

23 CODE ON COUNCILLOR-OFFICER RELATIONS AND PUBLICITY

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23.1 Status of this code

This protocol seeks to offer guidance on some of the issues, which most commonly arise in relation to the relationships between Members and Officers.

This Protocol is partly a statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty. In particular, it will cover expectations of behaviour as between Members and Officers.

This code gives guidance only but it may be taken into account if there is a complaint about a Councillor or an Officer. Councillors are obliged to observe the Members' Code of Conduct. Any complaints received in relation to alleged breaches of the Code of Conduct will be considered initially by the Monitoring Officer. Officers are also obliged to comply with a code of conduct. Any complaints received about Officers behaviour or conduct will be considered by the relevant managers.

23.2 Roles of Councillors and Officers

Officers and Councillors both serve the public but they have different roles. Officers are employees of the Council and are politically neutral. Their role is to advise Councillors and implement the policies of the Council to the best of their abilities. Councillors are office holders and will often belong to a political party. They are obliged to exercise their own judgement in respect of matters before them but may also legitimately pursue party political objectives.

Employees are answerable to the Chief Executive, not to individual Councillors (whatever office they hold), but there should be good communication between senior officers and Councillors with special responsibility for their area of work.

23.3 Expectations

What Councillors can expect from Officers:

- A commitment to the authority as a whole, not to any political group;
- A working partnership;
- An understanding of and support for respective roles, workloads and pressures;
- Timely responses to enquiries and complaints in accordance with agreed standards (see para 23.6)
- Professional advice, not influenced by political views or preference;
- Regular up-to-date information on matters that can be reasonably considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;
- Awareness and sensitivity to the political environment;
- Respect and courtesy;

- Training and development in order to carry out their roles effectively;
- Not to have personal issues raised with them by Officers outside the agreed procedures;
- Officers should not try to persuade individual Councillors to make a decision in their personal favour or raise things to do with their employment with individual Councillors. Nor should they approach individual Councillors with allegations about other Officers. They should use the Council's, grievance, whistle blowing and disciplinary procedures instead.
- Compliance with the relevant Code of Conduct;

What Officers can expect from Councillors:

- A working partnership;
- An understanding of and support for respective roles, workloads and pressures;
- Political direction and leadership;
- Respect and courtesy;
- Councillors should generally restrict their discussion on strategic or significant issues to more senior officers (that is Directors, Heads of Service or team leaders);
- Councillors should normally make appointments before visiting Officers and should try to avoid frequent unscheduled interruptions;
- Councillors should not pressure Officers to work outside their normal hours or to do anything they are not allowed to do or that is not part of their normal work;
- Not to be subject to bullying or harassment. Councillors should have regard to the seniority and experience of Officers in determining what are reasonable requests. Councillors with special responsibilities should be particularly aware of this;
- Councillors should not use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly;

- Councillors should not make detrimental remarks about individual Officers during public meetings;
- Councillors should at all times comply with the relevant Code of Conduct.

23.4 Limitations on behaviour

The distinct roles of Councillors and Officers necessarily impose limitations upon behaviour. By way of illustration and not as an exclusive list:

Close personal relationships between individual Councillors and Officers can confuse the separate roles and get in the way of the proper discharge of the authority's functions, not least in creating the perception in others that a particular Councillor or Officer may secure advantageous treatment. Personal relationships should be avoided. Where they do exist they should be notified to the Chief Executive.

The need to maintain the separate roles means that there are limits to the matters on which Councillors may seek the advice of Officers, both in relation to personal matters and party political issues;

Relationships with particular individuals or party groups should not be such as to create public suspicion that an employee favours that Councillor or group above others.

23.5 Complaints about Councillors or Officers

If an Officer feels a Councillor is not treating them with politeness and respect, they should consider talking to the Councillor directly. If they do not feel they can talk to the Councillor or talking to the Councillor does not help, they should talk to their line manager, Head of Service or Director immediately. The manager approached will talk to the Councillor or the Leader of their political group and may also tell other senior officers. The Officer will be told the outcome. Officers may also make a complaint alleging a breach of the Members' Code of Conduct.

If a Councillor feels an Officer is not treating them with politeness and respect, they should consider talking to the Officer directly. If they do not feel they can talk to the Officer or talking to the Officer does not help, they should talk to the Officer's line manager, Head of Service or Director immediately. If the problem continues the manager approached will consider whether to use the Council's disciplinary procedures.

23.6 Politeness and respect

Councillors and Officers should show each other politeness and respect. Councillors have the right to challenge Officers' reports or actions, but they should:

- avoid personal and/or public attacks; and
- ensure their criticism is fair and constructive.

Officers should not publicly criticise Council decisions even if they do not personally agree with those decisions.

23.7 Councillors' enquiries

Officers should answer Councillors' enquiries, in whatever form, within five working days. If that is not possible, they should send a holding reply. Councillors should contact a more senior officer in the event that a response is not received within this time. The Chief Executive may be asked to resolve any issues arising from unreasonable delays in responding to Councillors' enquiries.

23.8 Information and advice

(a) Requests for written information

Councillors should be provided with adequate information about services or functions which they may be called upon to make decisions on or scrutinise the decisions of others about, or which affect their constituents. In the normal course of events, this information will be made routinely available by Officers in the form of reports, departmental plans etc. Members are encouraged to make use of existing sources of information wherever possible.

Written information supplied to a Councillor regarding the implications of current Council policies or containing statistical information about Council services shall be copied to the relevant Executive Board Member.

The Leader of the Council or Leader of any of the other political groups may request the Chief Executive or the relevant Director, or other designated Officer to prepare reports on matters relating to the authority for consideration by the 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, but subject to any overriding data protection or other legal

requirements, such requests will be met. However, if the Officer considers that the cost of providing the information, or the nature of the request is unreasonable, the request will be referred to the Chief Executive for determination, where necessary in consultation with the Leaders of the political groups.

Officer reports to political groups should be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Reports should not deal with any political implications of the matter or any option and Officers should not make any recommendation to a political group.

(b) “Briefings”

In order for them to discharge their responsibilities Executive Members will be briefed by senior officers (Directors, Heads of Service or team leaders) on service issues, proposals and policy development either on an ad hoc or a regular basis, in accordance with the requirements of the Councillor involved.

The other political party groups may also have nominated portfolio leads and, if those leads so request, the relevant senior officers will make themselves available to meet with them to brief them on service issues.

These meetings shall be in addition to the cross party working group which has routine meetings.

The content of these informal briefing sessions shall remain confidential as between Officers and the political group concerned.

(C) “News” items

When an event or development occurs in the city which has or will have a significant impact on the Council or city residents, the Chief Executive will ensure that the Leaders of all political groups are informed as soon as possible.

(d) Ward Councillors

Senior officers should ensure that ward Councillors are given information relevant to their ward on a regular basis. As well as letting Ward Members know when there has been a significant incident in their ward, ward

Members should be routinely notified about the following types of issue:

- Public consultation events affecting their wards;
- Proposed changes to services sited within their wards;
- Proposed anti-social dispersal orders.

Ward Councillors should be invited by Officers to public events, such as openings, festivals etc., in their wards regardless of political affiliation.

The Media team will advise group Leaders of 'photo shoots' taking place. The team will aim to give 48 hours' notice of any photo shoot to the group Leaders.

If Officers organise a public meeting, about a specific ward issue all the Councillors for that ward should be invited and given as much notice as possible.

If Officers undertake consultation about specific ward issues they should consult the Councillors for that ward at the start of the consultation.

Ward Councillors should be told in advance about anything which particularly affects their ward and which is potentially controversial.

(e) Officer attendance at Group Meetings

The Leader of the Council or Leader of any of the other political groups may ask the Chief Executive or relevant Director to give or arrange a private briefing for the party group on a matter of relevance to the Council.

Any briefings offered to or requested by a party group will be offered to the other party groups.

No Officer of the Council should attend any political group meeting which includes non-Council members.

Decisions are not Council or Executive decisions and party groups do not have any delegated authority to make formally binding decisions.

(f) Advice for Councillors with special responsibilities

The lord mayor, Board Members and Committee Chairs can ask the Chief Executive, Directors and Heads of

Service for extra background information and advice on different courses of action.

Although these Members have additional responsibilities and different relationships because of their more frequent contact with Officers, these Members must still respect the impartiality of Officers. This includes not asking them to undertake work of a party political nature, or to do anything which would prejudice that impartiality.

The Leaders of minority political groups can ask the Chief Executive or Directors or Heads of Service for background information or more details about items coming to the next meeting of a Committee or the Board. The appropriate chair or Board Member will be entitled to receive the same information.

Party group Leaders can ask for advice on presenting their budget in a correct and accurate form. This will be given in confidence.

23.9 Councillors' briefings on agendas and reports

(a) Briefings on agendas

Directors and Heads of Service will give briefings on full Council, Board and Committee agendas to the Leader and Deputy Leader and Committee Chairs and Vice Chairs.

(b) Consultation on agendas

The Leader will be consulted on agendas for the Board. Committee chairs will be consulted on agendas for their Committees.

(c) Requests for reports

Instructions for reports to come to the Board or Committees can only come from the Leader, the Board, an Executive Board Member in respect of the Board and a Committee or a Committee Chair in respect of Committees.

Whilst Executive Board Members will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a professional duty to submit a report. Similarly, senior officers will always be fully responsible for

the contents of any report submitted in his/her 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 an Executive Member and a senior officer in this respect should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

23.10 Restrictions on Officers' political activities

Most senior officers and some other Officers are politically restricted. These Officers cannot be Councillors or MPs and cannot say, publish or do anything in their private capacity that seems intended to affect public support for a political party or candidate.

The Head of Human Resources and Facilities keeps a list of politically restricted posts. Any Council Officer in their official capacity must not publish things that seem intended to affect support for a political group on the Council.

No one can be both an Officer and a Councillor on the same Council.

23.11 Support services to Councillors and political groups

Support services should only be used for Council business. They should never be used for private purposes, for party political or campaigning activity.

23.12 Correspondence

(a) Between Councillors and Officers

If emails or letters between Officers and Councillors are copied to someone else, they should say so. Blind copies should not be sent.

Councillors should not forward information received from an Officer to a constituent or member of the public if that information is expressed to be confidential.

(b) Letters on behalf of the Council

Letters on behalf of the Council will normally be sent by Officers rather than Councillors. The Leader or Committee Chairs may write some letters on behalf of the Council, for example representations to government ministers. These should be copied to the Board or the appropriate Committee. Councillors must never send letters that create obligations or give instructions on behalf of the Council.

23.13 Media releases and publicity

Local authorities are accountable to the population they serve. Accountability requires local understanding. This will be promoted by the Council publicly explaining its objectives and policies. In recent years all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides, however, publicity is a sensitive matter in any political environment because of the impact it can have.

Oxford City Council is a local authority in a high profile city and it attracts a lot of media attention. All of the Council's media contact will be professionally managed to meet the communication needs of the Council and of the media by the Council's Communications team. The purpose of the team is to advise and support Councillors and Officers and to maintain and improve the Council's corporate reputation by leading the development, implementation and delivery of an effective media relations service for the Council.

The media is a channel for communicating with Oxford City Council's many varied stakeholders and has a strong influence over how people view the Council and its services. It is therefore crucial that media communications are managed effectively and with due regard for the legal restrictions that the whole Council, led by the media office, must work under and be clear about.

Underpinning all aspects of this protocol is the general principle, enshrined in legislation that the Council will not publish material which in whole or in part appears to be designed to affect public support for a political party.

(a) The Legal Position

Publicity issued by a local authority is subject to a number of constraints imposed by Section 75 of the Representation of the People Act 1983, section 2 of the Local Government Act 1986 (as amended) and the Code of Recommended Practice on Local Authority Publicity issued in 2011 under section 4 of that Act.

Section 75 of the Representation of the People Act 1983 makes it a criminal offence for the Council to incur any expense with a view to promoting the election of a candidate on account of:

- circulars, publications and advertisements;
- otherwise presenting the candidate or his views;

- disparaging another candidate.

The overarching principle contained in section 2 of the Local Government Act 1986 is that no publicity must be issued by a local authority which “*appears to be designed to affect support for a particular political party*”. As well as refraining from issuing such material itself, a local authority must not give anyone else financial assistance to publish such material.

In seeking to adhere to this principle, account will be taken of the content and style of the material, the time when it is issued and whether or not it refers to a particular party or person identified with it, or whether it promotes or opposes a point of view that is politically controversial.

The Communications Team will advise all Councillors on media relations but it cannot support Councillors on media relations in respect of views which do not reflect council policies or which affect public support for a political party or the promotion of individual Councillors.

(b) Media enquiries

Officers must refer all media enquiries to the Communications Team and must co-operate promptly with requests for information from the team.

(c) When to issue media releases

The Communications Team will be guided by the Leader, Board Member or Committee Chair on whether to issue a media release before or after a meeting. The Communications Team will advise these Councillors on when a media release would be appropriate, taking into account any recommendations made by Directors or Heads of Service. If there is a disagreement about what a media release should say, the Chief Executive will decide.

(d) Content of media releases

Quotes on behalf of the Council for media purposes would normally come from Executive Members or the Leader of the Council. The content of such quotes or press releases will be cleared in advance with the Members concerned. The Leader, Board Members, Committee Chairs, the Lord Mayor, the Deputy Lord Mayor or the Sheriff will normally speak on behalf of the

Council for their area of responsibility. Ward Councillors may be quoted on matters that they have significantly influenced. Any quotes from Officers must be either factual or consistent with Council policy.

When a media release is issued after a meeting, it must be about things discussed at the meeting. Media releases issued before a meeting should contain factual information only.

The principle of executive decision-making and accountability will be strongly reflected in the Council's media liaison arrangements. In particular:

- Media statements on Executive decisions will be made by the appropriate Executive Member (or their substitute), the Leader of the Council or issued on behalf of the entire Executive.
- Interviews on Executive decisions will only be given by the appropriate Member of the Executive, their substitute or the Council Leader.
- The Executive will be given relevant support and advice to enable them to play a proactive role in presenting issues to the media, explain their work and manage controversial issues covered by the media.
- Where the Communications Team is asked to draft press releases or letters on behalf of the Executive, such releases/letters will be of a factual nature.

Although Officers will not be allowed to comment to the media on Executive decisions they may continue to speak to the media within the following parameters:

- Where they have been specifically asked to speak to the media by the Leader, Executive, relevant Executive Member or Chair of the relevant Overview/Scrutiny panel.
- On matters of clarification with reference to Officer reports submitted for consideration to Executive, Scrutiny, full Council or to regulatory Committees.
- To explain the operational detail of decisions and policies they are implementing.
- On issues pertaining to the exercise of professional judgement.

The work of regulatory bodies and Committees (such as planning or licensing etc.) will be publicised in consultation with relevant Chairs and lead Officers.

(e) Notification of media releases

All Members will receive notification of all press releases made on behalf of the Council by the Communications Team. Media releases which are embargoed will be sent to all Members at the time that the embargo is lifted.

(f) Publicity in the run-up to elections

The period between the notice of an election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual Members or groups of Members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political positions should be able to comment in an emergency or where there is a genuine need for a Member level response to an important event outside the authority's control. Proactive events arranged in this period should not involve Members likely to be standing for election.

(g) Invitations to media events

Representatives of each political group will be invited to all media events involving Councillors. The Communications Team will liaise with the Leader, Board Member or Committee Chair when setting up media events involving Councillors.

(h) Media releases by party groups and individual Councillors

When individual Councillors or spokespeople for political groups issue media releases, they must make it clear that they are not issuing them on behalf of the Council. Whilst it is legitimate for the Council to publicise local issues, the Council will not involve itself in any publicity which 'personalises' such issues and thereby appears to be designed to affect public support for a political party.

Publicity about individual Councillors may include the contact details, the position they hold in the Council (for example, Member of the Executive or Chair of Scrutiny Committee), and their responsibilities. Publicity may also include information about individual Councillors'

proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual Councillors as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided.

Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual Councillor which are relevant to her/his position and responsibilities within the Council, and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans or directly attacking policies and opinions of other parties, groups or individuals.

(i) Scrutiny

The work of the Scrutiny Committee is an important and integral part of the political arrangements of the Council for the purposes of media liaison. In particular:

- Media statements and interviews on Scrutiny matters will be made by the convenor of the relevant panel, their substitute or, if appropriate, by the Chair of the Scrutiny Committee.
- Interviews on Scrutiny matters will be given by the convenor of the appropriate Scrutiny Panel, their substitute or, if appropriate, by the Chair of the Scrutiny Committee.
- Members of Scrutiny panels and the Chair of the Scrutiny Committee will be offered relevant support and advice to enable them to play a proactive role in presenting issues to the media and explain their work.
- Where a minority report is released by a Member or Members of a Scrutiny Panel, media statements will be the responsibility of those issuing the report.
- Where the Communications Team is asked to draft press releases/letters on behalf of Scrutiny, such releases/letters will be of a factual nature and will contain nothing that could be construed as politically motivated or biased.
- All official Scrutiny press releases will be issued by the Communications Team in the standard format.

23.14 The Council as an employer

(a) Fairness in employment

Councillors should not take part in a recruitment process where any of the candidates are friends, relatives, partners or other people they live with. Nor should they have any role in disciplinary action or grievances involving these people.

Councillors should not try to influence appointments (except as members of the Appointments Committee or when appointing a political assistant). Nor should they help any particular candidate by giving them information that the other candidates could not get.

Councillors should not discriminate unfairly against Officers and should judge candidates for employment or other rewards on merit.

Councillors should not take part in a recruitment process without having undertaken appropriate training.

Councillors may choose to write personal references for members of staff if requested, but are under no obligation to do so, and should be clear that this is not the employer's reference.

(b) Grievances and disciplinary procedures

Councillors should not try to influence the handling of any grievance. Councillors can report their concerns about an Officer's performance or behaviour to a line manager. But they should not try to influence any disciplinary procedure (except as members of the disciplinary committee for the Chief Executive, Directors and Heads of Service).

Councillors serving on the disciplinary committee for the Chief Executive, Directors and Heads of Service must base their decisions on the facts and in accordance with the Council's employment obligations. They should not be influenced by party political or personal factors.

Councillors should not take part in any disciplinary process without having undertaken appropriate training.

(c) Accountability and confidentiality

Councillors are accountable for the decisions they make as employers but they should keep individual employment matters confidential.

23.15 Responsibility for this code

The Monitoring Officer has overall responsibility for this code and will periodically review how the code is working.