSTITUTION

CHAPTER 6

PROTOCOL FOR CLLR/OFFICER RELATIONS

Adopted

July 2021

1. Introduction

- 1.1 The purpose of this protocol is to guide Cllrs and staff of Fair Oak & Horton Heath Parish Council in their relations with one another and their dealings with other Cllrs and staff from any tier of Government 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 a written statement of current best practice and convention and seeks to promote greater clarity and certainty.
- 1.4 The protocol should ensure that Cllrs receive objective and impartial advice, and that staff are protected from accusations of bias, undue influence & bullying from Cllrs.
- 1.5 It also seeks to reflect the principles underlying the Code of Conduct which apply to Cllrs.
- 1.6 The objective of this code is to enhance and maintain the integrity of the Council and therefore demands high standards of personal conduct.
- 1.7 The protocol should be read in conjunction with the Code of Conduct and the relevant provisions of the Council's other adopted policies.

2. Principles underlying Cllr/staff relations

- 2.1 The Nolan Report on Standards of Conduct in Local Government suggests that 'No local authority can function properly without a good relationship between its Cllrs and its staff. Where the relationship breaks down, an atmosphere of suspicion or dislike can make it very difficult to devise and implement policies in any consistent way.
- 2.2 The general principles which govern the conduct of Cllrs (selflessness, honesty and integrity, objectivity, accountability, openness, personal judgement, respect for others, duty to uphold the law, stewardship and leadership) require Cllrs to respect the impartiality and integrity of an authority's statutory staff and other staff. Those principles are equally appropriate for staff in their dealings with Cllrs.

3. General protocol

- 3.1 Both Councillors and staff are servants of the public and they are indispensable to one another, however, their responsibilities are distinct.
- 3.2 Roles of Cllrs
 - 3.2.1 Cllrs are responsible to the electorate and serve only so long as their term of office lasts.
 - 3.2.2 Cllrs are democratically elected and are accountable to the electorate for their actions.
 - 3.2.3 An important feature of each Cllr's role is to represent the interests of their constituents, irrespective of how they may have voted in an election.

3.2.4 The expectation is that Cllrs will be more aware of the views of their constituents on major policy developments before decisions are taken collectively at Council meetings.

3.3 Roles of Officers

3.3.1 The Parish Clerk is responsible for day-to-day managerial and operational decisions within the Council and the provision of support to all Cllrs.

3.3.2 The Parish Council has a duty to implement decisions of the Council which are lawful, and which have been properly approved in accordance with the requirements of the law recorded in the Minutes of the Council.

4. Employer/Staff Issues

4.1 At the heart of this protocol, is the importance of mutual respect.

4.2 Cllr/staff relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Cllrs and staff 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.

4.3 Cllrs should recognise in their dealings with staff that inappropriate conduct or behaviour on their part could lead to a case being brought to an employment tribunal by an aggrieved staff member.

4.4 It is proper for a Cllr to make written or oral representations about a matter affecting a constituent who also happens to be a staff member, but he/she should avoid taking a proactive part or represent or act as an advocate on behalf of the staff in any disciplinary or grievance procedures brought against the Council by the staff member.

4.5 Cllrs should not place inappropriate pressure on staff and must ensure that all communication between them (including written communication) does not bring the Council into disrepute, cause any embarrassment to them, or lead to a breakdown of mutual trust respect and courtesy in Cllr/staff relations.

4.6 Cllrs and staff should promote equality by not discriminating unlawfully or otherwise against any person. They should treat people with respect, regardless of their race, age, religion, gender, sexual orientation or disability.

4.7 A Cllr should not raise matters relating to the conduct or capability of a staff member in a manner that is incompatible with the objectives of this protocol (such as in a public forum which might cause embarrassment/humiliation). This is a long-standing tradition in public service.

4.8 A staff member has no means of responding to such criticisms in public. If a Cllr feels they have not been treated with proper respect, courtesy or has any concern about the conduct or capability of a staff member and fails to resolve it through direct discussion with the staff member, they should raise the matter with the Parish Clerk. The Parish Clerk will then investigate the facts and report back to the Cllr.

4.9 Any action taken against a staff member in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.

- 4.10 A staff member should not raise with a Cllr matters relating to the conduct or capability of another staff member. This does not, however, prevent a staff member raising a concern with a Cllr under the Council's whistleblowing procedure.
- 4.11 Where a staff member feels that they have not been properly treated with respect and courtesy by a Cllr, they should raise the matter with the Clerk. In these circumstances, the Parish Clerk will take appropriate action either by approaching the individual Cllr or by referring the matter to the Borough Council's Monitoring Officer.
- 4.12 Guidance on personal relationships is contained in the Code of Conduct. Provided these are observed, more informal exchanges may be appropriate between Cllrs and staff outside business meetings and formal events. It is important that there should be a close working relationship between Councillors and staff. However, such relationships should never be allowed to become so close or appear to be so close as to bring into question the issue of impartiality into doubt.

5. Staff support to Cllrs: general protocol

- 5.1 The Parish Clerk is responsible for day-to-day managerial and operational decisions within the authority and for the provision of support to all Cllrs.
- 5.2 Certain statutory staff members, such as the Parish Clerk and Responsible Financial Officer, have specific roles. These are addressed in Standing Orders and Financial Regulations. Their roles need to be understood and respected by all Cllrs.

6. Independence of the Parish Clerk

- 6.1 The Parish Clerk is not answerable to any individual Councillor.
- 6.2 The Parish Clerk is an independent and objective servant of the Council as a single corporate body, recognising that the Council is responsible for all decisions and taking instructions from the Council in its capacity as a single corporate body.
- 6.3 The Parish Clerk has a right and a duty to report to the Council, or any committee or sub-committee on any issue which they deem appropriate.
- 6.4 They have a right and obligation to obtain sound advice as they deem appropriate in order to assist in their role in reporting to the Council.
- 6.5 As an independent and objective professional, the Parish Clerk (or such delegated staff member) advises the Council on whether decisions are lawful and ways in which decisions can be implemented.
- 6.6 The Parish Clerk, or another staff member, shall research topics of concern to the Council and provide unbiased information to enable the Council to make an informed decision.
- 6.7 The following key principles reflect the way in which the staff generally relate to Cllrs:
- 6.7.1 All staff are employed by and accountable to the Parish Clerk, where relevant through line managers.
- 6.7.2 Support from staff is needed for all the authority's functions including Council, Committees and individual Cllrs representing their communities etc.
- 6.7.3 Day-to-day managerial and operational decisions remain the responsibility of the Parish Clerk.

- 6.7.4 On occasion, a decision may be reached which authorises the Parish Clerk to act between meetings following consultation with the Chairman of the Council.
- 6.7.5 It should be recognised that it is the Parish Clerk, rather than the Cllr or Cllrs, who takes the action and it is the Parish Clerk who is legally accountable for it.
- 6.7.6 Cllrs must not issue orders, instructions or directions to staff.
- 6.7.7 Authorisation to carry out work on behalf of the Council can only be issued by the Parish Clerk and/or the Responsible Finance Officer or in exceptional circumstances the Chair in consultation with the Vice-chair.
- 6.7.8 Staff are accountable to their Line Manager and whilst staff should always seek to assist a Cllr, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Line Manager
- 6.7.9 Staff will do their best to give timely responses to Cllrs' enquiries. However, staff should not have unreasonable requests placed on them. Their work priorities are set and managed by their Line Managers.
- 6.7.10 Cllrs should avoid disrupting staff members work by imposing their own priorities.
- 6.7.11 Much of the work of the Council is time sensitive and staff are usually working to tight deadlines. In order to help minimise disruption and to enable staff, particularly Managers to plan and prioritise their work programme, Cllrs should always seek to make an appointment to see a staff member and give an outline of what issues are to be discussed. This will help staff to provide the most relevant advice as preparation and research where necessary can be carried out before the meeting.
- 6.7.12 Where Cllrs wish an officer/s to conduct a project or piece of work which will require a significant amount of staff time, a Cllr should first discuss their request with the line manager of the relevant officer or with the Parish Clerk.
- 6.7.13 Cllrs should compare their own ideas and suggestions to the current Work Programme to ensure new projects are consistent with the agreed priorities and principles of the Council.
- 6.7.14 Before agreeing to any project or piece of work requested by Cllrs that will require a significant amount of staff time, officers should discuss the work with their line manager to evaluate capacity and set measurements for success.
- 6.7.15 Cllrs should try to give timely responses to enquiries from staff, particularly where the Council must itself comply with legal time limits for making decisions (for example in relation to planning applications).
- 6.7.16 Staff should not discuss with a Cllr personal matters concerning themselves or another individual staff member. This does not prevent an officer raising on a personal basis, and in their own time, a matter with their ward Cllr.
- 6.7.17 Cllrs and staff should respect each other's free time. Council business should only be discussed when both Cllr and staff member are acting in their official capacity.

7. Staff member advice to Party Groups and individual Cllrs

- 7.1 It must be recognised by all staff and Cllrs that in discharging their duties and responsibilities, staff serve the Council and not any political group, combination of groups

or any individual Cllr of the Council.

7.2 In the law relating to parish councils, there is no provision for dealing with party political groups.

7.3 Staff must always maintain political neutrality. They are not servants of any party, group, or individual.

7.4 All staff must, in their dealings with political groups and individual Cllrs, treat them in a fair and even-handed manner.

7.5 Certain points must, therefore, be clearly understood by all those representing party groups. In particular:

- staff assistance must not extend beyond providing information and advice in relation to matters of Council business. Staff must not be involved in advising on matters of party business.
- where staff provide information and advice to a party group 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.

7.6 Whilst support for Cllrs' ward work is legitimate, care should be taken if staff are asked to accompany Cllrs to ward surgeries. In such circumstances:

- The surgeries must be open to the general public;
- Staff should not be requested to accompany Cllrs to surgeries held in the offices or premises of political parties; and
- Staff must never be asked to attend ward or constituency political party meetings.

7.7 It is acknowledged that some Council staff may receive and handle messages for Cllrs on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party-political purposes.

7.8 In seeking to deal with constituents' queries or concerns, Cllrs should respect the Council's procedures. Staff have many pressures on their time. They may not be able to carry out the work required by Cllrs in the requested timescale and may need to seek instructions from their Line Managers.

8. Use of Council resources

8.1 A Cllr must, when using or authorising the use of the resources of the Council, act in accordance with the authority's requirements and ensure that such resources are not used for political purposes and that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the Cllr has been elected or appointed.

8.2 The Council provides support services such as stationery, typing, printing, photocopying to Cllrs to assist them in discharging their role as Cllrs of the Council. Such support services must therefore only be used on Council business and should never be used in connection with party political or campaigning activity or for private purposes

9. Cllrs' access to information and to Council documents

- 9.1 There is a general presumption of open government within the Council.
- 9.2 Cllrs are free to approach any Council department to obtain such information, explanation and advice (about that department's functions) as they may reasonably need in order to assist them in discharging their role as Cllrs of the Council.
- 9.3 This can range from a request for general information about some aspect of a department's activities to a request for specific information on behalf of a constituent.
- 9.4 Such approaches should normally be directed to the appropriate Line Manager concerned.
- 9.5 Where information is requested on behalf of a third party, this will be treated as a request made under the Freedom of Information Act 2000, and the Council's normal procedures under that Act will be followed.
- 9.6 As regards the legal rights of Cllrs to inspect Council documents, these are covered partly by statute and partly by the common law.
- 9.7 Cllrs have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted by the Council.
- 9.8 This right applies irrespective of whether the Cllr is a Cllr of the Committee or Sub Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers.
- 9.9 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 relating to staff, occupiers of Council property, applicants for grants and other services, the care of children, contract and industrial relations negotiations, advice from Counsel and criminal investigations.
- 9.10 A Cllr has *prima facie* right to inspect Council documents so far as their access to the document is reasonably necessary to enable the Cllr properly to perform his/her duties as a Cllr of the Council. This principle is commonly referred to as the 'need to know' principle.
- 9.11 The exercise of this common law right depends therefore, upon an individual Cllr being able to demonstrate that she/he has the necessary 'need to know'. In this respect, a Cllr has no right to 'a roving commission' to go and examine documents of the Council. Mere curiosity is not enough. The crucial question is the determination of the 'need to know'. This question must initially be determined by the Parish Clerk.
- 9.12 In some circumstances (e.g. a Committee Cllr wishing to inspect documents relating to the business of that Committee), a Cllr's 'need to know' will normally be presumed.
- 9.13 In other circumstances (e.g. a Cllr wishing to inspect documents which contain personal information about third parties), the Cllr will normally be expected to justify the request in specific terms.
- 9.14 In some circumstances, duties of confidentiality to external bodies, or imposed by statute may override the common law right.
- 9.15 Any Council information provided to a Cllr must only be used by the Cllr for the purpose for which it was provided, i.e. in connection with the proper performance of the Cllr's

duties as a Cllr 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.

9.16 A Cllr must not:

- disclose information given to him/her in confidence by anyone or information acquired which he/she believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so; and
- prevent another person from gaining access to information to which that person is entitled by law'

Any such breach of confidence may result in censure by the Council or, if sufficiently serious, in civil action against the Cllr and/or the Council for damages.

10. Correspondence (including email)

10.1 Correspondence between an individual Cllr and a staff member should not normally be copied (by the staff member) to any other Cllr.

10.2 Where it is necessary to copy the correspondence to another Cllr, this should be made clear to the original Cllr.

10.3 In other words, a system of 'silent copies' should not be employed.

10.4 Letters and emails must be sent on Parish Council headed paper or from a Council account.

10.5 It will, however, be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter or email to appear in the name of the Chairman of the Council.

10.6 Letters and emails which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Cllr.

11. Publicity and press releases

11.1 Local authorities are accountable to their electorate.

11.2 Accountability requires local understanding.

11.3 This will be promoted by the authority, explaining its objectives and policies to the electors and Council taxpayers.

11.4 Increasingly, local authorities see this task as an essential part of providing services.

11.5 Good, effective publicity aimed to improve public awareness of a Council's activities is, in the words of the Government, "to be welcomed".

11.6 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.

11.7 The Government has issued a Code of Recommended Practice on Local Authority Publicity.

- 11.8 The purpose of the Code is to set out principles that should apply to all publicity at public expense and which traditionally have applied in both central and local government and concerns the content, style, distribution and such other matters as appropriate.
- 11.9 Staff and Cllrs of the Council will, therefore, in making decisions on publicity, take account of the provisions of this Code.
- 11.10 If in doubt, staff and/or Cllrs should initially seek advice from the Parish Clerk.
- 11.11 Care should be paid to any publicity used by the Council around the time of an election.
- 11.12 Press releases will be issued in accordance with the Media Communications Protocol as adopted by the Council.
- 11.13 Relations with the media are the responsibility of the Parish Clerk in consultation with the Chairman of the Council.
- 11.14 The Parish Clerk may authorise other staff to provide information or delegate day to day matters in accordance with the approved policy and protocol.
- 11.15 Cllrs may comment on approved Council policies but may not comment on behalf of the Council on any non-policy matter.
- 11.16 If any Cllr wishes to make comments to the press, it must be made clear that the comment is that of the individual Cllr and not necessarily the corporate view of the Parish Council.
- 11.17 The Parish Clerk will assist Cllrs in their relations with the media.
- 11.18 Any staff member assisting a Cllr with media relations must always act in the interests of the whole Council and in a politically impartial manner.
- 11.19 Other than factual statements, Cllrs should not seek assistance from a staff member with the preparation or issue of any media statement that will adversely affect the reputation of the Council.

12. Involvement of local Cllr

- 12.1 Whenever a public meeting is organised by the Council to consider a local issue, the Cllrs representing the Electoral Ward affected will be invited to attend the meeting.
- 12.2 More generally, staff should consider whether other policy or briefing papers, or other topics being discussed with Committee, should be discussed with relevant Ward Cllrs.

13. Conclusion

- 13.1 Mutual understanding, openness and basic respect are the greatest safeguard of the integrity of the Council, its Cllrs and staff

14. Arbitration

- 14.1 Where necessary, the Parish Clerk will arbitrate on the interpretation of this protocol.