



# Flitwick Town Council

## COUNCILLOR-OFFICER PROTOCOL

### Introduction

This protocol supports and adds detail to Councillors' and Officers' Codes of Conduct. It is based on a model drawn up by the Association of Council Secretaries and Solicitors and tailored to suit this Council.

Councillors are democratically accountable and may often have political affiliations. Officers must serve the whole Council objectively. Together, they should balance a complex range of obligations and competing interests. For this to be effective, Councillors and officers must have mutual trust and respect for each other's requirements and duties. There is also a need for transparency and consistency in everyday working relations.

### Principles

1. Councillors and officers must at all times observe this protocol.
2. The Council has approved the protocol and will be monitored, along with the Codes of Conduct which it supports.
3. The protocol seeks to maintain and enhance the integrity of local government, which demands the highest level of personal conduct.
4. Councillors and officers must always respect each other's roles and duties. They must show respect in all their dealings by observing reasonable standards of courtesy and not seeking to take unfair advantage of their position.
5. Councillors and officers are indispensable to one another, but their responsibilities are distinct. Councillors are accountable to the electorate and serve only as long as their term of office lasts. Officers are employed, and their job is to advise councillors (individually and collectively) and carry out the council's work under the council's direction.
6. The Council has adopted a code of conduct for Councillors, representing best practice. The Councillors Code is based on The General Principles of Public Life Localism Act (2011 and must be consistent with the following principles):
  - Selflessness - serving only the public interest
  - Integrity - avoiding placing themselves under any obligation to people or organisations and declaring and resolving interests
  - Objectivity - taking decisions impartially and on merit
  - Accountability - to the public; being open to scrutiny

- Openness - taking decisions in an open and transparent manner
  - Honesty - to be truthful
  - Leadership - exhibit these principles in their behaviour and be willing to challenge poor behaviour.
7. These principles also underpin this protocol.
  8. A breach of this Protocol will not automatically also be a breach of the Councillors' Code, but it may provide contributory evidence and may result in a complaint to the Monitoring Officer of Central Bedfordshire Council.
  9. Breaches by an officer may lead to disciplinary action.

### **The role of Councillors**

10. Councillors have many roles and need to be alert to potential conflicts of interest that may arise between the roles. Where such conflicts are likely, Councillors may wish to seek the advice of senior colleagues, the Town Clerk and/or the Monitoring Officer.
11. Collectively, Councillors are the ultimate policymakers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget.
12. Councillors represent the community, act as community leaders and promote the social, economic and environmental well-being of the community, often in partnership with other agencies.
13. Every elected-Councillor represents the interests of and advocates for the Town and individual constituents. They represent the Council in the Town, respond to the concerns of constituents, meet with partner agencies, and sometimes serve on local bodies.
14. Some Councillors have roles relating to their position as members of committees and working groups of the Council.
15. Councillors who serve on committees may collectively have delegated responsibilities.
16. Some Councillors may be appointed to represent the Council on local, regional or national bodies.
17. As politicians, councillors may express the values and aspirations of a party-political group to which they belong, recognising that in their role as councillors, they have a duty to act in the public interest.
18. Councillors are not authorised to instruct officers other than:
  - a. through the formal decision-making process.
  - b. to request items to go on to agendas in accordance with standing orders.
  - c. to request the provision of consumable resources provided by the Council for Councillors' use.
  - d. where staff have been specifically allocated to support a Councillor or group of Councillors. In practice, the leader and mayor will be consulted on the agenda of the full council and will offer guidance to the clerk on behalf of the council.

19. Individual Councillors are not authorised to initiate or certify financial transactions or to enter into a contract on behalf of the Council. Authorised signatories, however, may sign cheques or authorise electronic payments.
20. Councillors must avoid taking actions that are unlawful, financially improper, or likely to amount to maladministration. They have an obligation to consider any advice provided by officers when reaching decisions.
21. Councillors must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change their professional advice.
22. Councillors have a duty under their code of conduct:
  - to promote equality by not discriminating unlawfully against any person and
  - to treat others with respect.
23. Under the code, a Councillor must not, when acting as a Councillor or in any other capacity:
  - bring the Council or his/her position as a Councillor into disrepute or
  - use their position as a Councillor improperly to gain an advantage or disadvantage for themselves or any other position.

#### **The role of Councillors: Town Mayor**

24. The role of the Mayor is set out as follows:
  - As the legal Chairman of Flitwick Town Council, the Mayor is responsible for presiding at meetings of the full Council and ensuring that business is transacted lawfully and efficiently.
  - They will take a prominent and leading role in the civic life of the Town. This generally includes representing Flitwick Town Council, attending various civic functions across the district, and acting as a host at Civic gatherings.
  - Fundraising for local charities as part of the Flitwick Town Mayor's 'chosen charities' initiative.
  - The Mayor will be included within discussions with the Town Clerk and Leader regarding the strategy and implementation of decisions.
25. The Civic Protocol provides specific guidance for the role of the Town Mayor.

#### **The role of Councillors: Leader**

26. The Leader at Flitwick Town Council is appointed by the full Council to serve a two-year term, bringing continuity to the council's political and strategic direction. The leader is expected to:
  - Provide continuity of councillor leadership, acting as a unifying force amongst members and officers.
  - Work with Councillors and Officers to define the Council's strategy.
  - Work with the Town Clerk and Senior Management Team (SMT) collaboratively to ensure that policies, projects and overall policy are delivered in line with Council resolutions, the strategy and the needs of the community.
  - Act as the line manager for the Town Clerk on a consultative basis to assist with prioritisation and overall delivery, including completing an annual performance appraisal.
  - Maintain a deep knowledge of the Council's business, ensuring that councillors are briefed appropriately and that business is transacted efficiently.
  - Maintaining efficient and productive relationships with political stakeholders, including the Central Bedfordshire Councillors (Executive and Ward), the

27. The position of Leader and Deputy Leader may be challenged using the vote of no-confidence mechanism defined in the Standing Orders. This mechanism allows the Council to remove a Leader or Deputy Leader who has lost the support and confidence of their peers.
28. Specific guidance and principles for the leader
  - a. The Leader and Deputy Leader must not use Council resources for party political purposes and must uphold the town clerk's political impartiality. Specifically, they must not ask the Town Clerk to act in any way that would conflict with the Council's Officer Code of Conduct, Councillor Officer Protocol, Officer relationships, or national Conditions of Service under any circumstances.
  - b. The Leader's role is not defined in statute; all councillors are equal (with the exception of the chairman's additional powers to call an extraordinary meeting and tie vote). Therefore, the Leader's role is to lead the council through influence and collaboration.
  - c. The Leader has line management responsibilities for the Town Clerk and can agree with the Town Clerk on issues that arise on a day-to-day basis regarding the implementation of Council decisions. As set out in the standing orders, the Leader will complete an annual appraisal of the Town Clerk's performance with the Chairman of the HR Committee and report back to the HR Committee.
  - d. Where a formal decision is required following a discussion between the Leader and the Town Clerk, the matter will be submitted to the Council or a Committee for consideration unless it has already been delegated to the Town Clerk in consultation with the Leader.
  - e. As a 'visible' and accountable elected representative with defined responsibilities, the Leader must be properly briefed on all significant aspects of the council's work. The Town Clerk will ensure a proper information flow so that the Leader and Deputy Leader can effectively "lead the Council."
  - f. Good communication can be helped through planned and programmed meetings and briefing arrangements. The Town Clerk should ensure that the information needs of the Leader and Deputy Leader are met. In turn, the Leader and Deputy Leader should avoid requesting unanticipated briefings.
  - g. The Leader and Deputy Leader should normally channel requests for information, advice, and other support through the Town Clerk or other members of the Senior Management Team (SMT), in which case the Town Clerk will be copied into any requests. The Leader and Deputy Leader can approach other staff directly with requests for information only.
  - h. The Leader and Deputy Leader are responsible for working with the Town Clerk to lead the process of defining the council's strategy. This is expected to be a collaborative process involving all members and senior officers. The Leader and Deputy Leader will work with the Town clerk and the SMT to develop policies and programmes that support the realisation of the goals set in the strategy.

- i. Employment policies, which the Council has set, are implemented by the Town Clerk. The Leader and Deputy Leader should avoid becoming over-involved in the individual performance of officers or individual cases of grievance, disciplinary action, or harassment. The Leader, Deputy Leader and other Councillors may, however, bring to the Town Clerk's notice any instances where they have evidence that there are problems of inefficiency or ineffectiveness and to be kept informed of what course of action is being pursued in such circumstances.
- j. Before conducting a staff appraisal, the Town Clerk should seek the views of the Leader and other Councillors, as appropriate, to help inform the appraisal process about the staff member's performance from the Councillors' perspective. After the appraisal, the Town Clerk should give feedback to the Leader on any issues relevant to Councillors, as appropriate.
- k. In relation to the Town Clerk, the Leader, in conjunction with the Chairman of the HR Committee, should provide regular advice and guidance on the Town Clerk's performance against any objectives and outcomes for the post, as determined by the Council. If there are any performance, capability or disciplinary issues concerning the Town Clerk, the Leader may submit a report to the HR Committee for consideration.
- l. When a report to Committee or Council is being prepared, the Leader is entitled to discuss issues with the Town Clerk and other officers concerning the content of such reports and the framing of recommendations. The Leader may wish to make suggestions on content and drafting to achieve clarity of presentation, simplify jargon, or better explain issues. The Leader should not attempt to edit out or override any content of reports that the Town Clerk or other officer feels is important to put before the Council. This is especially relevant to matters of a professional or technical nature, and the Town Clerk retains an inherent right to report directly to the Council and all committees where the Town Clerk considers it necessary. Once a Committee or Council has decided on a report, the Town Clerk will oversee its timely implementation.
- m. When the Leader wishes to put forward proposals of their own, it is the responsibility of the Leader (via the Town Clerk or other adviser) to seek any necessary legal or financial advice for inclusion in the report. The Town Clerk may wish to add comments to such reports, and they have a right to do so. It is anticipated that this action will be exceptional.
- n. The Town Clerk, SMT members and other officers exercise statutory functions or have individual responsibilities and objectives. The Leader should understand and respect these roles.

### **The role of the Officers**

- 29. Officers are responsible for advising Councillors to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.
- 30. Under the direction and control of the Council, officers, led by the Town Clerk, manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.

31. Officers have a duty to implement lawful decisions of the Council and committees that have been properly approved in accordance with the requirements of the law and the Council's constitution and duly recorded in the minutes. Officers must convene Committee meetings at the request of Councillors of that committee in accordance with Standing Orders.
32. Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their personal views.
33. Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
34. Officers must be alert to issues that are or are likely to be contentious or politically sensitive and aware of the implications for Councillors, the media, or other sections of the public. Officers will ensure that the Leader, Town Mayor or Council are made aware of potentially contentious issues at the earliest opportunity.
35. Officers have the right not to support Councillors in any role other than that of Councillor and not to engage in actions incompatible with this protocol. In particular, a statutory limitation exists on officers' involvement in political activities.

#### **The relationship between Councillors and officers: general**

36. The conduct of Councillors and officers should be such as to instil mutual confidence and trust.
37. The key elements of this relationship are recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
38. Informal and collaborative two-way contact between Councillors and officers is encouraged. However, personal familiarity can damage the relationship, as might a family or business connection.
39. It is not enough to avoid impropriety. Councillors and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Councillor should not sit on a body or participate in any decision which directly affects the officer personally.
40. Officers work to the instructions of their senior officers, not individual Councillors. It follows that, whilst such officers will always seek to assist a Councillor, they must not be asked to exceed the bounds of the authority their managers have given them. Except when the purpose of an enquiry is purely to seek factual information, Councillors should normally direct their requests and concerns to the Town Clerk, at least in the first instance.
41. Officers will do their best to respond to Councillors' enquiries in a timely manner.
42. Councillors will endeavour to give timely responses to enquiries from officers.
43. An officer shall not discuss personal matters concerning themselves or another individual employee with a councillor. However, this does not prevent an officer from

raising, on a personal basis and in their own time, a matter with a Councillor that they would otherwise do as a resident.

44. Councillors and officers should respect each other's free (i.e. non-Council) time.

### **The Council as an Employer**

45. Officers are employed by the Council as a whole.

46. Councillors' roles are limited to:

- the appointment of specified posts,
- determining human resources policies and conditions of employment.
- undertaking the responsibilities of HR Committee
- hearing and determining appeals.

47. If participating in the appointment of officers, Councillors should:

- remember that the sole criterion is merit
- never canvass support for a particular candidate,
- not take part where one of the candidates is a close friend or relative,
- not be influenced by personal preferences, and
- not favour a candidate by giving them information not available to the other candidates.

48. A Councillor should not sit on an appeal hearing if the appellant is a friend, a relative, or an officer with whom the Councillor has had a working relationship.

### **The Town Mayor, Leader and officers**

49. Officers will respect the position of the Town Mayor (the legal Chairman of the Council) and the Leader as formal representatives of the Council and will provide appropriate support.

### **Members of other committees and officers**

50. The Town Clerk will offer to arrange informal meetings with the Leader, Town Mayor and, where appropriate, Committee chairmen, if required, prior to formal meetings.

51. The Town Clerk has the right to present reports and advise committees.

52. Councillors of a committee shall take decisions within the remit of that committee as specified in the Scheme of Delegation and will not otherwise instruct officers to act. Where appropriate, councillors of a committee should also take care to refer controversial or significant decisions to the full Council to ensure all members have the opportunity to contribute to the decision-making process.

53. At some committee meetings, a resolution may be passed authorising a named officer to take action between meetings in consultation with the chairman. In these circumstances, it is the officer, not the chairman, who takes the action and is responsible for it. A chairman has no legal power to make decisions on behalf of a committee, nor should they apply inappropriate pressure on the officer.

## Local Councillors and officers

54. To enable them to carry out their Town or ward role effectively, Councillors need to be fully informed about matters affecting it by the Town Clerk.
55. Officers of Flitwick Town Council are not obliged to respond to requests from Central Bedfordshire Ward Councillors.
56. Whenever a public meeting is organised by the Council to consider a local issue, all the Councillors should be invited to attend the meeting as a matter of course.
57. If a local Councillor intends to arrange a public meeting on a matter concerning some aspect of the Council's work, they should inform the Town Clerk. As long as the meeting has not been arranged on a party-political basis:
  - An officer may attend but is not obliged to do so, and
  - the meeting may be held in Council-owned premises.
58. No such meetings should be arranged or held in the immediate run-up to Council elections.
59. Whilst support for councillors' work is legitimate, staff should not be asked to accompany Councillors to surgeries.
60. In seeking to deal with constituents' queries or concerns, Councillors should not seek to jump the queue but should respect the Council's procedures.
61. Councillors must be clear about when they are acting as individuals and when they are representing the Council. Councillors may not commit the Council unless the commitment is Council policy or the subject of a specific resolution.

## Councillors' access to documents and information

62. Councillors may request the Town Clerk to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as Councillors. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:
  - It is in the public domain, and
  - It is not barred by the General Data Protection Act from being given.
63. Every Councillor of a committee has a right to inspect documents about the business of that committee.
64. A Councillor who is not a member of a specific committee may have access to any document of that specific part of the Council provided:
  - they can demonstrate a reasonable need to see the documents in order to carry out their role as a Councillor (the "need to know" principle), and
  - the documents do not contain "confidential" or "exempt" information as defined by the law.
65. Disputes as to the validity of a Councillor's request to see a document, on a need-to-know basis, will be determined by the Town Clerk, but a Councillor may request a written justification for refusal.

66. A Councillor should obtain advice from the Town Clerk in circumstances where they wish to have access to documents or information:
  - where to do so is likely to be in breach of the Data Protection Act, or
  - where the subject matter is one in which they have a disclosable pecuniary interest, as defined in the members' code of conduct.
67. Information given to a Councillor must only be used for the purpose for which it was requested.
68. Councillors and officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so. Where the Council agree that information is confidential and it is not required to be in the public domain, a Councillor or officer should extend the courtesy to other Councillors by informing them that they are to release information, even if entitled to do so.
69. When asked to do so, officers will keep confidential from other Councillors, advice requested by a Councillor.
70. Councillors and officers must not prevent another person from gaining access to information to which that person is entitled by law.

### **Media relations**

71. All formal relations with the media must be conducted in accordance with any Council agreed procedures and the law on local authority publicity.
72. Press releases or statements made by officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a party group.
73. Officers will keep the Leader and Town Mayor informed of media interest in the Council's activities, especially regarding strategic or contentious matters.
74. Before responding to enquiries from the media, officers will ensure they are authorised to do so.
75. If a Councillor is contacted by, or contacts, the media on an issue, they should:
  - indicate in what capacity they are speaking (e.g. as an individual Councillor, in a personal capacity, on behalf of the Council, or on behalf of a party group).
  - be sure of what they want to say or not to say.
  - if necessary, and always when they would like a press release to be issued, seek assistance from the Town Clerk, except in relation to a statement which is party political in nature.
  - consider the likely consequences for the Council of their statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions).
  - never give a commitment in relation to a matter which may be subject to claims from third parties and/or are likely to be an insurance matter.
  - consider whether to consult other relevant Councillors; and
  - take particular care in what they say in the run-up to local or national elections to avoid giving the impression of electioneering, unless they have been contacted as an election candidate or political party activist.

## **Correspondence**

76. Official letters written on behalf of the Council should normally be in the name of the Town Clerk.
77. The Town Mayor and Leader may initiate correspondence in their own name, but that should not usually be on behalf of the Council.
78. Letters that create legally enforceable obligations or give instructions on behalf of the Council should never be sent in the name of a Councillor.
79. When writing in an individual capacity as a Town member, a Councillor must make clear that fact.

## **Access to premises**

80. Officers have the right to enter Council land and premises to carry out their work.
81. Councillors have a right of access to Council land and premises to fulfil their duties, but should do so with prior agreement with the Town Clerk.
82. Councillors that have been appointed key holders may access The Rufus Centre or other buildings as appropriate to carry out their duties.
83. As a courtesy, councillors should make appointments before attending the office in person to meet with officers.

## **Use of Council resources**

84. If the Council provides Councillors with services such as typing, printing and photocopying or goods such as stationery and computer equipment, to assist them in discharging their roles as members of the Council, these goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.

## **Interpretation, complaints and allegations of breaches**

85. Councillors or officers with questions about the implementation or interpretation of any part of this protocol should seek guidance from the Town Clerk or the Leader.
86. A Councillor who is unhappy about the actions taken by, or conduct of, an officer should:
  - avoid personal attacks or abuse of, the officer at all times,
  - ensure that any criticism is well-founded and constructive,
  - never criticise in public, and
  - take up the concern with the Town Clerk privately.
87. If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the Councillor should raise the issue with the Town Clerk, the Leader or, as appropriate, the HR Committee or Council.