

ELM PARISH COUNCIL

COUNCILLOR AND OFFICER POLICY

1. Introduction

- a. The purpose of this Policy is to guide Councillors and the Clerk in their relations with one another in a way that promotes openness and propriety in their relations.
- b. 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 that most commonly arise.
- c. The Protocol should be read in conjunction with the adopted Councillors Code of Conduct, Standing Orders, Financial Regulations, Legislation or guidance as issued by the Monitoring Officer.

2. The Role of Councillors and the Clerk

- a. Councillors and the Clerk are servants of the public and they are indispensable to one another, but their responsibilities are distinct.
- b. Councillors are responsible to the electorate and serve only as long as their term of office lasts (4 years or part thereof).
- c. The Clerk has responsibility to the Council as a whole.
- d. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under its direction or as delegated powers dictate.

3. The role of Councillors

- a. Collectively, Councillors are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budgets.
- b. Every elected Councillor represents the interests of, and is an advocate for their ward and constituents. Councillors represent the Council in the ward, respond to the concerns of constituents and are encouraged to serve on local bodies.
- c. Some Councillors will have roles relating to their position e.g. as Chairman or Vice Chair of the Council
- d. Individual Councillors are not authorised to instruct the Clerk other than:
 - i. Through the formal decision-making process;
 - ii. To request the provision of consumable resources provided by the Council for Councillors use;
 - iii. Where the Clerk have been specifically allocated to give support to a member or group of members (i.e. Committees, working groups etc.).
- e. Councillors are not authorised to initiate/certify financial transactions, or to enter into any contract (written or verbal) on behalf of the Council.

f. Councillors must avoid taking actions that are unlawful, financially improper or likely to amount to maladministration. Members also have an obligation under their adopted, signed code of conduct to give careful regard when making and reaching decisions, to all advice provided by the Clerk or Monitoring Officer.

4. The role of the Clerk

a. The Clerk is responsible for giving advice to Councillors to enable them to fulfil their roles. In doing so, the Clerk will take into account all available relevant and legislative factors.

b. The Clerk have a duty to implement lawful decisions of the Council, committees, sub-committees, which have been properly approved in accordance with requirements of the law and the Council's adopted Standing Orders and Financial Regulations.

c. The Clerk's legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.

d. The Clerk must be alert to issues that are, or are likely to be contentious or politically sensitive and be aware of the implications for Councillors, the media or other sections of the public.

e. The Clerk is required to be politically neutral in their dealings with elected Councillors and all council business activities.

f. The Clerk must not allow their interests or beliefs to conflict with their professional duty. They must not misuse their official position or information acquired in the course of their employment to further their private interest or the interests of others (including elected Members).

5. The relationship between Councillors and the Clerk:

a. The conduct of Councillors and the Clerk should be such as to instil mutual confidence and trust. The key elements 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 publically and privately being mindful of public perception. The Council will not tolerate bullying or harassment. (See Notes at the end of this document for definitions and the Legal Position.

b. Councillors and the Clerk need to respect each other's roles and duties. The Clerk is responsible for day-to-day management and operational decisions.

c. Any problem referred to a Councillor by the public should firstly be passed to the Chair and shared with the Clerk.

d. Councillors should make appointments to see the Clerk wherever possible to ensure minimal disruption to workloads and priorities.

e. Councillors are requested not to approach the Clerk direct to undertake tasks on their behalf. Requests for work should be made through the Chairman and discussed and agreed beforehand.

f. The Clerk will do their best to give timely responses to Councillors enquiries. However, The Clerk should not have unreasonable requests placed on them. Councillors must avoid disrupting the Clerk's work by imposing their own priorities.

g. Councillors will endeavour to give timely responses to enquiries from the Clerk.

6. Meetings

a. When presenting reports to the Council, the Clerk should assume that Councillors have had sufficient time to consider written material and must keep presentations short, to the point and focused on the determining issues only along with any recommendation(s). The Clerk has a duty to answer questions at Council or Committees and to advise Councillors on the implications of any particular actions.

b. Councillors will consider the advice of the Clerk both in main reports and on any matter arising out of debate but it is, ultimately, the responsibility of Councillors to formulate a decision, having regard to the advice provided and any other considerations taken in respect of the issue. Once lawful decisions have been taken (by way of resolution) it is the duty of the Clerk to implement such decisions.

7. Correspondence

a. Official letters from the Council on day-to-day matters must be sent out in the name of the Clerk, not individual Councillors. Letters that create obligations or give instructions must not be sent out in the name of a Councillor.

8. Non-Adherence to the Protocol

a. Serious breaches of this adopted protocol by the Clerk should be dealt with under the Council's disciplinary and/or grievance procedures.

b. Breaches by Councillors must be reported to the Clerk and the Monitoring Officer.

c. If necessary the issue will be subject to further consideration by the Clerk together with the Chairman and referred to Full Council where necessary.

d. Should a breach of this protocol occur by either the Chairman or Vice Chairman, the matter should be raised with the Monitoring Officer at Fenland District Council who will be asked to review and submit a report containing recommendations or advice to the Full Council.

Further Information

Bullying is

1. Bullying may be characterised as a pattern of offensive, intimidating, malicious, insulting or humiliating behaviour: an abuse of power or authority which tends to undermine an individual, gradually eroding their confidence and capability, which may cause them to suffer stress.

Harassment is

1. Unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.

Bullying and harassment are behaviours which are unwanted by the recipient. They are generally evidenced by a pattern of conduct, rather than one-off incidents. Bullying in the workplace can lead to poor moral, low productivity and poor performance, sickness absence,

mental health issues, lack of respect for others, turnover, damage to the Council's reputation and ultimately, legal proceedings against the Council and payment of legal fees and potentially unlimited compensation.

Examples of Unacceptable behaviour are as follows (this list is not exhaustive)

Insulting someone, ridiculing or demeaning someone, over bearing supervision or other misuse of power, deliberately undermining a competent worker by constant criticism or overloading with work, setting up a person to fail, preventing another's training opportunities.

Bullying may occur in face-face meetings, through written communications, including electronic communication such as email, telephone and social media. It may occur on or off work premises, during work hours or non-work time.

The Council have a duty of care towards the Clerk and liability under common law arising out of the Employment Rights Act 1996 and the Health and Safety at Work Act 1974. If an employer fails to act reasonably with regard to this duty of care by allowing bullying to continue unchallenged, an employee may decide to resign and claim "constructive dismissal" at an Employment Tribunal

A legal definition of "Third Party Harassment" has been introduced by case law, which makes the employer vicariously liable for harassment from other parties such as members of the public, contractors etc. and it must take reasonable steps to manage such situations which could include seeking legal redress on behalf of an employee or member of the council.

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