



# Andover Town Council

To **consider** Officers concerns in relation to the Media Policy and to **agree** the inclusion of the specific clause relating to statements made as individuals.

Item No.

**15a**

**Produced for:** Full Council

**By:** Town Clerk

**Date of Report:** 13 Feb 2024

**Proposer:** Cllr K Bird

**Seconder:** Cllr S Hardstaff

## Proposal:

To **agree** the following clause should be maintained in the Media Policy before reviewing the policy any further.

- When speaking or providing written material to the Press and Media, Members should make clear the capacity, in which they are providing the information. For example: -  
*Using the prefix Councillor when writing to the press as an individual. This implies you are stating Council policy, make sure you include a statement that you are making a statement as an individual and **NOT** on behalf of the Town Council itself.*

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## **Section A – Current Situation:**

Andover Town Council have a [draft Media Policy](#) which has been taken to two working groups and the Policy and Resources Committee. The phrase above remains a point of contention. The specific clause was approved in the current version of the policy in June 2019.

It is common ground that:

- some members of the public currently interpret anyone using the prefix "Councillor" or "Cllr" as automatically representing the Council
- some members of the public will be unclear as to whether the Councillor was representing the council or not.

Officers have previously advised:

- that Councillors can of course use their title of 'Councillor' when addressing the press, however, it is considered best practice to ensure, when making statements under the title of

'Councillor' the addressee is clear that the opinion/information given is being given as an individual.

- that by complying with the above clause, Councillors are acting in complete transparency and by doing so working within the bounds of the Nolan Principles, by which all public bodies are required to abide by.
- any Councillor giving a press release which does not include the clarifying statement, is at risk of being accused of knowingly making a misleading or unclear statement because they deliberately have not declared who the press release is being made on behalf of. (Themselves or the Council.)
- If members of the public believe that a Councillor has knowingly made a misleading or unclear statement, this may be construed as a Breach of the Code of Conduct in relation to Openness and Honesty. Steps should always be taken to prevent this kind of misunderstanding to protect the reputation of Councillors and the Council.
- The Test Valley Borough Council Monitoring Officer has been asked to give advice on this issue.

### **Section B - Proof of best Practice**

At the Policy and Resources meeting on 31<sup>st</sup> January, Cllr R Hughes requested that the Town Clerk provide the following before the clause be debated again:

- a. Proof of Best Practice.
- b. Legal advice on the subject matter.

#### **In Support of Clarifying statements being seen as "Best Practice".**

Document name	Type	Author	Clause
<a href="#">Press and Media</a>	Policy Template	Society of Local Council Clerks. (SLCC)	4.6 Statements made by the <b>Chairman and the Clerk should reflect the Council's opinion.</b>  4.7 Other Councillors can talk to the media <b>but must ensure that it is clear that the opinions given were their own and not necessarily those of the Council.</b>
<a href="#">Communications Protocol</a>	Policy Template	Society of Local Council Clerks. (SLCC)	Section C (iii) Unless a Councillor has been authorised by the council to speak to the media on a particular issue, Councillors who are asked for comment by the press <b>should make it clear that it is a personal view and ask that it be clearly reported as their personal view.</b> (iv) Unless a Councillor is reporting the view of the council, <b>they must make it clear to members of the public that they are expressing a personal view.</b>

<a href="#">L01-23</a>	Guidance	National Association of Local Councils (NALC)	First paragraph referring to below Government guidance.  A code of recommended practice on local authority publicity ('the Code') was issued on 31 March 2011. By virtue of s.6 of the Local Government Act 1986, <b>the Code applies to parish councils.</b> <b>It is recommended that parish councils follow the Code...</b>
<a href="#">Code of Recommended Practice on Local Authority Publicity</a>	Guidance	Central Government	20: Other than in the circumstances described in paragraph 34 of this code, it is acceptable for local authorities to publicise the work done by individual members of the authority, and to present the views of those individuals on local issues. This might be appropriate, for example, when one councillor has been the "face" of a particular campaign. <b>If views expressed by or attributed to individual councillors do not reflect the views of the local authority itself, such publicity should make this fact clear.</b>

### **Section C - Information supplied by Cllr R Hughes**

Cllr R Hughes has supplied an extract of a letter showing the outcome of a complaint made to a monitoring officer of another council. Having contacted the monitoring officer, the Clerk has been advised that the complaint is not in the public domain.

Given that all of the facts and information are not available, i.e. the original text that was written/published, nor the details of the complaint or the investigation/findings, any reference to this material cannot be considered.

### **Section D - Response from the other Borough Council in question:**

"Unfortunately, XXX is still off ill and cannot respond to you. I am the Council's Deputy Monitoring Officer and am covering the Monitoring Officer function in XXX's absence.

XXX, in his role as Monitoring Officer, has been very clear that he does not agree to the letter referred to below being published. I acknowledge fully that your Councillor has a different view.

I can simply reiterate that the Monitoring Officer's position remains the same and that the document should not be published."

### **Section E.**

Advice received from the Andover Town Council's Solicitors:

I have tried to find some form of statutory provisions which deal with this but cannot. The closest policy would be the Code of Conduct, which I will come back to.

As I see it there are two issues, freedom of speech and Code of Conduct, and perhaps an element of misunderstanding.

The Council is not in any way trying to restrict anyone's freedom of speech, or prevent them from communicating with the press as a private individual, it is putting a policy in place which seeks to ensure that whenever a councillor is communicating with the press there is clarity over whether any statement made are being made in their official Councillor role, or as a private individual. Councillors are entitled to use their 'Councillor' prefix even when not expressing a view of the Council, however all the guidance state if they use the prefix, they must make it clear if the view being expressed is not a view of the Council as a whole. This is entirely right and proper and is in accordance with the model provided by NALC and adopted by most councils. In my view this is fairly strong guidance.

The rationale is so that if any statements are subsequently made public, the wider general public are able to make the distinction as to what capacity any communication was made in, even if the Councillor prefix is used. The Chairman and Clerk can make statements in their personal capacity but it is even more important the distinction is made.

Furthermore, as a more general point, whilst the Council's policy may not restrict freedom of speech, any member must have regard to the Code of Conduct in any event and ensure that he is acting in accordance with the seven Nolan Principles. Councillors also need to ensure that in expressing a view in their personal capacity they are not prejudicing their position under the pre-determination rules.

So, there is some justification for the policy as modified and I would argue it is good practice.

However, the chairman is correct in that I cannot find any statutory provisions that mean the Council can stop him making statements using his Councillor prefix and not identifying which "hat" he is wearing, but it could be a Code of Conduct issue, depending on the nature of the statements and if the public are being misled etc.

I hope this helps, but there is little solid guidance, other than in terms of best practice, please refer to [Code of Recommended Practice on Local Authority Publicity](#).

## **Section F.**

### **Advice received from SLCC legal team:**

The policies are designed, not to curb free speech, but to ensure that it is clear the capacity in which persons are expressing a view.

If they designate themselves as a Councillor there is an assumption by the recipient that the view is that of the Council.

This could lead to Code of Conduct complaints that the Council was being brought into disrepute. There was also a question of whether the Councillor was entitled to the protection of corporate responsibility for the views expressed.

The argument is not whether the Councillor is entitled to express their views but whether when expressing those views, they are doing so in an official capacity or on a personal basis.

The proposals are best practice, not compulsory.

**Section G.**

Advice received from TVBC Monitoring Officer:

Unfortunately, the Monitoring officer has not been able to respond before the agenda papers were issued.