



## **A PROTOCOL FOR COUNCILLOR AND OFFICERS**

### **1. Interpretation**

Unless the context indicates otherwise:

The terms “Councillor” and “Councillors” include non-elected i.e. co-opted councillors as well as elected councillors.

References to the term “Council” includes its committees, sub-committees and working groups.

References to the term “Code” shall mean the Code of Conduct for Councillors adopted under the provisions of the Localism Act 2011, as amended or replaced from time to time.

References to the term “the Clerk” shall mean the Clerk to Newbiggin by-the-Sea Town Council.

### **2. Introduction and Principles**

The objectives of this Protocol are to guide councillors and officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council and to foster good working relationships.

- Selflessness - Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
- Integrity - Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
- Objectivity - In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards or benefits, holders of public office should make choices on merit.
- Accountability - Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- Openness - Holders of public office should be as open as possible about the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

- Honesty - Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
  - Leadership - Holders of public office should promote and support these principles by leadership and by example, and should act in a way that secures or preserves public confidence.
3. The Protocol seeks to reflect the principles underlying the Code, thereby enhancing and maintaining the integrity (real and perceived) of local government.
  4. Councillors and officers must at all times observe this Protocol. This Protocol is a local extension of the Code and the Officers' Contracts of Employment. Consequently a breach of the provisions of this Protocol may also constitute a breach of the Code or those Contracts.
  5. This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Councillors continue to receive objective and impartial advice and that officers are protected from accusations of bias and any undue influence from Councillors.
  6. Given the variety and complexity of relations between Councillors and officers of the Council, this Protocol does not seek to be comprehensive. It is hoped, however, that the framework it provides will serve as a guide to dealing with a range of circumstances.
  7. **The role of Councillors**
  8. Councillors 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, Councillors may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.
  9. At all times Councillors should be aware that the role they are performing may impact upon the nature of their relationship with officers and the expectations that officers may have of them.
  10. Collectively, Councillors are the ultimate policy-makers determining the core values of the Council and approving the council's policy framework, plans and budget.
  11. Councillors represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.
  12. Every Councillor 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.
  13. Some Councillors may be appointed to represent the Council on local, regional or national bodies.

14. As politicians, Councillors may express the values and aspirations of the notified party political groups to which they belong, recognising that in their role as Councillors they have a duty always to act in the public interest.
15. Councillors can request information from officers but must take into consideration the level of resources available to carry out this task. If agreement cannot be reached with regard to such requests, a discussion will take place with the Chairman. This does not, however, prevent requests for the provision of stationery and other computer consumables in respect of council duties.
16. Councillors are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council. This is because section 101 of the Local Government Act 1972 only permits decisions to be made by the Council, a committee or an officer except in a Unitary Council.
17. Councillors must avoid taking actions which are unlawful or financially improper. Councillors have an obligation under the Code of Conduct to have regard, when reaching decisions, to any advice provided by the Clerk the Monitoring Officer or the Responsible Finance Officer.
18. Councillors must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change his/her professional advice.
19. Councillors should only become involved in commercial transactions at the formal decision making stage.
20. **Role of officers**
21. Officers are responsible for giving advice to Councillors to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.
22. Under the direction and control of the Council, 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.
23. Officers have a duty to implement decisions of the Council which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's policies and constitution, and duly minuted.
24. Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
25. Officers must assist and advise all Councillors whether or not members of notified political groups and non-aligned Councillors. They must always act to the best of their abilities in the best interests of the Council as a whole as expressed in the Council's formal decisions.

26. Officers must be alert to issues which 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.
27. Officers have the right not to support Councillors in any role other than that of Councillor, and not to engage in actions incompatible with this Protocol.
28. Some officers may be appointed to local, regional or national bodies because of their particular skills and expertise. They may be appointed specifically to represent the Council or in their personal capacity.
29. **The relationship: general points**
30. Councillors are elected by the local community and officers are employees of the Council and Councillors and officers are indispensable to one another. However, their responsibilities are distinct. Councillors are accountable to the electorate and serve only so long as their term of office lasts. Officers are accountable to the Council as a whole and not to individual Councillors. Their job is to give advice to Councillors (individually and collectively) and to carry out the Council's work under the direction and control of the Council.
31. The conduct of Councillors and officers 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 publicly and privately.
32. At the heart of the Code, and this Protocol, is the importance of mutual respect. Councillor/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Councillors and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party. The use of more extreme forms of behaviour and emotion is rarely conducive to establishing mutual respect and is not a basis for constructive discussion.
33. Informal and collaborative two-way contact between Councillors and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection. Inappropriate relationships can be inferred from language/behaviour. Close personal familiarity between individual councillors and officers can damage the relationship of mutual respect and prove embarrassing to other Councillors and officers. To protect both Councillors and officers, they should address each other in an appropriate way in the public arena, save where circumstances clearly indicate that a level of informality is appropriate.
34. It is not enough to avoid actual impropriety. Councillors and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Councillor should not sit on a body or participate in any decision which directly affects the officer on a personal basis.

35. A Councillor should not raise matters openly or through the media relating to the conduct or capability or any personal information relating to an officer in a manner that is incompatible with the objectives of this Protocol and particularly in relation to any pending or on-going complaint or disciplinary process involving the officer. This is a long-standing tradition in public service. An Officer has no means of responding to such criticisms in public. Furthermore, open criticism may prejudice the bringing of disciplinary proceedings in circumstances where this might otherwise be appropriate.
36. A Councillor who feels s/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability 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 with the Clerk or the Chairman. Complaints about the Clerk should be referred by the Chairman to the Council for consideration by a committee if necessary.
37. If direct discussion with an officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, s/he should raise the matter with the Clerk. The Clerk will then look into the facts and report back to the Councillor. If the Councillor continues to feel concern, then s/he should raise the issue with the Chairman who will look into the matter afresh. Where any action is contemplated against an officer in respect of a complaint it will be referred to a committee and dealt with in accordance with the proper employment practices.
38. Challenge in a constructive and non-confrontational way is important in ensuring policies and service performance are meeting the Council's strategic objectives. Nothing in this paragraph is therefore intended to stop Councillors holding officers to account for decisions made under delegated powers.
39. Where an officer feels that s/he has not been properly treated with respect and courtesy by a Councillor or has been bullied by a Councillor, s/he should raise the matter with the Clerk or Chairman as appropriate, especially if they do not feel able to discuss it directly with the Councillor concerned. In these circumstances the Clerk or Chairman will, after consultation with the complainant, take appropriate action either by approaching the individual Councillor or by referring the matter initially to a suitable Committee.
40. Bullying is prohibited by the Code. Bullying has been defined as
- “Offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health.”

41. **The relationship: officer support to councillors: general points:**
42. Officers are responsible for day-to-day managerial operational and delegated decisions within the Council and Councillors should avoid inappropriate involvement in such matters.
43. Officers will provide support to all councillors in their respective roles.
44. If participating in the appointment of officers, Councillors should:
- remember that the sole criterion is merit;
  - never canvass support for a particular candidate;
  - not take part where one of the candidates is a close friend or relative;
  - not be influenced by personal preferences; and
  - not favour a candidate by giving him/her information not available to the other candidates.
45. A Councillor should not sit on an appeal hearing if the appellant is a friend or a relative.
46. On occasion, a decision may be reached which authorises named officers to take action following consultation with a Councillor or Councillors. The Councillor or Councillors may offer his/her views or advice to the officer who must take them into account. The Councillor or Councillors must not apply inappropriate pressure on the officer. The decision remains the responsibility of the officer him/herself. It must be recognised that it is the officer, rather than the Councillor or Councillors, who takes the action and it is the officer who is accountable for it.
47. Officers will do their best to give timely responses during working hours and within 10 days of their request to enquiries from Councillors. Officers work priorities are set and managed by the Clerk and/or the Council. Councillors should avoid disrupting officers work by seeking to impose their own priorities.
48. An officer shall not discuss with a Councillor personal matters concerning him/herself or another individual employee. This does not prevent an officer raising on a personal basis, and in his/her own time, a matter with his/her ward councillor.
49. Councillors and officers should respect each other's free (i.e. non-Council) time.
50. **The relationship: officer support to councillors and party groups**
51. It must be recognised by all officers and Councillors that in discharging their duties and responsibilities, officers serve the Council as a whole and not subject to instruction of any political group, combination of groups or any individual Councillor of the Council.
52. There is statutory recognition for 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. While officers may properly be requested to support and contribute to such deliberations by party groups they cannot be

compelled to do so and must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual Councillors, treat them in a fair and even-handed manner.

53. The support provided by officers must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not present at meetings or parts of meetings, when matters of party business are to be discussed.
54. Special care needs to be exercised whenever officers are requested to provide information and advice to a party group meeting which includes persons who are not Councillors of the Council. Such persons are not bound by the Councillors' Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, officers may not be able to give the same level of advice as they would to a Councillors only meeting nor give advice to such meetings.
55. Officers have the right to refuse a request to attend a party group and will normally not attend a meeting of a party group where some of those attending are not Councillors of the Council.
56. The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.
57. An officer who is not the Clerk shall not be invited to attend a party group meeting, but the Clerk may nominate another officer to attend on his/her behalf.
58. An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.
59. No Councillor will refer in public or at meetings of the Council to advice or information given by officers to a party group meeting.
60. Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group or to any other Councillors. This shall not prevent an officer providing feedback to the Clerk on a need-to-know basis.
61. It must not be assumed by any party group or councillor that any officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.
62. Where the Clerk, or a designated officer, provide information or advice regarding an aspect of Council business to a political group that information shall be available to all political groups or non-aligned Councillors.

63. **The Mayor and officers**

64. Officers will respect the position of the Mayor/Chairman and provide appropriate support. This, however, is a two way process and the Mayor/Chairman should not place unrealistic demands on officers.

65. The Mayor/Chairman may suggest certain actions to officers but as a matter of law, a Mayor or Chairman (or any individual Councillor) has no power to make decisions on behalf of the Council or give instructions to officers.

66. **Councillors and officers on outside bodies**

67. Councillors and officers serving on outside bodies will treat one another professionally and with respect.

68. Councillors and officers should be aware of their role on any outside body to which they are appointed. In particular they should be aware of whether they are appointed:-

- As a representative of the Council
- As a ward Councillor, representing the local community
- As a group Councillor, or
- In their individual capacity

69. They should ensure they are sufficiently briefed before attending a meeting with the purpose of promoting the interests of the town. Councillors will also be requested to give feedback on proceedings.

70. Where Councillors and officers are appointed to an outside body as a representative of the Council they should ensure that they are aware of the Council's position in relation to matters within the body's remit.

71. The appointee should seek to abide by the Council's position in relation to that matter unless their duties and responsibilities to the outside body prevent this, (For example, where the appointment is as a Director or Trustee of the outside body).

72. Should a Councillor and an officer both be appointed to the same body as the Council's representatives they should seek to agree their understanding of the Council's position prior to any meeting of the body.

73. If a Councillor or officer is appointed to an outside body in a capacity other than as the Council's representative they are not obliged to abide by the Council's position in respect of any matter. They should however seek to ensure that any view that they express or action they take cannot be perceived as bringing the Council into disrepute.

74. If a Councillor and an officer have a disagreement in relation to a matter within the remit of that body, arising out of their respective roles on the body, they will treat that disagreement in a professional manner. In particular both the Councillor and the Officer will take steps to ensure that the disagreement does not affect the nature of their relationship within their respective roles as Councillor and officer of the Council.
75. **External meetings**
76. Councillors should ensure that they are properly supported by officers when responding to requests to meetings with individuals, external organisations and companies. They should not commit the council to any particular course of action.
77. **Support services to councillors and party groups**
78. The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport etc.) to Councillors is to assist them in discharging their role as Councillors of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.
79. **Councillors' access to information and to council documents**
80. Councillors have the ability to ask for information pursuant to their legal rights to information to assist them in their role as a Councillor of the Council.
81. **Correspondence**
82. Correspondence between an individual Councillor and an officer should not ordinarily be copied to any other Councillor without that being apparent on the face of the correspondence. A system of silent copies should not be employed. Information concerning a particular Ward should be copied to an officer or other Ward Councillors.
83. "Correspondence" in this context means letters, emails, memoranda, reports, advice, briefing notes or any other documentation prepared specifically by an officer for a Councillor.
84. It should be noted that the Council may have to release copies of correspondence in accordance with Freedom of Information Legislation.
85. Official letters on behalf of the Council (as distinct from letters in response to constituent's queries) should normally be sent in the name of the appropriate officer, rather than the name of a Councillor. It may be appropriate in certain circumstances for a letter to appear in the name of the Mayor/Chairman, but this should be the exception rather than the norm.
86. Letters which create legally enforceable obligations or which give Instructions on behalf of the Council should never be sent in the name of a Councillor.
87. When writing in an individual capacity as a Ward Councillor, a Councillor must make clear that fact.

88. Officers should respond in a timely manner dependent upon the content/urgency.
89. When entering into correspondence with one another both Councillors and officers should ensure that they maintain their recognition of and respect for each other's roles and responsibilities. As with other areas of their relationship Councillors and officers should conduct correspondence in a positive and constructive way and observe the same level of courtesy and respect.
90. **Publicity and press releases**
91. Local Councils are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors, and non-domestic rate-payers. In recent years, all local authorities have increasingly used publicity to keep the public informed to encourage public participation. Every Council needs to tell the public about the services it provides from time to time. Increasingly, local authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council's activities is, in the words of the Government, to be welcomed. The Local Government Act 1986 prohibits political publicity – this is defined as any material which, in whole or in part, appears to be designed to affect public support for a political party.
92. Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity should be reasonable and decisions on publicity made in accordance with the Code of Recommended Practice on Local Council Publicity. The main principles of the Code are:
93. That publicity relating to individual Councillors should relate to their role as a holder of a particular position and personalisation of issues or personal image making should be avoided.
94. Publicity should be factual and designed to raise public awareness and its primary purpose must not be to persuade Councillors or the public to hold a particular view on a matter of policy.
95. Particular care should be taken when publicity is issued immediately before an election or by-election to ensure that this could not be perceived as seeking to influence public opinion, or to promote the image of a particular candidate, or group of candidates. The Code provides between the time of publication of a notice of an election and polling day, publicity should not be issued which deals with controversial issues, or which reports views or policies in a way that identifies them with individual councillors or groups of councillors'.
96. The Code also applies to other bodies funded by the Council, where that funding could be used for publicity.
97. Officers and Councillors of the Council will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, Officers and/or Councillors should initially seek advice from the Clerk.

98. **Involvement of Ward Councillors**

99. Whenever a public meeting is organised by the Council to consider a local issue, all the Councillors will as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Councillors should be notified at the outset of the exercise.

100. Whilst support for Councillors ward work is legitimate provided resources permit, officers should not be asked to accompany Councillors to ward surgeries, the offices or premises of political parties or to attend ward or constituency political party meetings.

101. It is acknowledged that officers may receive and handle messages for Councillors on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.

102. In seeking to deal with constituent's queries or concerns, Councillors should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Councillors in the requested time-scale, and may need to seek instructions from their managers or the Council.

103. **Access to premises**

104. Officers have the right to enter Council land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.

105. Councillors have a right of access to Council land and premises to fulfil their duties.

106. When making visits as individual Councillors, Councillors should:

- whenever practicable, notify and make advance arrangements with the appropriate manager or officer in charge;
- 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;
- if outside his/her own ward, notify the Ward Councillor beforehand; and
- take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

107. **Use of Council resources**

108. The Council may provide Councillors with limited consumables such as stationery and computer equipment, to assist them in discharging their roles as Councillors of the Council. These goods and services are paid for from the public purse. They must not be used for private purposes or in connection with party political or campaigning activities.

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

where facilities are provided in Councillors' homes at the Council's expense; in relation to any locally-agreed arrangements e.g. payment for private use or photocopying; and regarding ICT security.

110. Councillors must not put pressure on staff to provide resources or support which officers are not permitted to give. Examples are:

- business which is solely to do with a political party;
- work in connection with a ward or constituency party political meeting; electioneering;
- work associated with an event attended by a Councillor in a capacity other than as a Councillor of the Council;
  
- private personal correspondence;
- work in connection with another body or organisation where a Councillor's involvement is other than as a Councillor of the Council; and
- support to a Councillor in his/her capacity as a councillor of another local council.