

5.2 PART 5.2 — PROTOCOL ON THE USE OF RESOURCES BY MEMBERS

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5.2 – 1 INTRODUCTION

The Council has the power to provide facilities that assist elected Members in discharging their role as Members of the Council.

You are bound to comply with the Code of Conduct. This includes the requirement at paragraph 5.1 – 5.8 to abide by this Protocol. You must when using or authorising the use by others of the resources of the Authority:

- (a) Act in accordance with your Council's reasonable requirements.
- (b) Ensure that any such resources are not used improperly for political purposes (including

party political purposes).

The purpose of this Protocol is to clarify the requirements of the Code of Conduct and provide guidance to you in the use of the services and equipment provided by the Authority during your term of office. After that term of office has ended, you must return forthwith to the Authority anything that you still retain which belongs to the Authority and which had been provided to you for use as a councillor.

In observing this Protocol you must be mindful of your general obligations under the Code of Conduct, including the requirements in respect of confidential/exempt information. You must also be aware of the duties placed upon both councillors and officers under the law (such as not to misconduct oneself in public office as that can result in a criminal conviction). The Authority will ensure that there is compliance with section 58 of the Equality Act 2010 ('Official business of members') in the provision of facilities.

5.2 – 2 MEANING OF POLITICAL PURPOSES

Facilities provided at public expense to assist elected Members in discharging their role as Members of the Council shall not be used for political group or party political purposes. Public funds cannot be used to support any activity which, in whole or in part, is designed to affect public support for a political party. Exceptions are where the Authority is discharging its statutory functions (e.g. under Part VA of the Local Government Act 1972) to afford public access to meetings and certain documents, or where the Authority has appointed a political assistant under section 9 of the Local Government and Housing Act 1989 ('assistants to political groups').

This requires you to have at all times a clear understanding of and demarcation of your role of an elected member of the Council from with your other role as a party political activist seeking support for electoral advantage. It also necessitates comprehension of the different roles that officers undertake. In particular, the point in time when officers can and cannot assist in policy matters needs to be clarified.

A member of a local authority occupies a position of trust. He/she is one of those individuals entrusted by Parliament and the electorate with making decisions, and with deploying resources, contributed by others, to their best effect. As a person holding such a position of public trust, a member of a local authority has an obligation to act lawfully, carefully, reasonably and with a due regard to the interests of those required to fund the authority's activities. That trust imposes a duty on a member to ensure that, so far as he/she reasonably can, the local authority of which he/she is an elected member acts reasonably and complies

with the law. For example, section 2 of the Local Government Act 1986 imposes a complete ban on using public funds for party political publicity. An elected member therefore cannot use public funds (include the cost of officer time) for ulterior purposes. Officers can be used to undertake official Authority business but not for improper purposes.

There is also a distinction between 'political groups' and 'political parties'. A 'political group' is legally recognised in the Local Government and Housing Act 1989 and associated regulations. A political group is a collection of at least two Councillors who have duly declared their Membership of the group to the Council's Proper Officer. The Council has a duty to give effect to the nomination wishes of the Group in, for example, allocating seats on Committees where the political balance rules apply. A political group meets regularly to consider forthcoming Authority business and decide the group's position on policy matters. At least part of the work of political groups can therefore be regarded as facilitating, or being conducive to, the discharge of the functions of the Authority. It is, however, no part of an officer's role to help formulate the policies of political groups unless such activities form part of and are undertaken by an assistant to a political group appointed under section 9 of the Local Government and Housing Act 1989.

Political parties are separate from, although allied to, political groups. Their main purpose is to campaign and fight local and national elections and their Membership is much wider than local Councillors. Councillors are normally members of a political party. Political parties can be organised at ward, constituency or district level. They are not directly concerned with facilitating, or being conducive to, the discharge of the functions of the Authority.

Other than in those cases where arrangements have been made for an officer to discharge a local authority's functions or where he/she has specific statutory tasks to perform, the job of an officer is to give advice to members and to the local authority, its executives, its committees and sub-committees and to other officers. It is also to carry out the local authority's work under the direction and control of the authority, its executive, its committees and sub-committees and any other person to whom authority in that respect may have been properly delegated. Senior officers occupy a position of trust.

As was said in paragraph 6.135 of the "Report on the Conduct of Local Authority Business" (the 'Widdicombe Report' Cmnd 9797), in their capacity as advisers, officers "are responsible for ensuring that the council and its committees are informed of the facts, the law and all other relevant considerations before they make decisions. They are also responsible for proposing, and advising on, policy options." Officers called upon to provide information, to advise or to help formulate advice, owe a duty to discharge those responsibilities with reasonable care. This is a duty which they owe to the local authority as a whole, not to any political group which

may for the time being constitute a majority. Failure to discharge this duty, for example by withholding or misrepresenting material information, is misconduct. It would be misconduct for an officer to remain silent or otherwise inactive if a failure to report or otherwise disclose information may prejudice the authority in whose interests he/she is required to act.

It is not part of the responsibility of any officer to do that which a majority or any other group of members or any individual member may prefer the local authority to do (save where that preference has been lawfully adopted as the policy of the local authority at a properly convened meeting or otherwise pursuant to the exercise of proper authority e.g. delegated authority) or to frame any information or advice that the officer may provide to members to facilitate the achievement of any such preference. He/she is not the servant or agent of such a group of members or of an individual member. An officer's duty to provide information and advice is to be exercised impartially, independently of any member's preference and in the interests of the local authority whose servant he/she is. An officer fails in his/her duty if he/she acts otherwise.

For the purposes of the Code of Conduct, therefore, the use of the Authority's resources for political purposes has to be restricted to services associated with the operation of the Authority's political groups, not political parties. Support for political groups, which is primarily carried out by Group Secretaries, is restricted to photocopying, collating and distributing reports for, and arranging, Group meetings. Group Secretaries may not carry out any political activities during their hours of employment by the Council and the written consent of the Authority shall be required under the Authority's Code of Conduct for Officers to carry out any outside work, paid or unpaid, if their official duties overlap in some way with their proposed work, if it causes a conflict of interest, or if it makes use of material to which they have access by virtue of their position.

Councillors must not ask, or put any obligation on secretarial staff or other officers to assist with, any personal or party-political matter or any matter that is not related to Council business. Use of secretarial services on behalf of community or voluntary groups with which Members may be connected is not permitted.

5.2 – 3 IT EQUIPMENT

Laptops are available to all Amber Valley Borough Councillors upon request. However, the following criteria will apply to their usage.

They are provided to you to use:

- (a) At home to facilitate your performance as a Councillor and for activities which facilitate the carrying out of the Authority's functions.
- (b) For accessing agenda/reports etc at meetings.

Laptops shall only be used for the official business of the Authority.

No other person may use the laptop. If it requires servicing or repairing etc., please return it to the IT Operations and Support Manager.

The Authority is prohibited from publishing any material of a party political nature. You may not use the laptop for canvassing by or on behalf of a political party.

It is generally considered unacceptable for you to use the laptop for volume mailings.

No software may be installed without the express permission of the IT Operations and Support Manager.

The copying of licensed software and data, use, or possession, of unlicensed copies or 'pirated' versions of software is illegal and, therefore, expressly prohibited.

The laptop must not be used in any way that is illegal or that could bring the Council into disrepute.

If you have a laptop, you will be registered as a data controller under the Data Protection Act. You must comply with the Council's Data Protection Policy and ensure that personal data is held securely.

You must return the laptop to the IT Operations and Support Section

- (a) every three months for the Officers to give the laptop a health check and make sure that the applications are up to date and/or
- (b) when requested in writing to do so.

Should it be discovered or suspected that there has been illegal or inappropriate use of any laptop supplied to you by the Authority, the matter will be reported to the Monitoring Officer and where relevant the Police.

5.2 – 4 ELECTION PUBLICITY

Guidance issued by the Monitoring Officer regarding the use of Authority resources in connection with publicity during an election period, shall be observed by you during the period of the election or referendum to which the guidance applies.

5.2 – 5 PERSONAL COMPUTERS SUPPLIED IN POLITICAL GROUP ROOMS

Personal computers are available in the political group rooms. These are provided solely for your use as an Amber Valley Borough Councillor and should not be used for private/commercial business or party political purposes.

5.2 – 6 MAIL AND INTERNET ACCESS

In observing the requirements of Paragraphs 5.2 – 3 ('IT Equipment') and 5.2 – 4 ('Election Publicity') of this Protocol, you shall ensure that the Authority's policies on the use of e-mail and internet access are adhered to. These policies are separate to this Protocol and will be supplied upon the issue of IT equipment or when you are given access to such equipment.

5.2 – 7 PHOTOCOPIERS

You will have access to photocopying facilities in your Group Rooms at the Town Hall for use in connection with your role as a Councillor. Photocopiers must not be used for producing political material.

5.2 – 8 GENERAL STATIONERY

General stationery (letterheads, compliment slips, etc.) are provided solely for your use as an Amber Valley Borough Councillor. The Authority will not supply paper and consumables for printers, etc. used away from the Town Hall.

5.2 – 9 CORRESPONDENCE

Councillor headed paper must always be used. You must not use other Council headed paper under any circumstances.

Correspondence should be for the purpose of providing a response or factual information and be for no other purpose.

Correspondence must not refer to political purposes nor contain information which could be deemed to be libellous.

Correspondence must not commit the Council to entering any contractual obligation or other legal commitment.

When writing to the Authority in a personal capacity, or where you have a pecuniary, prejudicial or personal interest, you must not use Councillor headed paper.

You should consider the purpose behind the document or piece of correspondence. If the purpose is to boost party political support for a Member, group of Members or political party, then any use will be seen to be political and neither Council or headed paper nor paper belonging to the Council should be used.

Paper provided by or bearing the header of a Councillor must not be used in the following situations:

- When making a request for fellow Members of a political group to meet to discuss a particular issue/priority
- For the purpose of raising votes or advancing party aims in an electoral issue
- For correspondence promoting a policy of a political group where that policy has not become Council policy
- Correspondence may be received by Members who are the leaders of their respective political groups. Such correspondence may either be forwarded to that Member in their capacity as a ward Member or as leader of a particular group. Members will need to consider the purpose of such correspondence in determining whether it is appropriate for the Member to reply as a ward Member on Councillor headed paper, or to respond on a political group's paper in that individual's role as group leader.

5.2 – 10 POSTAGE

Basic allowance is intended to cover incidental costs such as postage. Group correspondence must not be sent through the Council's post.

Correspondence from the Mayor, Leader of the Council and Cabinet Members relating to the functions of the Authority may be sent as part of the Authority's post.

5.2 – 11 MOBILE PHONES

Mobile phones are made available for all Cabinet Members and the Leader of the Council and the Leader of the Minority Group to use for Authority purposes. Copies of itemised bills shall be provided to the Authority in order to check that such phones are only used for Authority purposes.

5.2 – 12 ACCESS TO THE TOWN HALL AND GROUP ROOMS

When you enter or leave the Town Hall you must use your key fob on every occasion.

Each political group is allocated a Group Room. Group Rooms are provided with a telephone, computer, photocopier and other equipment. These facilities and equipment, and other meeting rooms at the Town Hall/Central Headquarters, must not be used for unauthorised purposes. Other than for Group Meetings, the holding of political meetings in the Town Hall/Central

Headquarters for political purposes is expressly prohibited.

5.2 – 13 SAFETY AND PROTECTIVE CLOTHING

Members of the Planning Board will be provided with appropriate safety/protective clothing prior to them attending site visits. Such clothing should be returned immediately after the site visit.

Members may be provided with safety/protective clothing for the duration of their membership of the Council if, following an appropriate risk assessment, it is considered necessary.

Upon cessation of office, such clothing shall be returned to the Council unless express written consent is given (by a duly authorised officer) to retain that clothing.

5.2 – 14 CAR PARK PASSES

You are entitled to receive a car park pass to assist you in the conduct of your duties as an elected member of the Council. However, these passes are issued for your sole use in the course of undertaking Authority business and must not be used for any other purpose.

5.2 – 15 MAYORAL CAR AND CHAIN OF OFFICE

The Mayoral car is provided by the Council for use for official functions attended by the Mayor or Mayoress/Consort and/or Deputy Mayor both within and outside the Borough where the Civic Links Officer considers it appropriate. All vehicle bookings are done by the Civic Links Officer.

The car shall not be used for purposes that are not connected with any Authority function or business which would be classed as private and personal matters. Wherever possible the Mayor, Mayoress/Consort and/or Deputy Mayor shall use their own transport.

The Mayor, Mayoress/Consort and/or Deputy Mayor shall at all times ensure that the Chain of Office is kept safe.

5.2 – 16 SURGERIES

The Authority will arrange and meet the cost of booking the accommodation and advertising of Members' surgeries. Posters will also be provided on request. Surgeries must not be advertised or promoted as political events.

5.2 – 17 GENERAL

Unless stated otherwise, all equipment issued to elected Members remains the property of the Authority and must be returned immediately to the Authority upon the cessation of a Member's period of office.

Misuse of any Authority service or item of equipment may amount to a breach of the Code of Conduct.

5.2 – 18 INTELLECTUAL PROPERTY

The names, images, coat of arms and logos identifying the Borough Council are proprietary marks of the Borough Council. Copying of the Council's logos, Coat of Arms etc. or any other third party logos including those accessed via the Council's website is not permitted without the prior written approval from the relevant copyright owner. Requests for permission to use the names, images, Coat of Arms and logos identifying the Council must be submitted in writing to the Chief Executive. The written request must outline how and why you wish to use the logos etc.

5.2 – 19 INTERPRETATION AND ADVICE

For the avoidance of any doubt, the receipt of communications in any form (e.g. incoming telephone calls, emails, post and faxes, etc.) and which may be of a political nature cannot be prohibited and clearly fall outside this Protocol. However, you should not promote the use of your Council e-mail address for political purposes.

If you need information or advice on any of the items contained in this protocol, please contact the Monitoring Officer on **01773 841397**.