



Studley Parish Council: Member and Officer Protocol

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Preamble

1. Mutual trust and respect between Members and Officers is at the heart of good governance. They are essential if the partnership necessary for the effective running of Studley Parish Council ("the Council") is to succeed.
2. This may seem obvious. However, what happens when relationships go awry? Where can Members and Officers turn for guidance? What mechanisms exist for addressing concerns?
3. Such questions point to the need for a written guide to the basic elements of the relationship between Members and Officers – a Protocol. This Protocol seeks:
 - ✓ to promote trust, openness, fairness and honesty by establishing some ground rules;
 - ✓ to define roles so as:
 - to clarify responsibilities (i.e. who does what),
 - to avoid conflict, and
 - to prevent duplication or omission;
 - ✓ to secure compliance with the law, codes of conduct and the Council's own practices; and
 - ✓ to lay down procedures for dealing with concerns by Members or Officers.
4. The protocol should be recognised both as a central element of the Council's corporate governance, and as a commitment to upholding standards of conduct in public life. It is one way of demonstrating to the public at large that the Council is serious about protecting and enhancing its integrity and reputation.

Definitions

5. Unless the context indicates otherwise, references to the term 'Council' include other Committees and Sub-Committees.
6. Unless the context indicates otherwise, the terms 'Member' and 'Members' include non-elected (i.e. co-opted) Members as well as elected Councillors.
7. "Officers" and "staff" mean all persons employed by the Council.
8. For the purpose of this document "he" is gender neutral and can mean he or she.
9. "Party" or "Party Group" for the purpose of this policy includes single-issue pressure groups and single interest organisations seeking to influence the Council or to get support from it.
10. 'Designated Section 151 Officer' means the Officer exercising the duties prescribed by law for the financial administration of the Council, currently for Studley Parish Council this is the Clerk as RFO.

Principles

11. Members and Officers must at all times observe this Protocol.
12. The Protocol has been approved by the Council, and the Employment Committee will monitor its operation and effectiveness.
13. The Protocol seeks to maintain and enhance the integrity of local government, which demands the highest standards of personal conduct.
14. Members and Officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.
15. Whilst Members and Officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only as long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to Members (individually and collectively) and to carry out the Council's work under the direction of the Council.
16. The Council has adopted Codes of Conduct for both Members and Officers. Both represent best practice. The Members' Code is based on the general principles governing Members' conduct enshrined in law, viz:
 - ✓ **Selflessness** – serving only the public interest;
 - ✓ **Honesty and integrity** – not allowing these to be questioned: not behaving improperly;
 - ✓ **Objectivity** – taking decisions on merit;
 - ✓ **Accountability** – to the public; being open to scrutiny;
 - ✓ **Openness** – giving reasons for decisions;
 - ✓ **Personal judgment** – reaching one's own conclusions and acting accordingly;
 - ✓ **Respect for others** – promoting equality; avoiding discrimination; respecting others (Member/Member, as well as Member/Officer);
 - ✓ **Duty to uphold the law** – not acting unlawfully;
 - ✓ **Stewardship** – ensuring the prudent use of the Council's resources; and
 - ✓ **Leadership** – acting in a way which has public confidence.
17. These principles underpin this Protocol. Officers are bound by the Council's Code of Conduct for staff and, in some cases, by the codes of their professional associations.
18. Breaches of this Protocol by a Member may result in a complaint to the Monitoring Officer if it appears the Members' Code of Conduct has also been breached. Breaches by an Officer may lead to disciplinary action.

The Role and Responsibilities of Members

19. Members have a number of roles and need to be alert to the potential for conflicts of interest, which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant senior Officer(s), and/or the Monitoring Officer.
20. Collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the authority's budget and policy framework, as well as other strategic plans.
21. Members 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.
22. Every elected Member represents the interests of, and is an advocate for, his/her Ward and individual constituents. He/she represents the Council in the Ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies.
23. Some Members have roles relating to their position as Members of Committees and Sub-Committees of the Council.
24. Members who serve on other Committees and Sub-Committees collectively have delegated responsibilities, e.g. deciding quasi-judicial matters, which by law are excluded from the remit of The Council.
25. Some Members may be appointed to represent the Council on local, regional or national bodies.
26. As politicians, Members may express the values and aspirations of the party political groups to which they belong, but recognising that in their role as Members they have an overriding duty always to act in the public interest.
27. Members are not authorised to instruct Officers other than:
- through the formal decision-making process provided for by the Council's constitution;
 - to request the provision of consumable resources provided by the Council for Members' use;
 - where staff have been specifically allocated to give support to a Member or group of Members in discharging the functions of the office of those Members or the business of the Council.
28. Except where permitted under delegated powers, Members are not individually authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.
29. Members must avoid taking action, which is unlawful, financially improper, or likely to amount to maladministration. Members have an obligation to consider, when reaching decisions, any advice provided by the Monitoring Officer and/or the designated Section 151 Officer.
30. Members must respect the impartiality of Officers and do nothing to compromise it, for example, by insisting that an Officer change his professional advice.
31. Members have duties under their Code of Conduct:
- to promote equality by not discriminating unlawfully against any person;
 - to treat others with respect;
 - not to bring the Council or his position as a Member into disrepute; and
 - not to use his position as a Member improperly to gain an advantage or disadvantage for himself or any other person.

Members must avoid breaking these obligations by virtue of the conduct of their professional or personal relationships with Officers.

The Role and Responsibilities of Officers

32. Officers are responsible for giving professional advice to Members to enable them to fulfil their roles. In doing so, Officers will take into account all available relevant information and ensure that Members are fully and properly advised in a timely manner.

33. Under the direction and control of the Council (including, as appropriate, Committees and Sub-Committees), Officers 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.

34. Officers have a duty to implement decisions of the Council, Committees, and Sub-Committees which are lawful, including having been properly approved and duly minuted in accordance with the requirements of the law and the Council's Constitution.

35. Officers have legal duties of impartiality and objectivity, exercising their professional judgment in a manner that serves the Council's interests. Officers are employed to serve the interests of the Council and not a political party, and Members must respect the objective professional advice that Officers provide

36. Officers must not give political advice to Members or engage in political activities proscribed by law.

The Relationship between Members and Officers: General

37. The conduct of Members and Officers should be such as to instil mutual confidence and trust. The key elements of this 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. Members are entitled to hold Officers to account for the performance of their duties including by the use of robust questioning and criticism of advice where appropriate. However, Members have a duty to treat others with respect and must not behave in a rude or oppressive manner towards Officers, or publicly criticise their competence or integrity. Any concerns shall be raised by Officers with the Chairman of the Staffing Committee

39. Informal and collaborative two-way contact between Members and Officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection (eg, in using social media).

39. Members and Officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles, and they shall give due consideration to the advice of the Monitoring Officer in any such situation. It is not enough to avoid actual impropriety. Members and Officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct.

40. If there is any relationship which is perceived as potentially influential then a Member should not sit on a body or participate in any decision, which directly affects the Officer on a personal basis, and the Member should consider whether it is necessary to declare an interest.

41. Members involved in taking decisions on behalf of the Council whether individually or collectively, should seek appropriate professional advice, including where relevant, from the Monitoring Officer and RFO. Members will not direct Officers in respect of, or seek to improperly influence, the substance of Officer advice.

42. Whilst Officers will always seek to assist a Member, they must not be asked to exceed the bounds of authority they have been given. Except when the purpose of an enquiry is purely to seek factual information, Members should direct their requests and concerns to the Clerk.

43. Officers will use reasonable endeavours to give timely responses to Members' enquiries in accordance with corporate standards for replying to such enquiries.

44. Members will endeavour to give timely responses to enquiries from Officers.

45. An Officer shall not discuss with a Member personal matters concerning himself or another individual employee. This does not prevent an Officer raising a personal matter, in his own time, with his Ward Member, but Officers should not approach Members on matters in respect of which there is an established Council Procedure that they are required to follow.

46. Members and Officers should respect each other's free (i.e. non-Council) time.

The Council as Employer

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

48. Members' roles are limited to:

- the appointment of specified senior posts;
- determining human resources policies and conditions of employment; and,
- hearing and determining appeals.

49. Members shall not act outside of these roles.

50. If participating in the appointment of Officers, Members 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;
- not favour a candidate by giving him information not available to the other candidates; and
- have undertaken any recruitment and selection training recommended by the Council.

51. A Member should not sit on an Appeal Hearing if the appellant is a friend, a relative, or an Officer with whom the Member has had a working relationship.

Chairman and Officers

52. Officers will respect the position of Chairman and provide appropriate support.

Overview and Scrutiny: Members and Officers

53. The Chairman and other leading Council Committee Chairmen shall maintain regular contact with the Officer(s) providing the principal support to the overview and scrutiny function. If a need arises for an Overview and Scrutiny Committee to be established, this shall be done in consultation with the Chairman, it shall be the responsibility of the Chairman to ensure that those who need to know of matters being considered or for possible future consideration are so informed.

54. The Overview and Scrutiny Committee or its Chairman acting on its behalf, may require Officers to attend Overview and Scrutiny meetings. All requests should be made to the Clerk in the first instance.

55. When making requests for Officer attendance, Overview and Scrutiny Members shall have regard to the workload of Officers.

56. Officers should be prepared to justify advice given to the Council, The Cabinet, or other Committees and Sub-Committees even when the advice was not accepted.

57. Officers must also be prepared to justify decisions they have taken under delegated powers.

58. In giving evidence, Officers must not be asked to give political views.

59. Officers should respect Members in the way they respond to Members' questions.

60. Members should not question Officers in an oppressive way, which could be interpreted as harassment.

61. Overview and Scrutiny proceedings must not be used to question the capability or competence of Officers. The Chairman and Members need to make a distinction between reviewing the policies and performance of the Council and its services, and appraising the personal performance of staff. The latter is not an Overview and Scrutiny function and the Member should raise any such concerns with the appropriate Officer.

62. In exercising the right to call-in a decision, Overview and Scrutiny Members must first seek Officer advice, if they consider the decision is contrary to the Council's approved plans, policies or frameworks, or is unlawful. The designated RFO shall be consulted as appropriate.

Members of Other Committees or Sub-Committees and Officers

63. The appropriate Officers will offer to arrange regular informal meetings with Chairmen, Vice-Chairmen, and spokesmen of Committees and Sub-Committees.

64. Officers have the right to present reports and give advice to Committees and Sub-Committees.

65. Members of a Committee or Sub-Committee shall take decisions within the remit of that Committee or Sub-Committee, and will not instruct Officers to act outside of that remit.

66. If a resolution may legitimately be passed which authorises a named Officer to take action between Committee or Sub-Committee meetings in consultation with the Chairman, it is the Officer, not the Chairman, who takes the action and is responsible for it. The Officer shall consult with, and consider the views expressed by the Chairman when taking the decision, but the Chairman has no legal power to take decisions on behalf of a Committee or Sub-Committee, and should not apply inappropriate pressure on the Officer.

Party Groups and Officers

67. The Parish Council operates in a Non-Political manner and Officers may not be asked to contribute to deliberations of matters concerning Council business by Party Groups.

68. Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed. This includes deliberations on party policy in relation to advice provided by Officers.

69. Party Group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decisions.

70. Where Officers provide factual information and advice to a Party Group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.

71. It must not be assumed that an Officer is supportive of a particular policy or view considered at a Party Group meeting simply because he has provided information to the meeting, and Officers should not be subjected to any detriment by any Member by virtue of the information provided by Officer's submitted at a Party Group meeting.

72. In their dealings with Party Group, Officers must treat each in a fair and even-handed manner.

73. Members must not do anything which compromises or is likely to compromise Officers' impartiality.

74. An Officer should be given the opportunity of verifying comments and advice attributed to him in any written record of a Party Group meeting.

75. No Member will refer in public or at meetings of the Council to advice or information given by Officers to a Party Group meeting.

76. Any particular case of difficulty or uncertainty in relation to this part of the protocol should be raised with the Clerk and the relevant Party Group leader.

Members and Officers

77. To enable them to carry out their Ward role effectively, Members need to be fully informed about matters affecting their Ward. The Clerk must ensure that all relevant staff are aware of the requirement to keep local Members informed, thus allowing Members to contribute to the decision making process and develop their representative role.

78. This requirement is particularly important:

- during the formative stages of policy development, where practicable;
- in relation to significant or sensitive operational matters;
- whenever any form of public consultation exercise is undertaken; and
- during an overview and scrutiny investigation.

79. Issues may affect a single Ward. Where they have a wider impact, the Clerk is responsible for determining which Members will need to be kept informed and for making arrangements accordingly.

80. Whenever a public meeting is organised by the Council to consider a local issue, the Clerk should ensure that all the Members representing the Wards affected are invited to attend the meeting as a matter of course.

81. If a local Member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, he should inform the Clerk. Provided the meeting has not been arranged to facilitate party political interests:

- an Officer may attend but is not obliged to do so; and
- the meeting may be held in Council-owned premises.

No such meetings should be arranged or held in the immediate run-up to Council elections.

82. Whilst support for Members' ward work is legitimate, care should be taken if staff are asked to accompany Members to ward surgeries. In such circumstances:

- the surgeries must be open to the general public; and
- Officers should not be requested to accompany Members to surgeries held in the offices or premises of political parties or in private homes.

83. Officers must never be asked to attend political party meetings.

Members' Access to Documents and Information

84. This part of the protocol should be read in conjunction with the Councils Standing Orders.

85. Members may request Officers to provide them with such information, explanation, and advice, as they may reasonably need to assist them to discharge their roles as Members. 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 the Member has a lawful entitlement to it.

86. Every Member of a Committee or Sub-Committee has a right to inspect relevant documents about the business of the body of which they are a Member, and Officers will assist with any such reasonable request.

87. In addition to the rights of Members as specified in paragraph 86, any Member may inspect any document in the possession of the Council provided:

- he can demonstrate a reasonable need to see the documents in order to carry out his role as a Member (the "need to know" principle); or
- there is a statutory right of access to the information.

88. Disputes as to the validity of a Member's request to see a document on a need to know basis will be determined by the Clerk. Officers should seek his advice if in any doubt about the Member's lawful entitlement.

89. A Member should obtain advice from the Monitoring Officer in circumstances where he requires advice in respect of their lawful entitlement to access documents or information.

90. Information given to a Member must only be used for the purpose for which it was requested.

91. Members 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.

92. When requested to do so, Officers will keep confidential from other Members, advice requested by a Member unless to do so would compromise the Officer's duty to the Council. Members and Officers must not prevent another person from gaining access to information to which that person is entitled by law.

Media Relations

93. All formal relations with the media must be conducted in accordance with the Council's agreed procedures and the law on local authority publicity including during purdah.

94. 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. Quotes in press releases will be from the Chairman, unless during election purdah or on operational matters when Officers may be quoted.

95. Officers will keep relevant Members informed of media interest in the Council's activities, especially regarding strategic or contentious matters.

96. All media enquiries should come through the Parish Office in the first instance. Officers shall ensure they are authorised before responding to the media.

97. Officers will inform the Council of issues likely to be of media interest, since that office is often the media's first point of contact.

98. If a Member is contacted by, or contacts, the media on an issue, he/she should:

- indicate in what capacity he/she is speaking (e.g. as ward Member, in a personal capacity, on behalf of the Council, or on behalf of a Party Group);
- be sure of what he/she wants to say or not to say;
- if necessary, and always when he/she would like a press release to be issued, seek assistance from the Studley Parish Council, except in relation to a statement which is party political in nature;
- consider the likely consequences for the Council of his/her statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions);
- never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
- consider whether to consult other relevant Members; and,
- take particular care in what he/she says in the run-up to local or national elections to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or political party activist.

If a Member needs any help or assistance with any media relations they should contact the Clerk.

Correspondence

Where correspondence between Members and Officers is copied, this should always be made explicit, i.e. there should be no "blind" copies.

99. Letters written on behalf of the Council should normally be in the name of the Studley Parish Council. It may be appropriate in some circumstances for letters to appear in the name of the Chairman, or the Chairman of a Committee. Members should consult the Clerk if they believe that such an exceptional circumstance applies.

100. The Chairman may initiate correspondence in his/her own name.

101. Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a Member.

When writing in an individual capacity as a Ward Member, a Member must make clear that fact

Access to Premises

102. Officers have the right to enter Council land and premises to carry out their work.

103. Members have a right of access to Council land and premises to fulfil their duties but should have due regard to 104 below.

104. When making visits as individual Members, Members should:

- whenever practicable, notify and make advance arrangements with the Clerk;
- comply with health and safety, security and other workplace rules;
- not interfere with the services or activities being provided at the time of the visit; and
- if outside his own ward, notify the ward Member(s) beforehand.

105. Officers may in limited circumstances, have a legal right to enter onto private property to discharge the Council's functions. Except in those circumstances, Members and Officers shall only enter onto or remain on premises subject to the conditions applied by the owner, and any Member or Officer arranging such a meeting will ensure that all other Officers or Councillors in attendance are made aware of any such conditions.

Use of Council Resources

106. The Council does not provide Members 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.

107. Members may claim reasonable expenses for printing etc. (paper, cartridges etc.) but should clear such expenditure with the Clerk before doing so. In some circumstances, the Clerk can obtain these requisites on behalf of the Councillor if their use can legitimately be justified.

108. Members should ensure they understand and comply with the Council's own rules about the use of such resources, particularly:

- in relation to any locally-agreed arrangements e.g. payment for private photocopying; and,
- regarding ICT (Information Communication Technology) security.

109. Members should not put pressure on staff to provide resources or support which Officers are not permitted to give. For example:

- work in connection with party political activity such as electioneering;
- work associated with an event attended by a Member in a capacity other than as a Member of the Council;
- private personal correspondence;
- work in connection with another body or organisation where a Member's involvement is other than as a Member of the Council; and
- support to a Member in his capacity as a councillor of another local authority.

110. It is acknowledged that some Council staff may receive and handle messages for Members on topics unrelated to the Council. Whilst these will often concern diary management, Members should ensure that Council resources are not being used for private or party political purposes.

Interpretation, Complaints and Allegations of Breaches

111. This part of the Protocol should be read in conjunction with the Code of Conduct

112. Members or Officers with questions about the implementation or interpretation of any part of this Protocol should seek the guidance of the Monitoring Officer.

113. A Member who is unhappy about the actions taken by, or conduct of, an Officer should:

- avoid personal attacks on, or abuse of, the Officer at all times;
- ensure that any criticism is well founded and constructive;
- never make a criticism in public; and
- take up the concern privately with the Clerk

114. A serious breach of this Protocol by an Officer may lead to an investigation under the Council's disciplinary procedure.

115. An Officer who believes a Member may have acted other than in accordance with this Protocol should raise his concern with the Chair of the Staffing Committee. He/she will discuss the issue with The Clerk or

other Committee Member, who will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the Chairman. More serious complaints may involve alleged breaches of the Members' Code of Conduct and will be investigated accordingly.

ICT AND SOCIAL MEDIA

116.1 Council recognises the benefits that accrue from the use of ICT and Social Media but warns members about the security of such information and the ease with which it can be manipulated.

116.2 Members should refrain from posting comments about Council Business that have not been ratified by Council (for example decisions taken in a meeting which have not been approved).

116.3 Council will consider a policy on the use of ICT and Social Media and regularly review that policy to ensure it is still appropriate.

116.4 It will be the members responsibility to ensure they have the correct security systems in place on their own equipment, to safeguard electronic transmissions and any costs associated with those measures will be the members responsibility.

116.5 Transmissions from a member can be blocked if the receiving device considers there is a risk due to potential problems from the lack of security. Therefore it will be the Members responsibility to ensure messages etc have arrived with the intended recipient, and if they have not arrived arrange alternative means of passing on the information. Confirmation of transmission should not be taken as confirmation of receipt.

116.6 Officers will not be held responsible for failing to act on electronic transmissions unless the receipt of those transmissions has been acknowledged.

116.9 Members must sign and adhere to the Use of the Electronic Communications Device Policy as adopted by the Council and updated as necessary. Failure to do so could result in action being taken under the Code of Conduct.

116.7 In line with agreed policy the Council will supply each Councillor with a Electronic Communication Device suitable to receive information from the Council and to display that information when in a meeting.

116.8 The ownership of those devices will remain with the Parish Council and they must be returned to the Council when your Term of Office ends along with any cases chargers or ancillary devices.

TRAINING

117.1 Members should be aware of the importance of the role that Councillors are elected to carry out and have therefore included a section in the Standing Orders on Training.

117.2 Members should work with the Clerk to keep an up to date record of their training and discuss training requirements with the Clerk whenever they identify a training requirement.

Adopted by Full Council 11 October 2016

Reviewed and Amended 6 February 2018

Reviewed and Revised 21 July 2020

Next due for review July 2022