

Frome Town Council

Chapter 7

Councillor and Staff Protocol Principles of Good Practice

Frome Town Hall
Christchurch Street West
Frome, BA11 1EB

01373 465757
info@frometowncouncil.gov.uk

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A copy of this document is also available in different formats such as large print, Braille, audio or in a different language, please contact the office if this is required.

The following guidance has been put together to give all Cllrs and staff guidance on accepted good practice on Council protocol and is in addition to information and guidance provided by other publications such as “The Good Councillors Guide” and NALC guidelines on Chairmanship.

Copies of this Protocol will be issued to all Cllrs on election and to all staff on appointment.

It will complement any statutory procedures or legislation enacted from time to time.

Contents

Section 1

Chairing the Council (role of the Mayor)

Section 2

Council decision making

- 2.1 Decision making by Frome Town Council or Committees
- 2.2 Principles of decision making
- 2.3 Preparation of Council agendas, minutes and reports and conduct of meetings
 - 2.3.1 agendas
 - 2.3.2 staff at meetings
 - 2.3.3 minutes
 - 2.3.4 submission of reports
- 2.4 Authority to act

Section 3

A protocol for Cllr / staff relations

Section 1 - Chairing the Council (role of the Mayor)

- 1.1 The Mayor, who will also be the Chair of the Council, will be elected by the Council annually and will receive regular briefings by the Town Clerk on current issues. While the title confers no additional powers on the Mayor, as Chair they will have the following responsibilities:
- to uphold and promote the purposes of the Standing Orders and Financial Regulations, and to interpret the Standing Orders and Financial Regulations when necessary;
 - to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
 - to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Cllrs who do not hold committee chairs are able to hold the Mayor and committee chairs to account;
 - to promote public involvement in the Council's activities;
 - to be the conscience of the Council; and
 - to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

Section 2 - Council Decision Making

- 2.1 Decision making by Frome Town Council or Committees
Council meetings will follow the Council's procedural rules set out in Standing Orders and Financial Regulations when considering any matter.

2.2 Principles of decision making

All decisions of the Council will be made in accordance with the following principles:

- Proportionality i.e. the action should be proportionate to the desired outcome
- Due consultation and the taking of advice from staff
- Respect for human rights
- Presumption in favour of openness
- Clarity of aims and desired outcomes
- Reflecting the balance of evidence, or legal or financial advice

2.3 Preparation of Council agendas, minutes and reports and conduct of meetings

2.3.1 Agendas

The Town Clerk is responsible under statute for preparing the Agendas for all meetings of the Town Council, Committees and Sub Committees, and for circulation of them to meet statutory requirements. However, out of courtesy, the Town Clerk may consult with the appropriate Chair during the course of preparation of Agendas.

The Chair works in partnership with the Town Clerk to make sure that the Council is properly informed for making lawful decisions during meetings.

Matters for inclusion on an Agenda may be considered at the discretion of the appropriate Chair in agreement with the Town Clerk.

2.3.2.1 Staff at Meetings

The Town Clerk or other appointed officer as delegated by the Town Clerk will be present at all meetings involving Cllrs of the Town Council and will advise on any questions relating to Standing Orders, Financial Regulations, legal requirements or committee procedures and will supervise the production of formal Minutes of the meeting.

Where for whatever reason a staff member is not able to attend a meeting, the meeting is not invalidated. The Chair presides and a Cllr may take the minutes.

2.3.3 Minutes

The Town Clerk or other appointed officer is responsible for the content of all Minutes and for circulation of them to meet statutory requirements.

2.4 Authority to Act

No individual Councillor (including Committee Chair's and the Mayor) or informal groups of Councillors can make a decision on behalf of the Council. There is no such thing as 'Chair's Action.'

Section 3 - Protocol for Cllr/Staff relations

Contents

1. Introduction and Principles
2. General Points
3. The Relationship: Staff support to Cllrs General Points
4. Employee Advice to Party Groups and Individual Cllrs
5. Use of Council Resources
6. Cllrs Access to Information and to Council Documents
7. Correspondence (including email)
8. Publicity and Press Releases
9. Involvement of Local Cllrs
10. Conclusion
11. Arbitration

1 Introduction and Principles

The purpose of this Protocol is to guide Cllrs and staff of Frome Town 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.

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.

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 Cllrs receive objective and impartial advice and that staff are protected from accusations of bias and any undue influence from Cllrs.

It also seeks to reflect the principles underlying the Code of Conduct which apply to Cllrs. The object of this code is to enhance and maintain the integrity (real and perceived) of local government and the Code, therefore, demanding very high standards of personal conduct.

The Council has adopted the Codes of Conduct for Cllrs, and this protocol should be read in conjunction with that Code and the relevant provisions of the Council's other adopted policies.

Principles Underlying Cllr/Staff Relations:

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.' 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.

2 General Points

Both Councillors and staff are servants of the public and they are indispensable to one another. But their responsibilities are distinct.

Roles of Cllrs

Cllrs are responsible to the electorate and serve only so long as their term of office lasts. Cllrs are democratically elected and are accountable to the electorate for their actions. An important feature of each Cllr's role is to represent the interests of his/her constituents, irrespective of how they may have voted in an election. 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.

Roles of Staff

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

The Town 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.

Employer/Staff Issues

At the heart of this Protocol, is the importance of mutual respect. 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.

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. 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.

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.

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.

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. This is a long-standing tradition in public service. A staff member has no means of responding to such criticisms in public. If a Cllr feels he/she has 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, he/she should raise the matter with the Town Clerk. The Town Clerk will then look into the facts and report back to the Cllr.

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 contained within the Staff Handbook.

A staff member should not raise with a Cllr matters relating to the conduct or capability of another staff member or to the internal management of a Section/Division/Department at or in a manner that is incompatible with the overall objectives of this Protocol. This does not, however, prevent a staff member raising a concern with a Cllr under the Council's whistleblowing procedure

Where a staff member feels that he/she has not been properly treated with respect and courtesy by a Cllr, he/she should raise the matter with the Town Clerk, especially if they do not feel able to discuss it directly with the Cllr concerned. In these circumstances, the Town Clerk will take appropriate action either by approaching the individual Cllr or by referring the matter to the Monitoring Officer at the District Authority in the context of the Standards Committee considering the complaint.

Guidance on personal relationships is contained in the Code of Conduct within the Staff Handbook. 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, Chair's and leaders of political parties with 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.

3 The Relationship: Staff Support to Cllrs: General Points

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

Certain statutory staff members - the Town 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.

Independence of the Town Clerk

The Town Clerk is not answerable to any individual Councillor, not even to the Chair (Mayor). The Town 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.

The Town Clerk has a right and a duty to report to the Council, or any committee or sub committee on any issue which he/she deems appropriate. He/she has a right and obligation to obtain sound advice as he/she deems appropriate in order to assist in his/her role in reporting to the Council.

As an independent and objective professional, the Town Clerk (or such delegated staff member) advises the Council on whether decisions are lawful and ways in which decisions can be implemented.

The Town Clerk, or another staff member or adviser as he/she determines, shall research topics of concern to the Council and provide unbiased information to enable the Council to make an informed decision.

The following key principles reflect the way in which the staff generally relate to Cllrs:

- all staff are employed by and accountable to the Town Clerk, where relevant through Line Managers.

- support from staff is needed for all the authority's functions including Council, Committees and individual Cllrs representing their communities etc.
- day-to-day managerial and operational decisions remain the responsibility of the Town Clerk.

On occasion, a decision may be reached which authorises the Town Clerk to take action between meetings following consultation with a specific Cllr. It should be recognised that it is the Town Clerk, rather than the Cllr or Cllrs, who takes the action and it is the Town Clerk who is legally accountable for it.

Cllrs must not issue orders, instructions or directions to staff. Authorisation to carry out work on behalf of the Council can only be issued by the Town Clerk and/or the Responsible Finance Officer. The office of Mayor or as a Committee Chair does not confer this status.

Staff within a department 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.

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. Cllrs should avoid disrupting staff members work by imposing their own priorities.

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.

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).

Staff should not discuss with a Cllr personal matters concerning him/herself or another individual staff member. This does not prevent an officer raising on a personal basis, and in his/her own time, a matter with his/her ward Cllr.

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.

4 Staff member Advice to Party Groups and Individual Cllrs

It must be recognised by all staff and Cllrs that in discharging their duties and responsibilities, staff serve the Council as a whole and not any political group, combination of groups or any individual Cllr of the Council.

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

Staff must at all times maintain political neutrality. They are not servants of any particular party, group, or individual although where a party or group has a majority of seats on the Council, staff can take appropriate recognition of that fact in the day to day working of the Council as long as no decision or regulation of the Council is not complied with or breached. All staff must, in their dealings with political groups and individual Cllrs, treat them in a fair and even-handed manner.

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.

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, and
- staff should not be requested to accompany Cllrs to surgeries held in the offices or premises of political parties.

Staff must never be asked to attend ward or constituency political party meetings.

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.

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.

5 Use of Council Resources

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.

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.

6 Cllrs' Access to Information and to Council Documents

There is a general presumption of open government within the Council. 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. 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. Such approaches should normally be directed to the appropriate Line Manager concerned.

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.

As regards the legal rights of Cllrs to inspect Council documents, these are covered partly by statute and partly by the common law.

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. 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. 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.

A Cllr has a prima facie right to inspect Council documents so far as his/her 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.

The exercise of this common law right depends therefore, upon an individual Cllr being able to demonstrate that s/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 sufficient. The crucial question is the determination of the 'need to know'. This question must initially be determined by the particular Line Manager whose department holds the document in question, in consultation with the Town Clerk.

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. 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. In some circumstances duties of confidentiality to external bodies, or imposed by statute may override the common law right.

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.

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 in a complaint to the Standards Board for England or, if sufficiently serious, in civil action against the Cllr and/or the Council for damages.

7 Correspondence (including email)

Correspondence between an individual Cllr and a staff member should not normally be copied (by the staff member) to any other Cllr. Where it is necessary to copy the correspondence to another Cllr, this should be made clear to the original Cllr. In other words, a system of 'silent copies' should not be employed.

Letters and emails must be sent on Frome Town Council headed paper or from a Council account. 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 Mayor as Chair of the Council. 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.

8 Publicity and Press Releases

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 Council tax-payers. 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".

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.

The Government has issued a Code of Recommended Practice on Local Authority Publicity. ([click here to view the code](#)). 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.

Staff and Cllrs of the Council will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, staff and/or Cllrs should initially seek advice from the Town Clerk. Particular care should be paid to any publicity used by the Council around the time of an election.

Press releases will be issued in accordance with the Media Communications Protocol as adopted by the Council.

In essence relations with the media are the responsibility of the Town Clerk in consultation with the Mayor or Leader of the Council. The Town Clerk may authorise other staff to provide factual information or delegate day to day matters in accordance with the approved policy and protocol.

Cllrs may comment on approved Council policies but may not comment on behalf of the Council on any non policy matter. 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 Town Council.

As outlined in the protocol there are two types of press release:

- Official Council Releases - An official Council release is made on behalf of the Council as a whole; it will be written by an officer and issued by the Town Clerk. It is non-party political and will normally include a quote from the relevant Cllr(s). This is usually the Chair of the Council or Committee Chair.
- Councillor Press Releases - Cllr press releases are personal and are written and issued by the Cllr responsible. This release may or may not be political and should not include the name of any officer, use the Council logo or the Council telephone number as a point of contact. It would be beneficial for copies of intended releases, especially those of a factual nature, to be provided to the Town Clerk. Cllrs seeking advice can either contact the Town Clerk or the Monitoring Officer at Mendip District Council.

The Town Clerk will assist Cllrs in their relations with the media. Any staff member assisting a Cllr with media relations must act at all times in the interests of the whole Council and in a politically impartial manner.

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.

9 Involvement of Local Cllrs

Whenever a public meeting is organised by the Council to consider a local issue, the Cllrs representing the Electoral Division or Divisions (Wards) affected should 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 Cllrs should be notified at the outset of the exercise. 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.

10 Conclusion

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

11 Arbitration

Where necessary, the Town Clerk will arbitrate on the interpretation of this protocol.