
PROTOCOL ON COUNCILLOR/EMPLOYEE RELATIONS

Gloucester City Council (“the Council”) adopted this protocol on xxxx to come into force on xxxx. The protocol forms part of the local framework for standards of behaviour approved by the Audit and Governance Committee. Monitoring of compliance with this protocol is the responsibility of the Audit and Governance Committee, the Monitoring Officer and the Head of Paid Service.

1. Introduction

1.1 Essential to the successful working of the City Council is a relationship between Councillors and Employees of the Council which is characterised by partnership working, mutual respect, openness, honesty and trust. The purpose of this protocol is to provide guidance to Councillors and Employees on their respective roles and responsibilities and on their relationship with each other.

1.2 Guiding all aspects of relationship between Councillors and Employees are the following principles, some of which are enshrined in law:-

- **selflessness** - serving only the public interest
- **honesty and integrity** - not allowing these to be questioned; not behaving improperly
- **objectivity** - taking decisions on merit
- **accountability** - to the public; being open to scrutiny
- **openness** - giving reasons for decisions
- **personal judgement** - reaching one’s own conclusions and acting accordingly
- **respect for others** - promoting equality; avoiding discrimination; respecting others (Councillor/Councillor, as well as Councillor/Employee)
- **duty to uphold the law** - not acting unlawfully
- **stewardship** - ensuring the prudent use of the Council’s resources
- **leadership** - acting in a way which has public confidence

2. The Roles of Councillors and Employees

2.1 Councillors are accountable to the electorate and serve as long as their term of office lasts. Employees are responsible to the Council as a whole and carry out the Council’s work under the direction of the Council, Executive and Committees. The roles are different but complimentary.

2.2 **Councillors** are responsible for:

- a) political leadership;

- b) initiating and determining the policy of the Council, determining the core values of the Council and approving the Council's policy framework, strategic plans and budget;
 - c) advocating for their constituents;
 - d) accounting for the delivery of Council services;
 - e) scrutinising Council services;
 - f) promoting partnership working;
 - g) representing the Council on local, regional and national bodies
 - h) respecting the impartiality of the Council's employees.
- 2.3 Councillors should not involve themselves in the day-to-day management of Council services or issue orders or directions to employees.
- 2.4 Cabinet Members, Chairs and Vice Chairs have additional responsibilities which make the relationship with employees more complex. In these circumstances extra care should be taken to respect the impartiality of employees and Councillors must not ask employees to engage in work of a party political nature or compromise their position with other Councillors, political groups or other employees.
- 2.5 Cabinet Members can have individual executive decision-making powers. They may determine matters within their portfolio, but implementation of their decisions is the responsibility of employees of the Council.
- 2.6 **Employees** are responsible for:
- a) providing professional advice and information to Councillors in developing and implementing policy and in decision-making;
 - b) implementing the decisions of Councillors;
 - c) managing the day-to-day administration of the Council;
 - d) taking managerial and operational decisions within the Council's Scheme of Delegation;
 - e) providing information to and consulting with local people about Council services
 - f) remaining impartial at all times.
- 2.7 The Head of Paid Service, Monitoring Officer and Chief Financial Officer (Section 151 Officer) have responsibilities in law over and above their obligations to the Council and its Councillors, and they must be allowed the time, authority and resources to discharge those responsibilities.
- 2.8 When employees prepare reports for Councillor decision, they have a duty to give advice in accordance with their professional expertise and in accordance with professional codes of conduct, ethical guidelines and the law. In some situations, employees will be under a duty to submit a report on a matter or in a particular way. Employees should have their professional integrity and impartiality respected and should not to be influenced or required to restrict

options, withhold information or make recommendations to the Cabinet or a Committee which they cannot support professionally.

3. Working Relationships – reciprocal expectations

3.1 Councillors should expect the following from council employees

- a) a commitment to the Council as a whole and not to any political group;
- b) honesty, openness, trust and respect;
- c) performance of their duties effectively and efficiently;
- d) a working partnership which understands the respective roles;
- e) timely responses to enquiries and complaints;
- f) impartial professional advice;
- g) regular and up to date information on matters which are appropriate and relevant to their needs;
- h) awareness of and sensitivity to the political environment and its pressures;
- i) courtesy and appropriate confidentiality;
- j) training and development in order to carry out their role effectively;
- k) relationships with Councillors that will not be used by employees to advance their personal interests or influence decisions improperly;
- l) compliance with the Officer Code of Conduct and this Protocol;
- m) support for the role of Councillors as the local representatives of the authority, within any scheme for Councillor support approved by the authority.

3.2 Employees should expect the following from Councillors:

- a) a working partnership which understands the respective roles;
- b) honesty, openness, trust and respect;
- c) clear political leadership and direction;
- d) courtesy and appropriate confidentiality;
- e) no bullying or undue pressure;
- f) relationships with employees that will not be used by Councillors to advance their personal or political interests or to influence decisions improperly;
- g) compliance with the Councillor Code of Conduct and this Protocol;
- h) to inform the Monitoring Officer of any relationships which might be seen as unduly influencing their work and role.

3.2 Close personal familiarity between Councillors and employees can be misinterpreted and prove embarrassing to other Councillors, employees or others. Care should be taken to avoid inappropriate close personal familiarity.

3.3 Councillors must be mindful that employees cannot respond to criticism in the same way that other Councillors can, and they should temper their remarks accordingly. This is particularly important when Councillors are dealing with less senior staff.

3.4 Councillors should bear in mind that unless there is an on-going relationship with a particular member of staff in relation to casework or an application they are dealing with, Councillors are expected to deal in the first instance with the Head of Paid Service, Corporate Directors and Heads of Service. This is because:-

- a) they are in a better position to provide authoritative information or advice;
- b) they need to be aware of any questions or complaints raised by Councillors;
- c) they can respond to Councillors' requests, for example, by making a judgement as to whether action may be taken under officers' delegated authority;
- d) they are in a better position to consider the resource demands of the issue and address or manage the Councillor's expectations;
- e) they can investigate and deal with any shortcomings there might be at the point of service delivery; and
- f) it avoids the possibility that employees below the Heads of Service may be 'intimidated' or even 'bullied' by over-enthusiastic Members.

4. Meetings

4.1 Councillors and employees will frequently encounter each other at meetings held to conduct Council business. The following basic rule will apply in all situations.

4.2 At all times Councillors and employees will show respect to one another. Although Councillors are entitled to question officers at meetings, they must avoid personal attacks and ensure that criticism is constructive and well founded. Employees will expect to have the opportunity to respond appropriately.

4.3 Whenever a formal public meeting is organised to consider a local issue, all the Councillors representing the ward(s) affected should be invited to attend the meeting. When the Council undertakes any form of consultative exercise on a local issue, the Ward Councillors should always be notified at the outset of the exercise and be provided with relevant information in a timely manner.

5. Working with Political Groups

5.1 Political groups have an important role to play in the development of policy and the political management of the authority. Whilst the operation of the political groups must be supported by the Council, it is important that employees remain politically neutral, and avoid being identified with any political group.

5.2 Employees will give professional advice and information to any Councillor or group of Councillors upon request and to the best of their ability. But it must be remembered that there will be occasions when information cannot be shared or

provided. Where this occurs Councillors should receive a clear explanation of the reasons.

- 5.3 If the resource implications of providing information are considerable, the Head of Paid Service will discuss those concerns with the leaders of the political groups and agree what information can be provided.
- 5.4 Professional advice and analysis will be made available to opposition party groups, for example in relation to preparation of amendments to the budget prior to the annual budget meeting of the Council. Where an opposition party requests significant work by officers that is likely to disrupt other planned work, the Head of Paid Service will be advised and will decide what employee resources can be committed.

6. Correspondence

- 6.1 Correspondence (including emails) between Councillors and employees shall not normally be copied by the employee to any other Councillor without the permission of the Councillor in correspondence. However, where correspondence concerns Council policy or, the interpretation of Council policy, a copy may be sent to the relevant Cabinet Member or Chair of Committee and the Councillor in correspondence should be made aware.
- 6.2 Councillors should consider and limit the number of employees and third parties copied into correspondence (including emails). Inappropriately broad circulation of correspondence can lead to a wasteful duplication of effort and increases the risk of a breach of data security or confidentiality.
- 6.3 Under no circumstances should 'silent copies' be made available to any third party, and copies should only be sent to third parties with the express permission of the Councillor in correspondence.
- 6.4 Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer of the Council, rather than in the name of a Councillor. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Councillor, but this should be the exception rather than the norm. Letters which, for example, create obligations or given instructions on behalf of the Council should never be sent out in the name of a Councillor.

7. Reports to Political Groups

- 7.1 Political groups may request the Head of Paid Service or a Corporate Director to prepare written reports on matters relating to the Council for consideration by the group.

- 7.2 Such reports will be factual and may identify and assess the options, they will not deal with any political implications arising from the subject matter and recommendations will not be made to the political group.
- 7.3 Where a report is prepared for a political group, the Head of Paid Service will advise all other groups that the report has been prepared and will provide a copy to any group on request.

8. Reports to Cabinet and Individual Cabinet Members

- 8.1 Cabinet and individual Cabinet Members will take decisions in accordance with the Constitution (Part 4, Cabinet Procedure Rules).
- 8.2 Individual Cabinet Members, the Head of Paid Service, Corporate Directors, Heads of Service, the Monitoring Officer and the Chief Financial officer shall have the right to submit reports to the Cabinet for consideration.
- 8.3 Reports must have regard to:
- a) the requirements of the Cabinet Procedure Rules (as incorporated in the Constitution);
 - b) the requirements of the Access to Information Procedure Rules (as incorporated in the Constitution);
 - c) the budget and policy framework (as incorporated in the Constitution)
 - d) the Council Scheme of Delegation (as incorporated in the Constitution)
 - e) any legal requirement for a report to be in the name of an officer of the Council, otherwise once a report has been through the Cabinet Briefing Process, the report shall be presented in the name of the appropriate Cabinet Member.
 - f) Where the employee report author has given different advice or made different recommendations this shall be reflected in the report.

9. Officer Attendance

- 9.1 Any political group may request the Head of Paid Service or a Corporate Director to attend a meeting of the group to advise on any matter relating to the Council.
- 9.2 The Head of Paid Service or Corporate Director may arrange for the attendance of a representative in her or his stead, or may decline to attend or provide representation where s/he believes that the particular issue is of such a political nature that it would be inappropriate to attend.
- 9.3 Any advice or information provided at or as a consequence of the meeting will be factual and may identify and assess options, it will not deal with any political implications arising from the advice and recommendations will not be made to the political group.

- 9.4 Where an employee attends a political group meeting, the Head of Paid Service will advise all other groups that the employee has attended and the subject.
- 9.5 Employees attending a political group meeting will respect the confidentiality of any matter that they hear in the course of attending the meeting.

10. Councillors' Access to Information and Council Documents

- 10.1 Access to accurate and up-to-date information and professional advice is vital to enable Councillors to fulfil their elected role effectively. However, access to information and protection of individual and community rights is an increasingly sensitive area, and there is a great deal of legal regulation, both common law and statutory, which governs the rights and restrictions relating to Councillors' access to Council-held information.
- 10.2 Councillors have a right to approach the Managing Director, Corporate Directors or Heads of Service to ask for information or seek advice. This right extends only to information, explanation and such advice as they may reasonably need in order to assist them in discharging their role as a Councillor.
- 10.3 The legal rights of Councillors to inspect Council documents are covered partly by statute and partly by common law.
- 10.4 Councillors have a statutory right to inspect any Council documents which contain material relating to any business which is to be transacted at a Council, Cabinet, committee or sub-committee meeting. Such right applies irrespective of whether the Councillor is a member of the body concerned and applies not only to reports which are to be submitted to the meeting in question, but also to any relevant background papers. This statutory right does not, however, apply to documents relating to items which appear within the confidential or exempt part of any agenda for a meeting.
- 10.5 There is no 'roving commission' for a Councillor to examine books and documents and the common law right of Councillors is based on the principle that Councillors have a prima facie right to inspect Council documents so far as access to the document in question is reasonably necessary to enable the Councillor to perform his/her duties. This is commonly known as "the need to know" principle.
- 10.6 To exercise the common law right, Councillors must, therefore, demonstrate a need to know taking into account the requirements of the Data Protection Act 2018 (and related legislation) and the Human Rights Act 1998. In matters of concern on this issue, it is for the employee responsible for holding the information to determine whether an individual Councillor has a need to know, and they or the Councillor requesting the information should seek advice from the Monitoring Officer in particular cases of difficulty.

10.7 Where a Councillor requests to see documents containing confidential information, the Councillor will be required to justify the request in specific terms. Certain documents will not be available to Councillors. These documents may contain information which is covered by statute or may be documents containing sensitive material, the release of which might be prejudicial to the Council's interests.

10.8 Any Council information provided to a Councillor must only be used by the Councillor for the purpose for which it was provided (i.e. in connection with the proper performance of the Councillors' duties) and is subject to the obligations in the Councillor Code of Conduct.

11. Working with Overview and Scrutiny

11.1 The Overview and Scrutiny Committee can require Cabinet Members and senior officers to appear before the Committee and answer questions, but arrangements may be made, if appropriate, for other Councillors or employees to attend to assist the Committee with its work.

11.2 Council has agreed that there will be no formal separation of employee support between the Executive and Scrutiny functions. The Head of Paid Service has overall responsibility for ensuring that staffing support for the Overview and Scrutiny function is appropriate and the Overview and Scrutiny Committee shall take into consideration any resource issues when determining its Work Programme. Any conflicts of interest which may arise in having to serve both Executive and Scrutiny should be raised with the Head of Paid Service.

12. Officer Appointments

12.1 The appointment of the Head of Paid Service (Managing Director), Monitoring Officer and Chief Financial Officer (section 151 Officer) shall be made by Council.

12.2 The appointments of Corporate Directors shall be made by the Senior Appointments Committee.

12.3 The appointment of all the other employees of the Council shall be made by the Managing and Corporate Directors or staff authorised by the Council's scheme of delegation to make appointments

12.4 Specific provisions apply in relation to disciplinary action against the three Statutory officers (Head of Paid Service, Monitoring Officer, Chief Finance Officer) (see Officer Employment Procedure Rules in Part 5 of the Constitution).

12.5 All other staffing matters (including discipline, training, setting and monitoring performance) are the responsibility of the relevant managers, though the relevant Cabinet Member may stipulate performance targets in the case of the

Managing Director, Corporate Directors, Heads of Service and Service Managers.

12.6 Councillors wishing to comment on an individual employee's performance shall raise the matter with Head of Paid Service in the case of a Corporate Director, the relevant Corporate Director in the case of a Head of Service or Manager and the relevant Head of Service or Manager in the case of other members of staff.

13. Compliance with this Protocol

13.1 Concerns about a failure to comply with this Protocol should be raised in the first instance with the Head of Paid Service or the Monitoring Officer.

13.2 Any breach of this protocol by a Councillor may result in a breach of the Councillor Code of Conduct and the arrangements established by the Council to deal with such breaches will apply.

13.3 Any breach of this protocol by an employee of the Council may be a disciplinary matter and the Council's disciplinary procedures will apply.