



## **FAIR OAK & HORTON HEATH PARISH COUNCIL**

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# **CONSTITUTION**

## **CHAPTER 6**

### **PROTOCOL FOR COUNCILLOR/OFFICER RELATIONS**

V1 Adopted July 2021

V2 Review May 2023

V3 Review May 2024

Next review date: May 2026

## **1 Introduction**

- 1.1. The purpose of this protocol is to guide Councillors and staff of Fair Oak & Horton Heath Parish Council in their relations with one another to ensure the smooth running of the Council.
- 1.2. 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.
- 1.3. The protocol should ensure that Councillors receive objective and impartial advice, and that staff are protected from accusations of bias, undue influence & bullying from Councillors.
- 1.4. It also seeks to reflect the principles underlying the Councillors Code of Conduct.
- 1.5. The objective of this code is to enhance and maintain the integrity of the Council and therefore demands high standards of personal conduct.

## **2 Principles underlying Councillor/staff relations.**

- 2.1. The Nolan Report on Standards of Conduct in Local Government suggests that 'No local authority can function properly without a good relationship between its Councillors 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.
- 2.2. The general principles which govern the conduct of Councillors (selflessness, honesty and integrity, objectivity, accountability, openness, personal judgement, respect for others, duty to uphold the law, stewardship and leadership) require Councillors 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 Councillors.

## **3 General protocol**

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

## **4 Roles of Councillors**

- 4.1. Councillors are responsible to the electorate and serve only so long as their term of office lasts.
- 4.2. Councillors are democratically elected and are accountable to the electorate for their actions.
- 4.3. An important feature of each Councillor's role is to represent the interests of their constituents, irrespective of how they may have voted in an election.

4.4. The expectation is that Councillors will be more aware of the views of their constituents on major policy developments before decisions are taken collectively at Council meetings.

## **5 Roles of Officers**

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

5.2. The Parish Clerk 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.

## **6 Employer/Staff Issues**

6.1. At the heart of this protocol, is the importance of mutual respect.

6.2. Councillor/staff relationships should be conducted in a positive and constructive way.

6.3. Therefore, it is important that any dealings between Councillors 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.

6.4. Councillors 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.

6.5. It is proper for a Councillor to make written or oral representations about a matter affecting a constituent who also happens to be a staff member, but they 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.

6.6. Councillors 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 Councillor/staff relations.

6.7. Councillors and staff should promote equality by not discriminating unlawfully or otherwise against any person. They should treat people with respect, regardless of any **special characteristic**.

## **7 Member concern about officer conduct**

7.1. Members should not raise matters relating to the conduct or capability of a council employee or of employees collectively, at meetings held in public. This is a long-standing tradition in public service. Employees have no means of

responding to criticism like this in public.

~~7.2. A Councillor 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 (such as in a public forum which might cause embarrassment/humiliation). This is a long-standing tradition in public service.~~

7.3. If a member feels that an officer has not treated them with proper respect or courtesy or has any concern about the conduct or capability of a Council employee, they should initially consider whether it would be appropriate to raise the matter through direct discussion with the employee concerned. Whether this is appropriate will depend largely on the nature and seriousness of the conduct, and the level of seniority of the employee. If the member fails to resolve the matter through discussion with the employee or feels that such an approach would not be appropriate, they should raise the matter with the Parish Clerk. The Clerk will examine the facts and report back to the member. If the member continues to feel concerned, they should then report the facts to the Chair of the Council who will look into the matter afresh.

## **8 Officer concern about members conduct**

8.1. Where a staff member feels that they have not been properly treated with respect and courtesy by a Councillor, they should raise the matter with the Clerk. In these circumstances, the Parish Clerk will take appropriate action either by approaching the individual Councillor or by referring the matter to the Borough Council's Monitoring Officer, **where they feel a breach in the Code of Conduct has occurred.**

## **9 Close personal relationships between Officers and Members**

9.1. Guidance on personal relationships is contained in the Code of Conduct. Provided these are observed, more informal exchanges may be appropriate between Councillors and staff outside business meetings and formal events. It is important that there should be a close working relationship between Councillors and 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.

## ~~10. Staff support to Councillors: general protocol~~

~~10.7 The Parish Clerk is responsible for day-to-day managerial and operational decisions within the authority and for the provision of support to all Councillors.~~

~~10.8 Certain statutory staff members, such as the Parish 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 Councillors.~~

## **10 Independence of the Parish Clerk**

- 10.1. The Parish Clerk is not answerable to any individual Councillor.
- 10.2. The Parish 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.
- 10.3. The Parish Clerk has a right and a duty to report to the Council, or any committee or sub-committee on any issue which they deem appropriate.
- 10.4. They have a right and obligation to obtain sound advice as they deem appropriate in order to assist in their role in reporting to the Council.
- 10.5. As an independent and objective professional, the Parish Clerk (or such delegated staff member) advises the Council on whether decisions are lawful and ways in which decisions can be implemented.
- 10.6. The Parish Clerk, or another staff member, shall research topics of concern to the Council and provide unbiased information to enable the Council to make an informed decision.
- 10.7. The following key principles reflect the way in which the staff generally relate to Councillors:
  - 10.7.1 All staff are employed by and accountable to the Parish Clerk, where relevant through line managers.
  - 10.7.2 Support from staff is needed for all the authority's functions including Council, Committees and individual Councillors representing their communities etc.
  - 10.7.3 Day-to-day managerial and operational decisions remain the responsibility of the Parish Clerk.
  - 10.7.4 On occasion, a decision may be reached which authorises the Parish Clerk to act between meetings following consultation with the Chairman of the Council.
  - 10.7.5 Councillors 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 Parish Clerk and/or the Responsible Finance Officer or in exceptional circumstances the Chair in consultation with the Vice-chair.
  - 10.7.6 Staff will do their best to give timely responses to Councillors' enquiries. However, staff should not have unreasonable requests placed on them. Their work priorities are set and managed by their Line Managers.

10.7.7 Councillors 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).

10.7.8 Staff should not discuss with a Councillor personal matters concerning themselves or another individual staff member. This does not prevent an officer raising on a personal basis, and in their own time, a matter with their ward Councillor.

10.7.9 Councillors and staff should respect each other's free time. Council business should only be discussed when both Councillor and staff member are acting in their official capacity.

## **11 Support to members and political groups**

11.1. Officers serve the Council as a whole and not exclusively any political group or individual member. Officers must, at all times, maintain political neutrality.

11.2. 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.

11.3. Apart from accommodation and services that are specifically dedicated to members, the Council's offices, services and sources of information may be used only through the officers. Members should not go into, or use, any offices or sources of information without an officer in attendance.

## **12 Members' Rights of Access to Information and to Council Documents**

12.1. The legal rights of members to inspect Council documents is covered partly by statute, and partly by common law. The following paragraphs give guidance on the circumstances in which members may legitimately require officers to give them access to Council documents.

12.2. It is however important to note that these rights only apply where members are undertaking Council business. Where a member has a private or personal interest in a matter, the member will only be entitled to the same access to documents as would be the case for a private individual. In these circumstances the member must make it clear to the employee that they are acting on his own behalf and not acting as a Councillor.

12.3. Members may approach officers to obtain such reasonable information, explanation and advice about that council functions to assist in discharging their role as members of the Council or any particular role, e.g., representative

on an outside body to which they have been appointed by the Council. This can range from a request for general information or research about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be made to the Parish Clerk.

- 12.4. Members have a statutory right to inspect any Council document, including any relevant background papers, containing material relating to any business which is to be transacted in public at a Council, Committee or Sub-Committee meeting. This right applies irrespective of whether the member is a member of any of the bodies concerned.
- 12.5. This statutory right does not, however, apply to documents or background papers appearing as private session items on agenda for meetings. Therefore, members not on the particular Committee etc do not have a statutory right to inspect confidential or exempt information, for example that relating to employees, 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.
- 12.6. The common law right of members is much broader. It is based on the principle that any member has a prima facie right to inspect Council documents provided they access to the documents is reasonably necessary to enable the member properly to perform their duties as a member of the Council. This principle is commonly referred to as the "need to know" principle.
- 12.7. The exercise of this common law right therefore depends upon the member's ability to demonstrate that they have 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".
- 12.8. This question must initially be determined by the Clerk. A member will be expected to justify the request in specific terms..
- 12.9. There will be a range of documents which, because of their nature, are either not accessible by members or are accessible only by the political group forming the administration and not by the other political groups. An example of this latter category would be draft documents compiled in the context of emerging Council policies and draft reports, the premature disclosure of which might be against the Council's and the public interest.
- 12.10. The term "Council document" is very broad. It includes, for example, any document produced with Council resources, but it is accepted by convention that a member of one-party group will not have a "need to know" and, therefore, a right to inspect, a document which forms part of the internal workings of another party group.
- 12.11. Further and more detailed advice regarding members' rights to inspect Council

documents may be obtained from the Clerk

### **13 Correspondence (including email)**

- 13.1. Correspondence between an individual Councillor and a staff member should not normally be copied (by the staff member) to any other Councillor. Where it is necessary to copy the correspondence to another Councillor, this should be made clear to the original Councillor. In other words, a system of 'silent copies' should not be employed. Letters and emails must be sent on Parish Council headed paper or from a Council account.
- 13.2. 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 Chairman of the Council.
- 13.3. 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 Councillor.

### **14 Public relations and news releases**

- 14.1. The Council's Communications Officer serves the Council as a whole and must operate within the limits of the Code of Recommended Practice on Local Authority Publicity issued under the Local Government Act 1986. Broadly, the 1986 Act prohibits the Council from publishing material that appears designed to affect public support for a political party.
- 14.2. Officers draft news releases on behalf of the Council. They will often contain quotations (within the limits of the Act and Code of Recommended Practice) from the Chair of the Council or the Clerk. Such news releases are issued on behalf of the Council, and it would not, therefore, be appropriate when repeating quotations from members to indicate their party-political affiliation.

### **15 Conclusion**

- 15.1. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Councillors and staff.

### **16 Arbitration**

- 16.1. Where necessary, the Parish Clerk will arbitrate on the interpretation of this protocol.