

# **LLANGOLLEN TOWN COUNCIL**



## **Staff / Member Protocol**

## **1. Introduction.**

- 1.1 This document has been put together to give all staff and Members guidance on accepted good practice in respect of Council protocol. It is in addition to information and guidance provided by other publications such as "The Good Members Guide" and One Voice Wales guidelines on Chairmanship.
- 1.2 Copies of this Protocol will be issued to all staff on appointment and Members on election. It will complement any statutory procedures or legislation enacted from time to time.
- 1.3 The purpose of this protocol is to guide staff and Members in their relations with one another and their dealings with other Members and staff from any tier of Government in such a way as to ensure the smooth running of the Council. Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.
- 1.4 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 Members receive objective and impartial advice and that staff are protected from accusations of bias and any undue influence from Members.
- 1.5 It also seeks to reflect the principles underlying the Code of Conduct for staff detailed in the staff handbook, and the legislative code that applies to Members. The object of this code is to enhance and maintain the integrity (real and perceived) of local government to ensure high standards of personal conduct. The Council has adopted the Codes of Conduct for staff and Members and this protocol should be read in conjunction with the appropriate Code and the relevant provisions of the Council's other adopted policies.

## **2. Definitions.**

### **2.1 Agendas.**

The proper officer (hereinafter identified as the Town Clerk in line with Standing Orders) is responsible under statute for the summons to attend a meeting of the Town Council, Committees and Sub Committees, specifying the business proposed to be transacted at the meeting, duly signed, and circulated to Members in advance of the meetings in compliance with the statutory requirements. The Town Clerk may consult with the appropriate Chairs during the preparation of Agendas. The Chairs works in partnership with the Town Clerk to make sure that the Council is properly informed for making lawful decisions during meetings.

### **2.2 Staff at Meetings.**

The Town Clerk or other appointed officer as delegated by the Town Clerk will be present at **all meetings** involving Members of the Town Council and will advise on any questions relating to Standing Orders, Financial Regulations, legal requirements or committee procedures and will supervise the production of formal Minutes of the meeting. Where for whatever reason a staff member is not able to attend a meeting the meeting is not invalidated. The Chair presides and a Member may take the minutes.

### **2.3 Minutes.**

The Town Clerk or other appointed officer is responsible for the content of all Minutes and for circulation prior to adoption by the Town Council.

**2.4 Authority to Act.**

No individual Member (including Committee Chair's and the Town Mayor) or informal groups of Members can make a decision on behalf of the Council. There is no such thing as 'Chair's Action.'

**3. Council Decision Making.**

3.1 Decision making by Llangollen Town Council or Council Committees will follow the Council's procedural rules set out in Standing Orders and Financial Regulations when considering any matter.

**3.2 Principles of decision making**

All decisions of the Council will be made in accordance with the following principles:

- Proportionality i.e. the action should be proportionate to the desired outcome
- Following due consultation and the taking advice from staff
- Respect for human rights
- Presumption in favour of openness
- Clarity of aims and desired outcomes

**4. Chairing the Council (role of the Town Mayor).**

4.1 The Town Mayor, who is also the Chair of the Council, will be elected by the Council annually and will receive regular briefings by the Town Clerk on current issues. While the title confers no additional powers on the Town Mayor, as Chair they will have the following responsibilities:

- to uphold and promote the purposes of the Standing Orders and Financial Regulations, and to interpret the Standing Orders and Financial Regulations when necessary;
- to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community;
- to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who do not hold committee chairs are able to hold the Town Mayor and committee chair's to account;
- to promote public involvement in the Council's activities;
- to be the conscience of the Council; and
- to attend such civic and ceremonial functions as the Council and he/she determines appropriate.
- Reflecting the balance of evidence, legal or financial advice

**5. Principles Underlying Staff/Member Relations.**

5.1 The Nolan Report on Standards of Conduct in Local Government suggests that 'No local authority can function properly without a good relationship between its Members and its staff. Where the relationship breaks down, an atmosphere of suspicion or dislike can make it very difficult to devise and implement policies in any consistent way.' The

general principles which govern the conduct of Members (selflessness, honesty and integrity, objectivity, accountability, openness, personal judgement, respect for others, duty to uphold the law, stewardship and leadership) require Members to respect the impartiality and integrity of an authority's statutory staff and other staff. Those principles are equally appropriate for staff in their dealings with Members.

5.7 Roles of Members.

Members are responsible to the electorate and serve only so long as their term of office lasts. Members are democratically elected and are accountable to the electorate for their actions. An important feature of each Member's role is to represent the interests of his/her constituents, irrespective of how they may have voted in an election. The expectation is that Members will be more aware of the views of their constituents on major policy developments before decisions are taken collectively at Council meetings.

5.8 Roles of Staff.

The Town Clerk is responsible for day-to-day managerial and operational decisions within the Council and the provision of support to all Members. The Town Clerk has 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 recorded in the Minutes of the Council.

5.9 Employer/Staff Issues.

At the heart of this Protocol, is the importance of mutual respect. Staff/Member relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between staff and Members should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

- 5.10 Members should recognise in their dealings with staff that inappropriate conduct or behaviour on their part could lead to a case being brought to an employment tribunal by an aggrieved staff member. It is proper for a Member to make written or oral representations about a matter affecting a constituent who also happens to be a staff member but he/she should avoid taking a proactive part or represent or act as an advocate on behalf of the staff in any disciplinary or grievance procedures brought against the Council by the staff member.
- 5.11 Members should not place inappropriate pressure on staff and must ensure that all communication between them (including written communication) does not bring the Council into disrepute, cause any embarrassment to them, or lead to a breakdown of mutual trust respect and courtesy in Staff/Member relations.
- 5.12 In particular, Members and staff should promote equality by not discriminating unlawfully or otherwise against any person. They should treat people with respect, regardless of their race, age, religion, gender, sexual orientation or disability.
- 5.13 A Member should not raise matters relating to the conduct or capability of a staff member in a manner that is incompatible with the objectives of this Protocol. This is a long-standing tradition in public service. A staff member has no means of responding to such criticisms in public. If a Member feels he/she has not been treated with proper respect, courtesy or has any concern about the conduct or capability of a staff member,

and fails to resolve it through direct discussion with the staff member, he/she should raise the matter with the Town Clerk. The Town Clerk will then look into the facts and report back to the Member.

- 5.14 Any action taken against a staff member in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 5.15 A staff member should not raise with a Member matters relating to the conduct or capability of another staff member at or in a manner that is incompatible with the overall objectives of this Protocol. This does not, however, prevent a staff member raising a concern with a Member under the Council's whistleblowing procedure
- 5.16 Where a staff member feels that he/she has not been properly treated with respect and courtesy by a Member, he/she should raise the matter with the Town Clerk, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Town Clerk will take appropriate action either by approaching the individual Member or by referring the matter to the Monitoring Officer at the Unitary Authority in the context of the Standards Committee considering the complaint.
- 5.17 Guidance on personal relationships is contained in the Code of Conduct within the Staff Handbook. Provided these are observed, more informal exchanges may be appropriate between Members and staff outside business meetings and formal events.
- 5.18 It is important that there should be a close working relationship between Members, Chair's and leaders of political parties with staff. However, such relationships should never be allowed to become so close, or appear to be so close as to bring into question the issue of impartiality into doubt.

## **6. Staff support to Members.**

- 6.1 The Town Clerk is responsible for day-to-day managerial and operational decisions within the authority and for the provision of support to all Members.
- 6.2 Certain statutory staff members - the Proper Officer and Responsible Financial Officer have specific roles. These are addressed in Standing Orders and Financial Regulations. Their roles need to be understood and respected by all Members.
- 6.3 Independence of the Town Clerk  
The Town Clerk is not answerable to any individual Member, not even to the Chair (Town Mayor). The Town Clerk is an independent and objective servant of the Council as a single corporate body, recognising that the Council is responsible for all decisions and taking instructions from the Council in its capacity as a single corporate body. The Town Clerk is not a secretary and is not at the beck and call of the Chairman or other Members. The clerk is the proper officer of the council in law. Legally councils can delegate decisions to clerks because they are trusted professional officers whose objectivity allows them to act for the Council. The Clerk cannot be line-managed by any one councillor.
- 6.4 The Town Clerk has a right and a duty to report to the Council, or any committee or subcommittee on any issue which he/she deems appropriate. He/she has a right and

obligation to obtain sound advice as he/she deems appropriate in order to assist in his/her role in reporting to the Council.

- 6.5 As an independent and objective professional, the Town Clerk (or such delegated staff member) advises the Council on whether decisions are lawful and ways in which decisions can be implemented.
- 6.6 The Town Clerk, or another staff member or adviser as he/she determines, shall research topics of concern to the Council and provide unbiased information to enable the Council to make an informed decision.
- 6.8 Members must not issue orders, instructions or directions to staff. Authorisation to carry out work on behalf of the Council can only be issued by the Town Clerk and/or the Responsible Finance Officer. The office of Town Mayor or as a Committee Chair does not confer this status.
- 6.9 Staff will do their best to give timely responses to Members' enquiries. However, staff should not have unreasonable requests placed on them. Their work priorities are set and managed by their Line Managers. Members should avoid disrupting staff members work by imposing their own priorities.
- 6.10 Much of the work of the Council is time sensitive and staff are usually working to tight deadlines. In order to help minimise disruption and to enable staff to plan and prioritise their work programme, Members should always seek to make an appointment to see a staff member and give an outline of what issues are to be discussed. This will help staff to provide the most relevant advice as preparation and research where necessary can be carried out before the meeting.
- 6.11 Members should try to give timely responses to enquiries from staff, particularly where the Council must itself comply with legal time limits for making decisions (for example in relation to planning applications).
- 6.12 Staff should not discuss with a Councillor personal matters concerning him/herself or another individual staff member. This does not prevent an officer raising on a personal basis, and in his/her own time, a matter with a Councillor.
- 6.13 Members and staff should respect each other's free time. Council business should only be discussed when both Councillor and staff member are acting in their official capacity.
- 6.14 Staff member Advice to Party Groups and Individual Members.  
It must be recognised by all staff and Members that in discharging their duties and responsibilities, staff serve the Council as a whole and not any political group, combination of groups or any individual Councillor of the Council. In the law relating to town councils, there is no provision for dealing with party political groups.
- 6.15 Staff must at all times maintain political neutrality. They are not servants of any particular party, group, or individual although where a party or group has a majority of seats on the Council, staff can take appropriate recognition of that fact in the day to day working of the Council as long as no decision or regulation of the Council is not complied

with or breached. All staff must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.

6.16 Certain points must, therefore, be clearly understood by all those representing party groups. In particular:

- staff assistance must not extend beyond providing information and advice in relation to matters of Council business. Staff must not be involved in advising on matters of party business.
- where staff provide information and advice to a party group in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council decision making body when the matter in question is considered.
- Whilst support for Members' ward work is legitimate, care should be taken if staff are asked to accompany Members to ward surgeries. In such circumstances:
  - the surgeries must be open to the general public, and
  - staff should not be requested to accompany Members to surgeries held in the offices or premises of political parties.
  - Staff must never be asked to attend ward or constituency political party meetings.

6.17 It is acknowledged that some Council staff may receive and handle messages for Members 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.

6.18 In seeking to deal with constituents' queries or concerns, Members should respect the Council's procedures. Staff have many pressures on their time. They may not be able to carry out the work required by Members in the requested timescale and may need to seek instructions from their Line Managers.

## **7. Use of Council Resources.**

7.1 A Member must, when using or authorising the use of the resources of the Council, act in accordance with the authority's requirements and ensure that such resources are not used for political purposes and that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the Member has been elected or appointed.

7.2 The Council provides support services such as stationery, typing, printing, photocopying to Members to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business and should never be used in connection with party political or campaigning activity or for private purposes.

## **8. Members' Access to Information and to Council Documents.**

8.1 There is a general presumption of open government within the Council. Members are free to approach the Town Clerk to obtain such information, explanation and 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.

- 8.2 Where information is requested on behalf of a third party, this will be treated as a request made under the Freedom of Information Act 2000, and the Council's normal procedures under that Act will be followed.
- 8.3 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law. Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted by the Council. This right applies irrespective of whether the Member is a Member of the Committee or Sub Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items which may appear as a confidential item on the agenda for a meeting. The items in question are those which contain exempt information relating to staff, occupiers of Council property, applicants for grants and other services, the care of children, contract and industrial relations negotiations, advice from Counsel and criminal investigations.
- 8.4 A Member has a *prima facie* right to inspect Council documents so far as his/her access to the document is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the 'need to know' principle.
- 8.5 The exercise of this common law right depends therefore, upon an individual Member being able to demonstrate that she/he has the necessary 'need to know'. In this respect a Member 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'. This question must be determined by the Town Clerk.
- 8.6 In some circumstances (e.g. a Committee Member wishing to inspect documents relating to the business of that Committee) a Member's 'need to know' will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) the Member will normally be expected to justify the request in specific terms. In some circumstances duties of confidentiality to external bodies, or imposed by statute may override the common law right.
- 8.7 Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member's duties as a Member of the Council. Therefore, for example, early drafts of Committee reports/briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied.
- 8.9 A Member must not:
- I. disclose information given to him/her in confidence by anyone or information acquired which he/she believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so; and
  - II. prevent another person from gaining access to information to which that person is entitled by law'
- 8.10 Any such breach of confidence may result in censure by the Council or in a complaint to the Monitoring Officer or, if sufficiently serious, in civil action against the Member and/or the Council for damages.

**9. Correspondence (including email).**

9.1

Letters and emails must be sent on Llangollen Town Council headed paper or from a Council account. It will, however, be appropriate in certain circumstances (e.g. representations) for a letter or email to appear in the name of the Town Mayor as Chair of the Council. Letters and emails which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

**10. Publicity and Press Releases.**

10.1

Press releases will be issued in accordance with the Press and Media Policy as adopted by the Council.

**11. Arbitration.**

11.1

Mutual understanding, openness on these sorts of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Members and staff. Where necessary, the Town Clerk will arbitrate on the implementation of this protocol in line with other Town Council policies, Standing Orders and Financial Regulations.