

Mutual trust and respect between Councillors and Employees is essential to ensure good governance and the effective running of a council. To help ensure that relationships do not go awry, this protocol covers:

- The respective roles and responsibilities of the Councillors and the Clerk, and any other employees;
- Relationships between Councillors and Employees;
- Where/Who the Clerk should go to if they have concerns;
- Who is responsible for making decisions.

1. Background

- 1.1 This protocol is intended to assist Councillors and the Clerk, in approaching some of the sensitive circumstances which arise in a challenging working environment.
- 1.2 The reputation and integrity of the council is significantly influenced by the effectiveness of Councillors, the Clerk and other staff working together to support each other's roles.
- 1.3 The aim is effective and professional working relationships characterised by mutual trust, respect and courtesy. Close personal familiarity should be avoided.

2. Roles of Councillors and Employees

- 2.1 The respective roles of Councillors and employees can be summarised as follows:
 - Councillors and Employees are servants of the public and they are indispensable to one and other, but their responsibilities are distinct.
 - Councillors are responsible to the electorate and serve only so long as their term of office lasts.
 - Employees are responsible to the council. Their job is to give advice to Councillors and to the council, and to carry out the council's work under the direction and control of the council and relevant committees.

2.2 Councillors

- 2.2.2 Councillors have four main areas of responsibility:
 - To determine council policy and provide community leadership;
 - To monitor and review council performance in delivering services;
 - To represent the council externally; and
 - To act as advocates for their constituents.
- 2.2.3 All Councillors have the same rights and obligations in their relationship with the Clerk and other employees, regardless of their status or political party, and should be treated equally.
- 2.2.4 Councillors should not involve themselves in the day to day running of the Council nor should they seek to implement council decisions nor claim to act on behalf of the Council. This is the Clerk's responsibility, and the Clerk will be acting on instructions from the Council or its Committees, within an

agreed job description.

2.3 Chairmen and Vice-Chairmen of Committees

Committee Chairs and Vice-Chairs have additional responsibilities. These responsibilities mean that their relationships with employees may be different and more complex than those of other Councillors. However, they must still respect the impartiality of Employees and must not ask them to undertake work of a party political nature, or to do anything which would prejudice their impartiality.

2.4 Employees

The role of Employees is to give advice and information to Councillors and to implement the policies determined and decisions made by the Council. Officer will report to Council on the progress made in implementing decisions.

In giving such advice to Councillors, and in preparing and presenting reports, it is the responsibility of the Officer to express his/her own professional views and recommendations. An Officer may report the views of individual Councillors on an issue, but the recommendation should be the Officer's own. If a Councillor wishes to express a contrary view they should not pressurise the officer to make a recommendation contrary to the officer's professional view, nor victimise an officer for discharging his/her responsibilities.

3. Expectations

3.1 All Councillors can expect:

- a commitment from Employees to the Council as a whole, and not to any individual Councillor, group of Councillor's or political group;
- a working partnership;
- Employees to understand and support respective roles, workloads and pressures;
- A timely response from Employees to enquiries and complaints;
- Officer's professional advice, not influenced by political views or personal preferences;
- regular, up to date, information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities or positions that they hold;
- Employees to be aware of and sensitive to the public and political environment locally;
- Respect, courtesy, integrity and appropriate confidentiality from Employees;
- training and development opportunities to help them carry out their role effectively;
- not to have personal issues raised with them by Employees outside the council's agreed procedures;
- that Employees will not use their contact with Councillors to advance their personal interests or to influence decisions improperly;
- that Employees will at all times comply with the relevant code of conduct;
- that Employees will implement the decisions of Council and its committees/sub-committees

3.2 Employees can expect from Councillors:

- a working partnership;

- an understanding of, and support for, respective roles, workloads and pressures;
- leadership and direction;
- respect, courtesy, integrity and appropriate confidentiality;
- not to be bullied or to be put under undue pressure;
- that Councillors will not use their position or relationship with Employees to advance their personal interests or those of others or to influence decisions improperly;
- that Councillors will at all times comply with the council's adopted Code of Conduct.

3.3 Some General Principles:

- Close personal relationships between Councillors and Employees can confuse their separate roles and get in the way of the proper conduct of Council business, not least by creating a perception in others that a particular Councillor or Officer is getting preferential treatment.
- Special relationships with particular individuals or party political groups should be avoided as it can create suspicion that an employee favours that Councillor or political group above others.
- Councillors make decisions collectively through the Council, its committees and sub-committees. They cannot make decisions when acting alone nor may they implement decisions/act on behalf of the Council unless specifically authorised by a resolution of the Council or a committee/sub-committee

4. Political Groups

- 4.1 The operation of political groups is becoming more common within town/community councils. Town/community Councillors are there to serve their community as members of the community, and should not be sidetracked by party political issues. Party politics within a town/community council can pose particular difficulties in terms of the impartiality of the Clerk and other employees, and the relationship between Councillors and employees.
- 4.2 Party political groups have no power to require the Clerk or any other employee to attend group meetings or to prepare written reports for them, and employees can legitimately refuse to do so. The Clerk and other Employees are responsible to the council as a whole and should not take action under instructions from any individual Councillor.
- 4.3 The Clerk should ensure that any reports or advice offered to a political group are statements of relevant facts, with an appraisal of options and do not deal with the political implications of the matter or options, or make any recommendations. It is not the Clerk's job to make recommendations to a political group.
- 4.4 If a report is prepared for one political group, the Clerk should advise all other political groups that the report has been prepared, or that advice was given.
- 4.5 If the Clerk needs advice or guidance on matters relating to party groups or how to operate within a political environment, s/he should seek advice from their County Association of NALC, or from the Society of Local Council Clerks.

5. When things go wrong

Procedure for Employees

- 5.1 From time to time the relationship between Councillors and the Clerk (or other employees) may break down or become strained. Whilst it is always preferable to resolve matters informally, through conciliation by an appropriate third party, it is important that the council adopts a formal grievance protocol or procedure.
- 5.2 The Monitoring Officer may be able to offer a mediation/conciliation role or it may be necessary to seek independent advice. For example, the Society of Local Council Clerks may be able to provide an independent person. The Mayor should not attempt to deal with grievances or work related performance or line management issues on their own. The council will delegate authority to a Personnel Committee to deal with all personnel matters.
- 5.3 The law requires all employers to have disciplinary and grievance procedures. Adopting a grievance procedure enables individual employees to raise concerns, problems or complaints about their employment in an open and fair way.
- 5.4 If a Councillor is dissatisfied with the conduct, behaviour or performance of the Clerk or another employee, the matter should be raised with the Clerk in the first instance. If the matter cannot be resolved informally, it may be necessary to invoke the council's disciplinary procedure.

2. Protocol on Bullying and Harassment

Introduction

Bullying is specifically prohibited in the Member Code of Conduct (paragraph 3(2)(b) of the Model Code). Councillors must not bully any person, including other Councillors, Employees or members of the public.

This protocol is to ensure that Members and Employees operate in an environment of mutual trust and respect. It should assist in the development of a culture of clear and honest communication between Employees and Members.

1. Background

- 1.1 The relationship between Councillors and Employees is an essential ingredient that should contribute to the successful working of the organisation. This relationship within the authority should be characterised by mutual respect, informality and trust. Councillors and Employees must feel free to speak to one another openly and honestly. Nothing in this Protocol is intended to change this relationship. Objective criticism is usually acceptable but can be unacceptable if the criticism becomes personal. This protocol gives guidance on what to do on the rare occasions when things go wrong.
- 1.2 Everyone should be treated with dignity and respect at work. Bullying and harassment of any kind are in no-one's interest and should not be tolerated in the workplace.

2. What is bullying and harassment?

- 2.1 Examples and definitions of what may be considered bullying and harassment are provided below for guidance. For practical purposes, those making a complaint usually define what they mean by bullying or harassment – something has happened to them that is unwelcome, unwarranted and causes a detrimental effect. If employees complain they are being bullied or harassed, then they have a grievance which must be dealt with regardless of whether or not their complaint accords with a standard definition.

3. How can bullying and harassment be recognised?

- 3.1 There are many definitions of bullying and harassment. Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means to undermine, humiliate, denigrate or injure the recipient.
- 3.2 Harassment, in general terms, is unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.
- 3.3 Behaviour that is considered bullying by one person may be considered firm management by another. Most people will agree on extreme cases of bullying and harassment but it is sometimes the "grey" areas that cause most problems. Examples of what is unacceptable behaviour include:

- "inappropriate behaviour"
- intimidation/humiliation
- excessive criticism
- autocratic/dictatorial behaviour
- shouting
- haranguing
- swearing
- ridiculing
- expressions of intolerance
- general discourtesy

- browbeating
 - use of capital letters in emails
- 3.4 Bullying and harassment are not necessarily face to face; they may be by written communications, e-mail (so called “flame mail”) and telephone.

4. Why does the Council need to take action on bullying and harassment?

- 4.1 There is an implied term of mutual trust and confidence in every contract of employment. Where the town council is aware of a situation of bullying or harassment of an employee by one of its Councillors, but fails to act to stop it, it will be in breach of that implied term of employment contract and may be held liable for the constructive dismissal of that employee.
- 4.2 It is in every employer’s interest to promote a safe, healthy and fair environment in which people can work.
- 4.3 The town council’s duty of care to an employee relates to all forms of personal injury, which will include mental as well as physical health. If a risk to health was foreseeable but no action was taken then the town council could be at fault and compensation could be sought.

5. The Members’ Code of Conduct

- 5.1 Bullying is expressly forbidden under paragraph 3(2)(b) of the Model Code of Conduct. There are, in addition, complementary obligations to;
- not do anything which may cause the authority to breach any equality laws;
 - treat others with respect;
 - not intimidate any person who is or is likely to be a complainant, a witness or involved in an investigation relating to a breach of the Code; and;
 - Not compromise or attempt to compromise the impartiality of those who work for, or on behalf of, the authority.
- 5.2 A proven allegation of bullying or harassment will always be a breach of the Code of Conduct and the Councillor involved is liable to be reported to the Public Services Ombudsman for Wales (“PSOW”). Councillors are entitled to challenge Employees as to why they hold their views. However, if criticism amounts to a personal attack or is of an offensive nature, the Councillor is likely to have crossed the line of what is acceptable behaviour.
- 5.3 If there are instances of bullying or harassment by Councillors towards Employees or other Councillors, then those Councillors who are aware of the incident should seek advice from the Monitoring Officer on whether to report it to the PSOW. It is also open to Employees who are either the subject of bullying or harassment or who witness such an incident to similarly report it.
- 5.4 If Members or Employees are unsure what to do or how to report the matter, they should seek the advice of the Monitoring Officer.