HIGHCLIFFE AND WALKFORD PARISH COUNCIL

MEMBER OFFICER PROTOCOL

Approved ******

1 UNDERLYING PRINCIPLES

1.1 Councillors and Employees are bound by their respective Codes of Conduct which seek to promote the highest ethical standards. This Protocol supports those Codes and is intended to promote mutual respect between Councillors and Employees with regard to their respective roles as set out and in the Council's constitution.

2 THE ROLE OF COUNCILLORS

2.1 To promote the social, economic and environmental well-being of the community.

2.2 Collectively be the ultimate policy-makers and decision-makers and carry out a number of strategic and corporate functions.

2.3 Represent their communities and bring their views into the Council's decision-making process, i.e. becomes the advocate of and for their communities.

2.4 Deal with the individual casework and act as an advocate for constituents in resolving particular concerns or grievances.

2.5 Balance different interests identified within the parish and represent the parish as a whole.

2.6 Be involved in decision-making.

2.7 Be available to represent the Council on other bodies.

2.8 To promote the highest standards of conduct and ethics.

2.9 To act collectively to ensure good employment practice.

2.10 To act in a specific capacity listed below where appointed so to do by the Council in accordance with the Constitution.

- Chairman of the Council
- Chairman/Vice Chairman Amenities, Planning and Staffing Committee
- Council Member
- Representing the Council on outside bodies

3 THE ROLE OF COUNCIL EMPLOYEES

3.1 To advise and implement the policies set and the decisions made by Councillors.

3.2 To provide professional and technical advice to Members.

3.3 To carry out those functions delegated to Officers.

3.4 To represent the Council on outside bodies, where appropriate.

3.5 To carry out their duties as laid down in their job description.

4 THE RELATIONSHIP BETWEEN COUNCILLORS AND EMPLOYEES

4.1 The relationship between Councillors and Employees should be characterised by mutual respect and development of good working relationships which is essential to good local government.

4.2 Close personal familiarity between individual Councillors and Employees can damage professional relationships and prove embarrassing to other Councillors and Employees. Situations should be avoided that could give rise to suspicion and any appearances of improper conduct.

4.3 Whilst it is recognised that, in some circumstances, a close personal relationship will develop between Council Members and Employees, both the Councillor and the Employee must disclose that relationship to the Parish Clerk. The Councillor must also disclose that relationship to either the Parish Clerk or the Chairman.

4.4 Where a situation arises as in 4.3 and such a relationship is considered to be capable of causing a conflict of interest, then the Parish Clerk will decide what appropriate action to take.

4.5 At all times the Councillor and Employee will ensure, as far as possible, that there is no conflict of interest between them.

4.6 Any dealing between Councillors and Employees should be conducted with courtesy and respect and neither party should seek to take unfair advantage of their position.

4.7 The Council has statutory duties with regard to equality issues to positively promote equality. Councillors and Employees shall not by their behaviour or speech be discriminatory with regard to a person's ethnicity, gender, disability religious or sexual orientation. Such principles shall apply to the implementation of all personnel policies, recruitment and promotion as they apply to day-to-day operations.

4.8 Councillors should not raise matters relating to the conduct or capability of Council Employees either individually or collectively at meetings held in public

or in the Press. Employees have no means of responding to criticism like this in public. (If a Councillor feels they have not been treated with proper respect, courtesy or have any concern about the conduct or capability of an Employee they should raise the matter with the Parish Clerk or the Chairman, if they fail to resolve it through direct discussion with the Employee.)

4.9 Councillors should not require the Employee to change their professional advice nor take any action which the Employee considers unlawful or illegal or which would amount to maladministration or breach of a statutory Code of Conduct.

4.10 Councillors should consult with the Parish Clerk about legality, maladministration, financial impropriety and probity or where they have any doubts as to whether the particular decisions were, or are likely to be, contrary to the policy framework or budget.

4.11 In seeking advice and support, Councillors should have due regard to the seniority of the Employee with whom they are dealing and the fact that Employees owe duties to the Council and not to any individual Councillor. For this reason Councillors should not give direct instructions to Employees unless authorised so to do by the Parish Council. If so authorised, instructions shall be given to the Parish Clerk rather than a more junior Employee.

4.12 Any Councillor shall not question the Employee in such a manner whereby the nature and frequency of the questions or tone or language used could be considered by a reasonable person to be harassment, discriminatory or otherwise unacceptable, nor deal with matters which are of a possible disciplinary/capability nature.

4.13 The Councillor shall, at all times, respect the political impartiality of the employee and must not expect employees to give a political view.

5 PARISH COUNCILLORS IN THEIR COMMUNITY ROLE

5.1 When acting in their Parish Councillor role, Councillors:

- Need to be mindful of their competing roles, i.e. acting for the Council and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on Officer time.
- Recognise the Employee's right to suggest that senior Employees, the Council or a Committee should authorise additional work requested by individual Councillors.

6 MEMBERS' ACCESS TO DOCUMENTS AND INFORMATION

6.1 Councillors are free to approach the Parish Clerk or Employee to provide them with such information, explanation and advice (about the Parish Council's functions) as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information, to a request for specific information on behalf of a constituent.

Such approaches should normally be directed to the Parish Clerk. Councillors should not, however, put undue pressure on Employees to release information and documents to which they are not entitled to have access.

6.2 Councillors have a statutory right under the Local Government Act 1972 to inspect any Council document which has been laid before the Council and contains material relating to any business which is to be transacted at a Council or Committee meeting. This right applies irrespective of whether the Councillor is a member of the Committee concerned and extends not only to reports which are submitted to the meeting, but also to any relevant background papers. There is, therefore, a presumption in favour of Councillors having the right to inspect and have access to all relevant material. The presumption may be rebutted in circumstances where a report contains confidential personal information (for example about Employees or other persons) or is an exempt report and the Parish Clerk has advised that the content of the report is of such a nature that a Councillor's request for access is declined and reasons for that decision provided to the Councillor.

6.3 The common law right of Councillors is much broader and is based on the principle that any Councillor has a prima facie right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Councillor properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the "need to know" principle.

6.4 The exercise of this common law right depends, therefore, upon the Councillor's ability to demonstrate that he/she has the necessary "need to know". In this respect a Councillor has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". The Parish Clerk is the officer responsible for determining these questions.

6.5 In some circumstances (e.g. a Councillor wishing to inspect documents relating to the functions of the Committee on which they are a member) a Councillor's "need to know" will normally be presumed. In other circumstances (e.g. a Councillor wishing to inspect documents which contain personal information about third parties) a Councillor would be expected to justify the request in writing in specific terms.

6.6 Finally, any Council information provided to a Councillor must only be used by the Councillor for the purpose for which it was provided i.e. in connection with the proper performance of the Councillor's duties as a Member of the Council.

7 PRESS RELEASES AND CORRESPONDENCE (INCLUDING E-MAILS)

7.1 Press releases must operate 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.

7.2 All correspondence written on behalf of the Council must be written on the relevant headed paper.

7.3 When Councillors are writing they must make it clear they are writing as a Member of the Parish Council and not on behalf of the Parish Council.

7.4 All correspondence should be open to the inspection of the public once it has been laid before the Council and in accordance with the Council's adopted policies. This does not apply to correspondence written in connection with legal proceedings, contractual matters or any other matter where papers can remain "exempt" within the meaning of Schedule 12A to the Local Government Act 1972, as amended or if it is in conflict with the data protection legislation.

8 COMPLAINTS AND MONITORING OF THE PROTOCOL

8.1 If a Councillor believes that he/she had not been treated with proper courtesy, that there has been any other breach of the Protocol by an employee, or has a concern about the conduct or capability of an employee, he/she should raise the matter with the Parish Clerk. If he/she is not satisfied with the action that has been taken in response to this, he/she may raise the matter with the Chairman who will look into the matter afresh. The procedure to be followed is contained in separate Policy / Procedure Documents.

8.2 If an employee feels that he/she has not been treated with respect or is concerned about any action or statement relating to him/herself or a colleague by a Councillor, or conduct of a Councillor, he/she should raise the matter with the Parish Clerk. The Parish Clerk will seek to resolve it to the employee's satisfaction and where appropriate, will discuss the matter with the Chairman. If there is a serious case to answer, the Parish Clerk, with the agreement of the Chairman, will refer the matter to the Council's Staffing Committee.

8.3 The Parish Council will review the content and operation of this Protocol from time to time. Any suggestions from Councillors or Employees for revisions and refinements should be passed to the Parish Clerk who will bring them forward to the Council at the appropriate time.