

## 5.3 Councillor and Employee Relations Protocol

### Introduction

- 5.3.1 The purpose of this Protocol is to provide guidance on some of the issues which most commonly arise in relationships between councillors and employees. It is not prescriptive and may not cover all situations. It applies to both councillors and employees of the council and promotes greater clarity and certainty on the behaviour expected between them by providing a framework for the working relationships. The Protocol may be taken into account if there is a complaint about a councillor or an employee.
- 5.3.2 Councillors must observe the **Councillors' Code of Conduct**. Any complaints received in relation to alleged breaches of the Code of Conduct will be considered initially by the Monitoring Officer.
- 5.3.3 Employees must comply with the **Employee Code of Conduct**. Any complaint received about the behaviour or conduct of an employee will be considered by the relevant manager.

### Roles

- 5.3.4 Councillors and employees serve the public and are indispensable to one another but their roles, while complementary, are different:

Figure 1: Councillor and Employee Roles

<b>Councillors</b>	<b>Employees</b>
Responsible to the electorate;	Accountable to the Chief Executive;
Office holders and community leaders;	Responsible to the council as a whole and employed by it;
May belong to a political party and pursue political objectives when exercising judgement;	Politically neutral;
Serve only so long as their term of office lasts.	Responsible to the Council as a whole and employed by it;
Express political values and support the policies of the party or group to which they belong (if any).	Initiate, develop and implement policy to the best of their ability;
Represent their district and electoral ward and are advocates for the citizens who live in the area.	Manage and provide the services for which they are responsible, being accountable for the efficiency and effectiveness of those services.

Are involved in active partnerships with other organisations;	Ensure that the council always acts lawfully.
Help initiate, develop and monitor policy, strategy and service quality;	Provide impartial technical and professional advice to the council and councillors (individually and collectively) about the services provided by the council;
Are involved in quasi-judicial work through their membership of regulatory committees.	

5.3.5 Statutory Chief Officers<sup>1</sup> and other Statutory Officers have specific responsibilities placed on them by law (see further Article 9 of this constitution). These responsibilities go beyond their obligations as employees of the Council. When the officers are discharging their responsibilities as a statutory officer councillors must not:

- 5.3.5.1 improperly interfere with or obstruct the Officer in exercising those responsibilities; or
- 5.3.5.2 victimise any Officer who is discharging or has discharged their Statutory Officer responsibilities.

## Expectations

5.3.6 Mutual respect, trust and courtesy between councillors and employees are essential to good local government and its reputation. The primary role of employees is to advise, inform and support all councillors and to implement the lawfully agreed policies of the Council by undertaking day to day managerial and operational activity within the Council. Councillors can expect from employees:

- 5.3.6.1 a commitment to the council, not its political groups;
- 5.3.6.2 an impartial, constructive and professional working partnership;
- 5.3.6.3 professional advice, not influenced by political views or preference;
- 5.3.6.4 up to date information on matters appropriate to the needs of the councillor and reasonable given the councillor's individual responsibilities and position;
- 5.3.6.5 honesty, respect, dignity and courtesy at all times;
- 5.3.6.6 awareness of, and sensitivity to, the political environment;
- 5.3.6.7 training and development to perform their roles effectively;

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<sup>1</sup> i.e. the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer

- 5.3.6.8 timely responses to enquiries and complaints;
  - 5.3.6.9 not to have personal issues raised with them by employees outside the agreed employment policies and procedures;
  - 5.3.6.10 understanding of, and mutual respect for, their respective roles, workloads and pressures;
  - 5.3.6.11 not to be supported in any role other than that of a councillor or to be engaged in actions incompatible with this Councillor Employee Relations Protocol.
- 5.3.7 The primary role of councillors is to represent the electorate of the district. The Councillor Code of Conduct (see further Part 5.1 of this Constitution) requires councillors to treat others with respect and not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council. Employees can therefore expect from councillors:
- 5.3.7.1 a constructive working partnership;
  - 5.3.7.2 not to be subject to bullying, harassment or intimidation; councillors should have regard to the seniority and experience of employees in determining what constitutes a reasonable request, particularly councillors with special responsibilities;
  - 5.3.7.3 political policy direction and leadership;
  - 5.3.7.4 use of self-service information tools (e.g. Pentana, Microsoft Teams channels) to obtain information, with contact with employees being as a last resort and through the [member.enquiries@harborough.gov.uk](mailto:member.enquiries@harborough.gov.uk) email address rather than personal employee email addresses or telephone numbers;
  - 5.3.7.5 honesty, respect and courtesy at all times;
  - 5.3.7.6 discussions of a strategic, political or sensitive nature to be restricted to chief officers and operational matters to be raised through the [member.enquiries@harborough.gov.uk](mailto:member.enquiries@harborough.gov.uk) email address unless time critical;
  - 5.3.7.7 no pressure to work outside normal hours or to do anything which they are not allowed to do or is not part of their normal work;
  - 5.3.7.8 not to have personal issues raised with them by councillors outside the agreed procedures to advance their own interests or improperly influence decisions;
  - 5.3.7.9 understanding of respective roles, workloads and pressures, with any concerns being raised directly with management rather than in meetings, in public or to the media;

- 5.3.7.10 not to be asked to undertake work, or act in a way which supports or benefits a particular political party or gives rise to an employee being criticised for operating in a party political manner
- 5.3.7.11 not to be asked to exceed the authority given to them in law, by the Council or by their manager.
- 5.3.8 The different roles of councillors and employees mean that some behaviours must be limited. Given the variety and complexity of relations, this Protocol is neither prescriptive or comprehensive but expects that, for example:
  - 5.3.8.1 personal relationships between employees , and those employed as consultants, and councillors are avoided. Where they do exist the employee concerned must notify their manager and the councillor should inform their Leader as such relationships can:
    - 5.3.8.1.1 confuse the separate roles;
    - 5.3.8.1.2 get in the way of the proper discharge of the council's functions;
    - 5.3.8.1.3 cause embarrassment.
  - 5.3.8.2 overly familiar relationships with individuals or party groups are avoided as such relationships can create suspicion that an individual or group is favoured above others.
- 5.3.9 This Protocol reflects the principles underlying the respective codes of conduct which apply to councillors and employees. The common goal of the codes is to enhance and maintain the integrity (real and perceived) of local government through high standards of personal conduct.

## **Respect**

- 5.3.10 It is important that councillors and employees observe reasonable standards of courtesy, and that neither should try to take unfair advantage of their position.
- 5.3.11 Councillors and employees should show each other politeness and respect, particularly when challenging reports, actions or opinions. Any criticism should be fair and constructive.
- 5.3.12 Employees should not publicly criticise council decisions, even if they don't agree with the decision – personal opinions should be avoided in their professional role.
- 5.3.13 Councillors should not raise matters relating to the conduct or capability of council employees at meetings held in public as employees have no means of responding to criticisms like this in public.

## **Complaints about councillors or employees**

- 5.3.14 If a councillor feels they have not been treated with politeness and respect, or has concerns about the conduct or capability of an employee, they should consider raising this with the employee directly in the first instance. If this does not resolve the concern, or the councillor feels unable to approach the employee directly, the concern should be raised with the relevant chief officer or deputy chief officer promptly so they can explore the concern and address it as appropriate. If this is addressed through disciplinary procedures, the councillor will not be told of the outcome in accordance with the council's data protection obligations.
- 5.3.15 An employee who feels they have not been treated with politeness and respect, or is concerned about any action or statement relating to them or a colleague, by a councillor, should initially raise their concerns with the councillor directly. If they are unable to do this, or the concern is not resolved, the concern should be raised with their chief officer or deputy chief officer promptly. The chief / deputy chief officer will explore the concern with the councillor and or political group leader, liaising with other senior officers as necessary. The officer will be informed of the outcome where appropriate. Officers may also make a complaint of their own volition that the Councillor has breached the councillor code of conduct of (outside of this protocol).
- 5.3.16 Notwithstanding paragraphs 5.3.14 and 5.3.15, alternative resolution of complaints or concerns may be recommended or achieved as agreed between the employee and councillor, including but not limited to a personal explanation, training, mediation and or an apology. No party can be forced to engage in such alternative resolution of complaints however.
- 5.3.17 Further consideration may not be given in relation to a complaint if one or more of the following apply:
- 5.3.17.1 persistent or multiple complaints have been received which appear to be, for example, vexatious, malicious, politically motivated, relatively minor, insufficiently serious or tit-for-tat;
  - 5.3.17.2 similar or the same complaints have already been raised and addressed and there is nothing more to be gained by further action being taken;
  - 5.3.17.3 the complaint concerns or is really about dissatisfaction with a Council decision or advice;
  - 5.3.17.4 there is not enough information to justify further investigation;
  - 5.3.17.5 the complaint is anonymous;
  - 5.3.17.6 the matter complained of took place more than 3 months before the complaint is received.

## Information

### Agendas and reports

- 5.3.18 The Leader will be consulted on agendas for the Cabinet. Committee chairs will be consulted on agendas for their committees. Instructions for reports to come to Cabinet or committees can only come from the Leader, Cabinet, a Cabinet member in respect of the Cabinet and a committee or a committee chair in respect of Committees. Cabinet members may ask for reports to come to their Cabinet member meetings.
- 5.3.19 Whilst Cabinet members have political responsibility for drawing up proposals for consideration or for the agenda for a forthcoming meeting, it must be recognised that in some situations an officer may be under a professional duty to submit a report. In any event, officers are entitled to make whatever recommendation in a report that they may decide in the exercise of their professional judgement.
- 5.3.20 Senior employees will always be fully responsible for the contents of any report submitted in their name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. Any issues arising between a councillor and a senior employee in this respect should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.
- 5.3.21 Decision makers are not bound by the recommendations of officers provided that the relevant meeting procedure rules<sup>2</sup> are complied with.

### Written information

- 5.3.22 The framework by which councillors access information and documentation held by the Council is set out within the [Access to Information Rules](#) in Part 4 of the Constitution. Councillors will be provided with adequate information about services or functions on which they may be called upon to make decisions, or to scrutinise the decisions of others, or which affect their constituents. This information will be made routinely available by officers in the form of reports, councillor briefing notes, departmental plans etc. Councillors are encouraged to make use of existing sources of information wherever possible (i.e. intranet, Pentana, intranet, website etc).

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<sup>2</sup> Executive Procedure Rules for Cabinet and Cabinet Sub-Committee decisions, Council Procedure Rules for Council and Committee decisions

- 5.3.23 Written information regarding the implications of current council policies or containing statistical information about council services may be copied to the relevant Cabinet member when provided to a councillor.

### **Councillor enquiries**

- 5.3.24 Councillors should submit all requests for information and enquiries through the member.enquiries@harborough.gov.uk email address.
- 5.3.25 Officers should answer councillors enquiries, in whatever form, if possible within five working days. If that is not possible, they should send a holding reply. Where a chief / deputy chief officer considers that the enquiry received is inappropriate, the councillor will be advised of this and the reason why the enquiry is considered to be inappropriate. Councillors should contact a more senior employee in the event that a response is not received within 5 working days or the enquiry is deemed inappropriate.
- 5.3.26 The Chief Executive may, as a last resort, be asked to intervene in relation to any unanswered enquiries once all other avenues have been exhausted.
- 5.3.27 Councillors have statutory rights to inspect any council document which contains material relating to business to be transacted at a Council, committee or sub-committee meeting. This right exists regardless of whether the councillor is a member of that committee. It extends to all background papers but does not apply to documents which are exempt from disclosure such as information relating to employees, occupiers of Council property, applicants for grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigations etc. Further details are contained within the Access to Information Rules at Part 4 of this constitution.
- 5.3.28** Councillors also have a common law right to inspect council documents if it is necessary to enable them to properly perform their duties as a member of the Council (“the need to know” principle). Councillors should be prepared to demonstrate why they require access to information under the need to know principle. There is no right to a “roving commission” to examine council documents and mere curiosity will not amount to a need to know. The determination of the “need to know” **will lie with the Chief Officer who holds the document in question once they have sought advice from the Monitoring Officer.**
- 5.3.29 Although councillors are not precluded from accessing information under the provisions of the Freedom of Information Act 2000 (FOI) if they are unable to demonstrate a “need to know”, employees are encouraged to supply documents to councillors without the need for a formal FOI request if the information would be disclosable under the FOI regime. The council’s

information officer and Monitoring Officer should be consulted about any such request.

- 5.3.30 A councillor making a request for information in their private capacity must make it explicitly clear in the request that they are not acting as a councillor. In that scenario, the councillor will only be entitled to the information available to any private individual. Councillors should only seek, as a councillor, information that they have a need to know to perform their duties.

### **Casework and Confidentiality**

- 5.3.31 Where a councillor raises a ward casework enquiry via the [member.enquiries@harborough.gov.uk](mailto:member.enquiries@harborough.gov.uk) email address, employees will assume the individual concerned has consented to the disclosure of personal information to the councillor provided that:
- 5.3.31.1 the councillor represents the ward in which the individual lives or has the agreement of the relevant ward member
  - 5.3.31.2 the councillor makes it clear that they are representing the individual in any request for their personal information to the council; and
  - 5.3.31.3 the information is necessary to respond to the individual's complaint.
- 5.3.32 In all other cases employees will need the explicit consent of the individual to share personal data with the councillor.
- 5.3.33 Personal information about third parties (i.e. individuals who have not sought the councillor's assistance) may only be shared with a councillor where the law permits.
- 5.3.34 Council information provided to a councillor orally, in writing or via a copy document, must only be used by the councillor for the purpose for which it was provided and in connection with the proper performance of the councillor's duties as a member of the council. Confidential information provided to councillors should not be discussed with, or released to, any other person, except in the limited cases identified in the Councillor Code of Conduct. The [Access to Information Rules at Part 4 of the Constitution](#) set out the circumstances in which confidential or exempt information may become disclosable to the public.
- 5.3.35 The Council must make it clear to councillors when they are being given private and or confidential information. If a councillor is not sure whether information is confidential, they should ask the relevant employee and treat the information as confidential until confirmed otherwise. If a councillor receives confidential information and considers it should be disclosed to another person because it is reasonable and in the public



interest to do so, they must first consult the Monitoring Officer and not disclose the information without having regard to any advice provided.

### **Access to premises**

- 5.3.36 When making visits to council premises, other than attending scheduled meetings, councillors are expected to:
- 5.3.36.1 notify and make advance arrangements with the appropriate manager or officer in charge; and
  - 5.3.36.2 comply with health and safety, security and other workplace rules; and
  - 5.3.36.3 not disrupt the services or activities being provided at the time of the visit.
- 5.3.37 Employees will endeavour to accommodate visits by councillors, subject to service needs, and advise visiting councillors of any relevant health and safety, security and other workplace rules as appropriate.

## **Communication**

### **Correspondence**

- 5.3.38 Where correspondence is sent to both councillors and employees, employees will agree a single response with the relevant councillor to ensure consistency of approach. The letter will be sent in the name of the officer to ensure councillors do not send letters that create obligations or give instructions on behalf of the council. However, the Leader or committee chairs may write some letters, for example representations to government ministers.
- 5.3.39 If emails or letters between employees and councillors are copied to someone else, they should say so. Blind copies should not be sent.
- 5.3.40 Councillors should assume that any information received from an employee is personal to them and not forward it to any other individual without the consent of the employee.

### **Advice**

- 5.3.41 Employees may need to advise councillors that a course of action cannot be carried out. Councillors should not assume officers giving such advice are being obstructive - officers are employed to give unbiased professional advice even if it is not what councillors wish to hear. They do this for the protection of councillors as well as the Council as a whole. However, an officer giving negative advice should also provide suggestions as to how councillors might achieve some or all of their objectives in other ways.

## **Briefings**

- 5.3.42 Employees will provide briefing sessions open to all councillors on a regular basis to update them on topical policy and council business issues. These will usually take place remotely and be cancelled if not required. Councillors are encouraged to attend these briefing sessions, which will be recorded and made available after the event.
- 5.3.43 Cabinet members will, so they can discharge their responsibilities, be briefed by chief / deputy chief officers on service issues, proposals and policy development either on an ad hoc or regular basis, as required.
- 5.3.44 Other political party groups may also have nominated shadow Cabinet members who may request briefings on service issues. At times the amount of information that officers can share may be limited due to issues of confidentiality.
- 5.3.45 The content of informal briefing sessions shall remain confidential as between employees and the political group concerned.
- 5.3.46 Chief and Deputy Chief officers will give briefings on Council, Cabinet and Committee agendas, as well as strategic issues, to the Leader, Deputy Leader and Committee Chairmen as appropriate.

## **News**

- 5.3.47 When an event or development occurs in the district which has or will have a significant impact on the council or residents, the Chief Executive will ensure that the Leaders of all political groups are informed as soon as possible.
- 5.3.48 In addition to ad hoc news notifications, all councillors will receive regular summaries of communications activity involving the council.

## **Ward councillors**

- 5.3.49 Chief and Deputy Chief officers should ensure information relevant to ward councillors is made available to them on a timely basis, particularly where this is potentially significant or controversial. Examples include but are not limited to:
  - 5.3.49.1 matters which have an impact on a local community, including those raised by MP's;
  - 5.3.49.2 road closures, whether planned or unplanned in an emergency (e.g. flooding);
  - 5.3.49.3 removal of infrastructure, temporarily or permanently (e.g. bus stops);

- 5.3.49.4 public consultation events affecting their ward;
  - 5.3.49.5 proposed changes to services within their ward;
  - 5.3.49.6 applications and proposals in their wards.
- 5.3.50 Information will be considered to be available to councillors if available digitally on platforms such as Pentana, Microsoft Teams, CMIS, the planning portal etc.
- 5.3.51 Ward councillors should be invited by employees to public events, such as openings, festivals etc, in their wards regardless of political affiliation – this is likely to be via an email or calendar invite.
- 5.3.52 If employees organise a public meeting about a specific ward issue, all ward councillors should be invited and given as much notice as possible.
- 5.3.53 Employees undertaking consultation about specific ward issues should consult the councillors for that ward at the start of the consultation.

### **Local service information**

- 5.3.54 Information regarding local services is contained in the Councillors Handbook, which is provided to all councillors during induction and at the start of a new municipal year in digital format.
- 5.3.55 Information relating to specific council services is published on a number of platforms for councillors, including but not limited to the website, intranet, Microsoft Teams, Pentana, CMIS etc. Councillors are expected to access these platforms proactively to retrieve service information before contacting officers for information.
- 5.3.56 Any query a councillor is unable to resolve via the above methods should be raised via the [member.enquiries@harborough.gov.uk](mailto:member.enquiries@harborough.gov.uk) email address.

### **Petitions**

- 5.3.57 Details of any petitions received by the Council which relate to matters in a particular ward will be sent to the relevant ward councillors. Ward councillors will be kept informed on the progress / outcomes of such petitions, which will be handled in accordance with the Council Procedure Rules at Part 4 of this constitution.
- 5.3.58 Copies of all petitions and outcomes of petitions will also be provided to the Leader of the Council.

## **Political activity**

### **Support for Councillors and Political Groups**

- 5.3.59 Any administrative support provided by the Council to councillors or political groups must only be used for council business and cannot be used for party political or campaign purposes.
- 5.3.60 Employees will respect the rights of councillors to have a personal and family life and recognise the demands placed on councillors who are in full-time employment by honouring and respecting, as far as reasonably practicable, the published timetable of meetings, briefings and consultative events agreed at the commencement of the municipal year.

### **Group and or political meetings**

- 5.3.61 There is statutory recognition of party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Employees may properly be called upon to support and contribute to such deliberations by party groups.
- 5.3.62 The Leader of the Council or Leader of any other political group may request a Chief Officer, or other designated employee, to prepare reports on strategic matters relating to the council for consideration by their group. Such requests must be reasonable and should not seek confidential information in relation, for instance, to casework or personal details of applicants for services. Wherever possible, such requests will be met. However, if officers consider that the cost of providing the information, or the nature of the request is unreasonable or inappropriate, the request will be referred to the Chief Executive for determination, where necessary in consultation with the Leaders of the political groups. Requests will only be met where they comply with data protection or other legal requirements.
- 5.3.63 Officer reports to political groups will be limited to a statement of relevant facts, identification of options and the merits and demerits of such options for the council. Reports will not deal with any potential political implications of the matter.
- 5.3.64 The Leader of the Council or the Leader of any other political group may ask a Chief Officer to give or arrange a private briefing for the party group on a matter of relevance to the council. Any such request shall be made to the relevant Chief Officer or, in their absence, to their deputy or the next appropriate lower tier officer.
- 5.3.65 An employee accepting an invitation to address one political group or individual will not decline an invitation to advise another political group or individual on the same subject. However, they are not obliged to offer to advise another political group on the same subject.
- 5.3.66 Any briefings offered to a party group will also be offered to the other party groups.

- 5.3.67 While employees may attend political group meetings at which individuals who are not elected councillors may be present, councillors must note that those employees' ability to share confidential information with the group may be limited as employees will not be able to share information in breach of legal requirements on confidentiality.
- 5.3.68 Decisions at group meetings are not formal decisions of the council and party groups do not have any delegated authority to make formally binding decisions. The presence of an employee confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so;
- 5.3.69 Employees can only advise on Council business and must not advise on party business. They should not, therefore, be present when party business is discussed, or attend regional and or constituency party political meetings. Any information or advice to a party group meeting in relation to a matter of Council business does not act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee when the matter in question is considered.
- Any difficulty or uncertainty in respect of employee advice to party groups should be raised with the Chief Executive who will discuss it with the relevant group leader(s).

## **Councillors with special responsibilities**

- 5.3.70 Councillors with additional responsibilities will develop different relationships with employees because of their more frequent contact with them. However, the provisions of this Protocol still apply to those relationships.
- 5.3.71 Except for confidential matters, information given to a councillor with a special responsibility will, where possible, be shared with the appropriate representatives of each other political group.

## **Cabinet Members**

- 5.3.72 To enable the Leader and Cabinet model of governance to operate effectively, the Leader and Cabinet Members will be provided with substantially more detailed information than non-executive members provided that:
- 5.3.72.1 information will be shared in respect of any matters which have already been, or may be, discussed by the Council or one of its decision making or advisory bodies;

- 5.3.72.2 the extent of the information shared, and the method of communication, will be agreed between the Cabinet Member and the relevant Chief and or Deputy Chief Officers;
- 5.3.72.3 the information is not used by employees or councillors to pre-empt the decision-making processes laid down in this Constitution;

### **Minority Group Leaders**

- 5.3.73 The Leaders of minority political groups can ask Chief and Deputy Chief officers for background information and more details about items coming to the next meeting of a committee or Cabinet. The appropriate Chairman or Cabinet member will be entitled to receive the same information.
- 5.3.74 In respect of budget setting, all group Leaders can ask for advice on presenting their budget in a correct and accurate form. This advice will be given in confidence.

### **The Chairman of the Council, a Committee or a Sub-Committee**

- 5.3.75 A Chairman can ask Chief and Deputy Chief officers for extra background information and advice on matters which have already been, or may be, discussed by the body they chair.
- 5.3.76 If invited to a meeting relevant to their chairing role without council employees in attendance, those with special responsibility should seek advice from Chief or Deputy Chief officers in advance of attending the meeting.

### **The Council as an employer**

- 5.3.77 The Council as a whole is the legal entity that employs employees. The appointment and dismissal of employees and any disciplinary or grievance proceedings will be carried out in accordance with the Officer Employment Procedure Rules and any other agreed policies and procedures.
- 5.3.78 Employees are accountable to the Chief Executive, and while they should try and assist a councillor, they must not go beyond the bounds of their authority. Councillors should not put employees in a position of conflict with management.
- 5.3.79 At some meetings, a resolution may be passed which authorises named employees to take action between meetings in consultation with the Chair or other named Councillors. In such circumstances it is the employees, rather than that councillor, who takes the action, and it is the employee who is accountable for it.

- 5.3.80 Councillors will respect the rights of employees to have a personal and family life and support the council to comply with its employment law obligations, particularly by honouring and respecting the published timetable of meetings, briefings and consultative events agreed at the commencement of the municipal year and allowing appropriate time for employees to research and prepare reports if exercising their right to direct that an item of business is included on the agenda for a meeting.

### **Politically restricted posts**

- 5.3.81 There are a number of constraints that apply to employees occupying a 'politically restricted' post<sup>3</sup>. These posts are identified in accordance with advice from HR.

### **Public relations and press releases**

- 5.3.82 The Council's Communications team serves the council as a whole, and operates within the limits of the Local Government Act 1986, which prohibits the Council from publishing material which appears to be designed to affect public support for a political party. In general, councillors will provide comments and views on issues while employees provide factual information.
- 5.3.83 Council press releases are drafted by employees and will often contain quotations from the relevant councillor, such as the Leader or a Cabinet member, the Chairman of a relevant committee, or the Chairman of the Council. Such press releases are issued on behalf of the council as appropriate and are unlikely to contain quotes from multiple officers or councillors.
- 5.3.84 The Council will advise and support councillors responding to the press or media in the course of their role as a councillor however, in the event of a conflict between the interests of the council and the wishes of a councillor, the communications team will always promote the interests of the council. Any councillor providing a quote on council business should not indicate their party-political affiliation and is expected to:
- 5.3.84.1 comply with the **Code of Recommended Practice on Local Authority Publicity**;
  - 5.3.84.2 not disclose confidential or exempt information to the media;
  - 5.3.84.3 provide to the Communications team a copy of any press release they intend to release (either in advance or no later than the time of

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<sup>3</sup> Local Government and Housing Act 1989.

release) and or inform them of any proactive publicity they intend to participate in as a councillor;

5.3.84.4 not request assistance from employees in facilitating any media contact which is intended or likely to criticise the council, its partners or its policies;

5.3.84.5 when taking part in a ceremonial event, not seek disproportionate personal publicity, or use the occasion for party political advantage bearing in mind that the councillor represents the council as a whole.

5.3.85 Employees will:

5.3.85.1 help councillors to explain proposals and policies to journalists, but not promote individual councillors, their political views or criticism of the council, its partners or its policies;

5.3.85.2 promptly pass media requests for interviews and contributions on to councillors;

5.3.85.3 not share with other councillors any media contact made or planned by a councillor without their consent, unless such disclosure is essential to the interview or event;

5.3.85.4 provide copies of all media releases issued on behalf of the council to councillors.

## **Expectations of those involved with Regulatory Committees**

5.3.86 Regulatory committees (see Article 7 in Part 2 of this constitution) are an integral part of the local government landscape, allowing the council to fulfil many of the statutory duties imposed upon it. However, in exercising regulatory functions, councillors are effectively acting in a quasi-judicial manner and therefore additional safeguards are required to protect the council, councillors and employees from allegations of impropriety.

5.3.87 The obligations in this section of the Councillor and Employee Relations Protocol are in addition to the Councillor Code of Conduct and the Employee Code of Conduct. Queries on the Councillor Code of Conduct and this Protocol should be raised with the Monitoring Officer in advance of any regulatory meeting taking place.



- 5.3.88 Councillors and employees involved with regulatory committees are reminded that they must comply with the Regulators Code<sup>4</sup> and promote the regulatory principles<sup>5</sup>. They should have regard to any supplementary codes and guidance<sup>6</sup> and:
- 5.3.88.1 comply with any legal requirements particular to the regulatory committee they are attending
  - 5.3.88.2 serve the public interest and not improperly confer an advantage or disadvantage on any person;
  - 5.3.88.3 not place themselves in situations where their honesty or integrity may be questioned;
  - 5.3.88.4 make decisions on merit;
  - 5.3.88.5 be as open as possible about their actions and those of the council, and give reasons for their decision or action;
  - 5.3.88.6 take account of the views of others but reach their own conclusions on the issues before them and act in accordance with those conclusions;
  - 5.3.88.7 respect the impartiality and integrity of employees;
- 5.3.89 The aim of this Protocol is to ensure that there are no grounds for suggesting that a regulatory decision has been biased, partial or not well founded in any way.
- 5.3.90 Failure to uphold this Protocol exposes the Council to the risk of successful challenge of its decisions, or a finding of maladministration by the Local Government and Social Care Ombudsman.

## **Interests**

- 5.3.91 Councillors must keep their declaration of interests up to date prior to participating in any council business (particularly regulatory business) and comply with the Councillor Code of Conduct.
- 5.3.92 General interest groups which reflect a councillor's areas of interest and concentrate on issues beyond particular planning proposals (such as Ramblers Association or a local civic society) may be joined by councillors but they should disclose that interest on the grounds of transparency where the organisation has made representations on a proposal being considered by the Council.

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<sup>4</sup> Pursuant to section 23 of the Legislative and Regulatory Reform Act 2006

<sup>5</sup> Set out at section 2(3) of the Legislative and Regulatory Reform Act 2006

<sup>6</sup> Such as that issued by the Office for Product Safety and Standards

## **Employees**

- 5.3.93 Employees must not act as agents for individuals (including a company, group or body) engaged in a regulatory matter. Employees involved in a regulatory matter should take no part in its processing. The Monitoring Officer should be informed of all such proposals as soon as they are submitted.
- 5.3.94 Councillors should not put pressure on employees to put forward a particular recommendation however this does not prevent questions being asked or views being submitted to the relevant chief / deputy chief officer, which may be incorporated into any committee report.
- 5.3.95 Proposals outside of any arranged meeting, should only be discussed with a chief or deputy chief officer.

## **Natural justice, predisposition, bias and predetermination**

- 5.3.96 Regulatory decisions cannot be approached with a closed mind, however councillors are able to form opinions on issues in advance of determining them provided that they:
- 5.3.96.1 are prepared to reconsider their position in the light of all the evidence and arguments;
  - 5.3.96.2 keep an open mind and fairly consider the information provided, and submissions made, by all sides;
  - 5.3.96.3 take account of material considerations and disregard considerations irrelevant to the question and legal context;
  - 5.3.96.4 do not intend to speak and vote as a member of the Committee
- 5.3.97 Matters in which councillors have an interest should be referred to committee rather than be dealt with by employees under delegated powers;
- 5.3.98 Councillors should not excessively lobby fellow councillors regarding their concerns or views, nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any decision is to be taken.
- 5.3.99 Regulatory matters should not be discussed at any political group meeting, nor should councillors lobby any other councillor to do so.
- 5.3.100 If there has been insufficient time to digest new information on a matter before the committee, or there is simply insufficient information, councillors may request further information or seek deferral or refusal of the matter. Reasons for the Committee's decision to defer any proposal should be recorded.

- 5.3.101 Councillors should not vote or take part in a meeting's discussion on a proposal unless they have been present to hear the entire debate, including the employees' introduction to the matter.
- 5.3.102 Those proposing, seconding or supporting a decision contrary to employee recommendations or Council policy must clearly identify and understand the reasons leading to this conclusion / decision. These reasons must be given prior to the vote and be recorded. Councillors may have to justify the resulting decision by giving evidence in the event of any challenge.

### **Contact with interested parties (applicants, objectors etc)**

- 5.3.103 Councillors should not become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose matters to be determined by the Council unless it is their intention to openly campaign on the matter and therefore not participate in the decision.
- 5.3.104 Any interested party approaching a councillor should be referred to employees for technical or procedural advice.
- 5.3.105 Councillors should observe council rules in respect of lobbying and hospitality. It is prudent to report any approaches to the relevant chief / deputy chief officer.
- 5.3.106 Councillors should not agree to, or attend, any formal meeting or presentation with interested parties. If a formal meeting may be useful in clarifying the issues, this should be arranged via employees and documented appropriately.
- 5.3.107 Councillors should attend site visits organised by the council where possible.

### **Public Speaking at Meetings**

- 5.3.108 Members of the public should not communicate with councillors during a committee (orally or in writing) other than through the scheme for public speaking or through the Chair.
- 5.3.109 Councillors must comply with the council's procedures in respect of public speaking.

### **Training**

- 5.3.110 Councillors should not participate in regulatory decision making if they have not attended the mandatory training prescribed by the council.
- 5.3.111 Councillors are encouraged to attend any other specialised training sessions provided to consolidate or extend their knowledge of the

regulatory topic and assist councillors in carrying out their role properly and effectively.

- 5.3.112 Regulatory committees will undertake regular reviews of a regulatory decisions to evaluate and learn from decisions made.

## **Planning (Good Practice Protocol)**

- 5.3.113 This part of the Protocol specifically addresses planning related matters and is based upon the Model Members' Planning Code<sup>7</sup> but does not repeat matters included elsewhere in the constitution.

### **Presentations to, and lobbying of, Councillors**

- 5.3.114 When developers convene presentation and marketing events for proposed applications councillors should:
- 5.3.114.1 not attend a planning presentation without requesting an employee to be present;
  - 5.3.114.2 ask relevant questions for the purposes of clarifying their understanding of the proposals;
  - 5.3.114.3 remember that the presentation is not part of the formal process of debate and determination of any subsequent application;
  - 5.3.114.4 be aware that a presentation is a form of lobbying and, whilst they may express any view on the merits or otherwise of the proposal presented, should never state how they or other councillors would intend to vote at a committee;
  - 5.3.114.5 explain to those lobbying or attempting to lobby them that, whilst they can listen to what is said, it may subsequently prejudice their impartiality, and therefore ability to participate in the Committee's decision making, to make any sort of promise to vote one way or another or such a firm point of view that it amounts to the same thing;
  - 5.3.114.6 not accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is minimal and its acceptance is declared as soon as possible, including its addition to the register of interests where relevant;

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<sup>7</sup> Issued by Lawyers in Local Government in 2014 and approved by the Supreme Court as useful and sound advice in the case of R (CPRE Kent) v Dover District Council (SC(E) 2018 1 WLR

- 5.3.114.7 pass on any lobbying correspondence received to the relevant chief / deputy chief officer at the earliest opportunity;
- 5.3.114.8 refer to the relevant chief / deputy chief officer any offers made of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise;
- 5.3.114.9 inform the Monitoring Officer if exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.
- 5.3.114.10 note that, unless they have a disclosable or other registerable interest, they will not have fettered their discretion or breached this Planning Code through:
  - 5.3.114.10.1 listening or receiving viewpoints from residents or other interested parties;
  - 5.3.114.10.2 making comments to residents, interested parties, other Members or appropriate employees (making clear that they must keep an open mind when it comes to making the decision);
  - 5.3.114.10.3 seeking information through appropriate channels; or
  - 5.3.114.10.4 being a vehicle for the expression of opinion of others in their role as a Ward Member.

### **Lobbying by Councillors**

- 5.3.115 Individual planning applications should not be discussed at any political group meeting, nor should councillors lobby any other councillor to do so. Political Group Meetings should not dictate how councillors should vote on a planning issue.

### **Site Visits / Inspections**

- 5.3.116 Councillors should:
  - 5.3.116.1 not request a site visit unless it is strictly necessary because:
    - 5.3.116.1.1 particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
    - 5.3.116.1.2 there are significant policy or precedent implications and specific site factors need to be carefully addressed.
  - 5.3.116.2 report back to the committee any information gained from the site visit that would benefit the Committee;

- 5.3.116.3 treat the site visit only as an opportunity to seek information and to observe the site and not express opinions or views;
- 5.3.116.4 ask questions or seek clarification from employees on matters relevant to the site inspection;
- 5.3.116.5 not hear representations from any other party, with the exception of the ward councillor(s) whose address must focus only on site factors and site issues. If approached by the applicant or a third party, they should be advised to make representations in writing to the authority and directed to the officer present.
- 5.3.116.6 only enter a site which is subject to a proposal as part of an official site visit, even in response to an invitation, unless:
  - 5.3.116.6.1 it is essential for a visit to site to take place other than through attending the official site visit; and
  - 5.3.116.6.2 the chief / deputy chief officer has been spoken about the intention to do so and why (which will be recorded on the file) and
  - 5.3.116.6.3 these good practice rules on site visits will be complied with.

## **Employees**

- 5.3.117 Employees involved in the processing and determination of planning matters must act in accordance with the Employee Code of Conduct and any professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its members.
- 5.3.118 Planning applications submitted by employees should be reported to the Planning Committee as main items and not dealt with by employees under delegated powers. As part of the report, the Development Control Manager should confirm that the application has been processed normally.
- 5.3.119 Planning applications involving the council should be treated in the same way as those by private developers. Decisions must be made strictly on planning merits and without regard to any financial or other gain that may accrue to the council if the development is permitted. It is important that the council is seen to be treating such applications on an equal footing with all other applications, as well as actually doing so.

## **Decision Making**

- 5.3.120 Councillors who request a planning application to go before the Committee rather than be determined through employee delegation should ensure their planning reasons are recorded and repeated in the report to the Committee.
- 5.3.121 Councillors should comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

## **Public Speaking at Planning Committees**

- 5.3.122 The provisions for members of the public to speak at Planning Committees are set out in Schedule 1 of this Protocol.

## **Schedule 1: Public Speaking At Planning Committees**

### **1 How Can I Find Out When An Application Will Be Considered?**

Decisions on certain planning applications are taken at the Council's Planning Committee. These Committee Meetings are open to the public. To find out whether an application will be heard by Planning Committee you can view the application details here. Meetings are usually held on the first Tuesday of the month in the Council Chamber of the Council Offices at the Symington Building, Adam and Eve Street, Market Harborough, LE16 7AG. A full Committee calendar and all documentation can be found here. The meetings follow an agenda which is published on the website 5 working days before the meeting is scheduled to take place.

### **2 Public Speaking At The Planning Committee**

The Council is committed to open government and public involvement in the planning process. You can address the Planning Committee for up to 3 minutes as a representative of the following:

- o An objector to a proposal (Maximum of 3 Speakers or the same amount of time as allowed for supporters, whichever is the greater);
- o A supporter of a proposal (including the applicant/agent) (Maximum of 3 Speakers or the same amount of time as allowed for objectors, whichever is the greater);
- o A representative of the Parish Council / Parish Meeting / Town Council / another body (i.e. Market Harborough Civic Society) within which the site is located;

- o Ward Member(s) (maximum of 5 minutes);

If you would like to speak at a Planning Committee meeting you must request to do so in writing by 12 noon not less than 2 working days before the meeting (for example, if the Planning Committee is on a Tuesday and the day before is a bank holiday you must submit your request by 12 noon on the previous Thursday). You can email [planning@harborough.gov.uk](mailto:planning@harborough.gov.uk) ensuring that your email contains the application number, your name and contact details and an indication of the topic area you wish to discuss. Requests to speak will not be accepted until the date of publication of the relevant Planning Committee agenda and requests will be accepted on a first come first served basis. Requests to speak will not be accepted after this deadline. The Speakers list will be published online by 12 noon 1 working day before the meeting. Your contact details will not appear on this list.

### **3 If You Cannot Attend The Meeting To Speak**

The Planning Committee is under no obligation to defer making a decision on an application because a particular speaker is not available to attend the meeting. A proxy speaker may be nominated if you are unable to attend (their details should be provided in advance). Do not submit written speeches as there is no obligation for these to be presented to the committee.

### **4 Site Visits**

Please note that Councillors will, in some cases, carry out a site visit prior to the Planning Committee meeting. Site visits usually take place on the Monday prior to the Planning Committee meeting. The Councillors will be accompanied on these site visits by Planning Officers who will talk through the proposals for the site in question with the Councillors. Members of the public are not permitted to address the Committee at these site visits.

### **5 Receipt Of Late Correspondence**

Please note that any correspondence received after the publication of the agenda must be received by the Planning Department before 17.00 the last working day before the meeting. If it is not received by this time, we cannot guarantee that it will be taken into account when the application is considered.

### **6 Process Of Planning Committee Meetings**

Planning Committee meetings use the following process:

- 1) The Planning Committee agenda papers are published online 5 working days before the Planning Committee meeting.
- 2) A Supplementary Information List is often made available on the evening of the planning committee meeting, this will contain information received after publication of the planning committee agenda papers.



- 3) Meetings will be recorded in accordance with the Council's guide for audio recording of meetings.
- 4) The Planning Committee Chairman will open the meeting and make introductions.
- 5) If necessary, the Committee will be given time at the meeting to consider supplementary information.
- 6) Planning Applications are usually taken in agenda order; however, items relating to which public are registered to speak are normally brought forward.
- 7) The Planning Officer introduces a report.
- 8) Any public speaking will be heard.
- 9) Planning Committee members can ask points of clarification of speakers.
- 10) Public speaking is complete, and the public cannot take part in further debate of the application.
- 11) Ward Councillors are allowed to address the Committee for 5 minutes on behalf of local residents.
- 12) Planning Committee members then debate the application before them.
- 13) The Planning Officer, or others in attendance (e.g. solicitor) will provide clarification and advise if asked by a Planning Committee member.
- 14) Planning Committee decisions are on a majority of votes taken by a show of hands. A recorded vote can be requested by Members in accordance with the Constitution.
- 15) The Chairman has a second or casting vote in the event that there is an equal number of votes for and against.

## **7 What Can I Say?**

The Chairman of the Committee will invite you to speak. It should be noted that the 3-minute period allowed for speakers to address the Committee must be adhered to and will be strictly enforced by the Chairman of the Committee. This period may be followed by questions of clarification from Committee members. Submission of further graphic or written information and the use of visual aids by speakers at the meeting will not be permitted.

You can only speak about issues which you, or the other objectors/supporters, have already raised in written comments to the Council. It will help if you are clear and concise and confine your points to relevant planning issues and, where possible, avoid repetition of points already raised.

You may not:

- Enter into any discussion or debate on the proposal;
- Ask any questions of Councillors, the other party or anyone else at the meeting;
- Use any equipment, however, documents which are already before the Council (e.g. site plan) can be displayed for you to refer to.

Questions of clarification may be put to you by Councillors after you have spoken.

Please remember that the Committee can only take into account planning matters when it makes its decision, and that it is bound by law to make a decision in accordance with currently adopted and up to date development plan policy for the area, unless other material factors are so important they justify departing from it.

## **8 Do I Have To Speak To The Committee For My Views To Be Considered?**

No. If you have written to the Council regarding a planning application your views will be summarised in the published report and taken into consideration. You can therefore simply attend the Committee Meeting and listen to the debate if you wish. You may also consider contacting your Ward Councillor who, (even if not a member of the Planning Committee), can explain the issues you are raising to the meeting. However, the Councillor is not your representative and may also express other views.

## **9 Reconvened Meetings**

The Council's Constitution states that the Committee must take a vote as to whether to extend business beyond 21:30. In cases whereby it is decided to continue, the meeting will progress until its conclusion. In cases whereby it is decided not to continue with business, a date will be agreed for a reconvened meeting. This meeting will be a continuation of the original meeting, and as such, no further representations can be made and no additional speakers can be registered. There is no requirement for speakers who are already registered to re-register for the reconvened meeting.

## **10 What If I Have Further Queries?**

The Council has attempted to make this procedure as fair and as easy to operate as possible within the guidelines which the Government sets out for determining planning applications. If you have any questions that have not been answered by the information given here, please contact [planning@harborough.gov.uk](mailto:planning@harborough.gov.uk).