



MEMBER OFFICER PROTOCOL

Introduction

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. Given the variety of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise.
2. The protocol seeks to reflect the principles underlying the respective Codes of Conduct, which apply to Members and Officers and should read in association with those Codes. The shared objective of the Codes is to enhance and maintain the integrity of local government.
3. Councillors and Officers are servants of the public. The effectiveness of the outcomes they are able to deliver for residents is dependent on a strong and constructive relationship which adheres to a set of clear principles. These principles are:
 - Mutual respect for each other's roles and responsibilities.
 - Dealings between Members and Officers should be courteous and conducted in a constructive and positive way.
 - Neither party should seek to take unfair advantage of their position or seek to exert undue influence.
 - Respecting the confidentiality of information given and received as part of Council business.
 - Concerns as to the conduct of Officers should be made to the Chairman of the Council, and of Members, to the Monitoring Officer at Breckland District Council.
4. This Protocol is mainly a written statement of current practice and convention but aims 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. It also reflects the principle underlying the Members Code of Conduct which is to enhance and maintain the integrity (real and perceived) of local government.
5. A Member should not raise matters relating to the conduct or capability of an Officer at meetings held in public. This is a long-standing convention in public service. 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 have 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 Chairman of the Personnel Committee who will then look into the facts and report back to the Member. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Complaints Policy & Procedure and/or Disciplinary Policy and Procedure.

Officer Advice of Members

6. Should a member of the public raise matters relating to the conduct or capability of an Officer at meetings held in public it is the responsibility of the Chairman to immediately insist they follow the Council's Complaints Policy and Procedure, and politely ask them to stop their

remarks and allow due process to be undertaken. If this is ignored, or they behave offensively or improperly, the Chairman shall request such person(s) to moderate or improve their conduct. Failing this, the Chairman shall seek to adjourn or stop the meeting via the appropriate process.

7. Members and Officers should not disclose sensitive or confidential information that would undermine confidence in any Member or Officer other than in the discharge of their duties in accordance to agreed policies such as the Council's Complaints Policy & Procedure and/or Disciplinary and Procedure, or as required law.
8. Support provided by Officers can take different forms, ranging from the normal briefing with a Chairman prior to a meeting to responding to telephone queries. Such support is available to all Members regardless of political affiliation and will be available to all political groups should they become formalised in the future. When support such as this is given both Members and Officers should understand that it must not extend beyond providing information and advice in relation to matters of Council business; Officers should not be involved in advising on matters of party business.
9. Whilst any Member may ask a relevant Officer for written factual information about a service, such requests must be reasonable. Requests will be met, subject to any overriding legal considerations (such as the Data Protection Act) unless the recipient of any request considers the cost of providing the information requested or the nature of the request to be unreasonable. If that is the case, she/he will raise the matter with the Town Clerk who will discuss the issue with the Member.

Support Services to Members

10. The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, 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, or for private purposes.

Members' Access to Information and to Council Documents

11. Members are free to approach Officers to ask for information in accordance with paragraph 9. 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.
12. As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by common law.
13. Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council or other meeting. This right applies irrespective of whether the Member is a member of the body which is meeting and extends not only to reports which are to be submitted to the meeting, but also to any relevant background documents. This right does not, however, automatically apply to background documents relating to certain items which may appear as an exempt item on the agenda for a meeting, e.g. information relating to employees or criminal investigations.
14. The common law right of Members is 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.

15. The exercise of this common law right depends, therefore, upon an individual Member being able to demonstrate that she/he 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”.
16. 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. This point is emphasised in the Code of Conduct for Members.

Officer/Chairman Relationships

17. It is important that there should be a close working relationship between the Chairman of a meeting and the Officers who report to or interact with that meeting. 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 political groups.
18. In relation to action between meetings, it is important to remember that the Council’s political decision making structure only allows for decisions relating to the discharge of any of the Council’s functions to be taken by a meeting or an Officer unless the procedures set out in the Standing Orders are invoked. There is no allowance for such decisions to be taken by a Chairman or indeed by any other single Member.
19. At some meetings, a resolution may be passed which authorises named Officers to take action between meetings in consultation with the Chairman and/or specified Member(s). It must be recognised that it is the Officer, rather than the Chairman and/or Member(s), who takes the action and it is the Officer who is accountable for it.
20. Finally, it must be remembered that Officers are accountable to the Town Clerk and that, whilst Officers should always seek to assist a Chairman (or indeed any Member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by him/her.

Correspondence

21. 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 circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

Conclusion

22. Mutual understanding and openness on these sorts of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Members and Officers.