



# Penrith Town Council

Unit 1, Church House, 19-24 Friargate, Penrith, Cumbria, CA11 7XR

Tel: 01768 899 773 Email: [office@penrithtowncouncil.gov.uk](mailto:office@penrithtowncouncil.gov.uk)

## MEMBER AND OFFICER RELATIONS

### Core values

Following Lord Nolan's report on Standards in Public Life (1997) the Government approved a set of General Principles of Conduct.

Relations between Members and Officers should always be on the grounds of "mutual respect" with normal standards of courtesy maintained at all times, and without any close personal familiarity which could prove embarrassing and damaging to both parties.

It is important that any dealings between Members and Officers should observe proper standard of courtesy and respect and that neither party should seek to take unfair advantage of their position. These principles were set out in the previous National Code of Local Government Conduct (1990) and subsequent revisions and remain relevant.

The long-standing requirements on Members, as employers, were re-affirmed in law by an Employment Appeals Tribunal, *Moores v Bude & Stratton Town Council*. This confirmed that the Council collectively was the employer and that the unofficial actions of an individual Member could destroy the entire basis of the employer/employee relationship and that employees were entitled to a "reasonably congenial working relationship".

The Council acknowledges that the role of the Council Member is voluntary, without payment and appreciate the commitment of Members who contribute to the effectiveness of the Council.

Effective working relationships between Members and Employees of the Council are key if the Council is to work effectively.

It is reasonable for both Members and employees to expect:

- a. To be able to carry out their roles effectively and efficiently;
- b. To behave in a manner which does not bring the Council in to disrepute;
- c. To be helpful, respectful and courteous;
- d. To work together equally and fairly, based upon mutual trust;
- e. To maintain confidentiality where it is proper to do so;
- f. Not to breach Council policy or procedure or to act unlawfully;
- g. Not exert, influence or pressure or to request special treatment.
- h. Not to raise concerns about an individual in a public setting and to raise such concerns in an appropriate manner in accordance with Council policy;
- i. To respect that we all have a right to a private life and be sensible about making contact at potentially inconvenient times unless in an emergency or otherwise agree.

Wherever possible the Council will strive for an effective working partnership between Members and Employees however when there are potential problems it is hoped that they resolved by early discussions between a Councillor and the Council Chair or Mayor or the Town Clerk.

Specific matters that breach the Code of Conduct for Members will be reported to the Monitoring Officer of Eden District Council if they have not been successfully resolved informally.

Specific matters involving the Council's employees will be considered under the Council's grievance or disciplinary procedures.

**Supporting documents:** Copies of this statement and the following documents will be issued to all Members on election or co-option, and to all Employees on appointment and will compliment any statutory procedures and existing policies:

- 1. Member and Officer Roles and Responsibilities**
- 2. Member and Officer Governance Responsibilities**

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## MEMBER AND OFFICER ROLES AND RESPONSIBILITIES

Both Members and Officers serve the public, and they are indispensable to one another. They depend on one another, but their roles and responsibilities are quite distinct. Understanding the different roles and responsibilities is key to maintaining good relations.

Members are responsible to the electorate and serve only so long as their term of office lasts. Members decide on the priorities for the Council, set the budget, represent their constituents (including those who have not voted for them) and collectively make decisions on behalf of the Council. The authority of Members is collective, and, as individuals, they have no authority to issue specific directions to any employee or make criticism directly.

Members must not formally inspect any Council property without authority or issue orders or correspondence. Members must not initiate a project or engage in serious considered discussions that might give the impression to the public that the Council supports or otherwise the project or initiative, prior to the Council passing a resolution on the matter.

Only the Clerk can give instructions to employees of the Council and only the Full Council or a properly constituted committee can give instructions to the Clerk and officers of the Council. Individual Members cannot therefore attempt to direct the work of employees. Officers give information and advice to the Council.

Members are entitled to receive the best possible advice on any topic and the Clerk or Officers are available (preferably by appointment) to give advice, either individually or collectively. Any questions relating to approved policies, future developments of the Council or legislation initiatives should be directed to the Clerk.

Under the law, responsibilities can be delegated by the Council to Committees or to named Officers, but not to individual Members: Members may give instructions to any member of staff, if authorised to do so (for example, three or more Members sitting as a committee or sub-committee with appropriate delegated powers from the Council).

In between meetings it is important to remember that the law allows decisions relating to the discharge of any of the Council's functions to be taken only by the Council, committees, or an Officer. The law does not allow for such decisions to be made by a Chair or by any other single Councillor.

Officers are accountable to the Town Clerk and that whilst Officers should always seek to assist a Chair (or indeed any Councillor) they must not go beyond the bounds of whatever authority they have been given by the Town Clerk. In the case of uncertainty, the Officer should always check with the Town Clerk.



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## **MEMBER & OFFICER GOVERNANCE RESPONSIBILITIES**

### **Preparation of council agendas, minutes and reports and conduct of meetings**

The Clerk, or other appointed Officer, is responsible under statute for preparing the Agenda for all meetings of the Council, Committees, Sub Committees and Task and Finish Groups and for circulation of them to meet statutory requirements but may do so in consideration with the appropriate Chair. Additional matters for discussion may only be considered at the discretion of the Chair, in agreement with the Clerk.

Whilst the Chair of a committee can consider an agenda for a forthcoming meeting, it must be recognised that the Officer will have ultimate responsibility for the final content of that agenda because the setting of an agenda cannot be delegated to an individual Councillor. The Clerk, or other appointed Officer, is responsible for the content of all minutes and for circulation of them to meet statutory requirements.

An Officer will be present at all meetings involving Members of the Council and will advise on any questions relating to Standing Orders, Financial Regulations, legal requirements or committee procedures and will produce formal minutes of the meeting.

When a named Officer has produced a written report for the consideration of Members he/she is known as the "Lead Officer" for the topic and is always given the opportunity to introduce the report and answer any questions about it, preferably having received notice verbally or in writing. The Lead Officer may not necessarily be the same Officer who attends to give advice on legal requirements or procedures and product the minutes as referred to above.

All reports will contain a Recommendation which formally sets out the best advice from the Officers concerned, although the decision to accept this or not rests with the Members.

Any Member is entitled to submit a Notice of Motion relevant to some question over which the Council has power or which affects its area, for inclusion on a relevant Committee agenda. It must be submitted in accordance with the Council's Standing Orders.

## **Correspondence & communications**

Questions from Members are always welcome on any aspect of the Council's policies and activities. Members are requested to make an appointment with the relevant Officer and give notice of the topic, so that it can be researched or submit the question in writing or by email. The opportunity is always given for the Officer concerned to answer in writing, preferably within five working days from the date of the appointment.

Meetings with the Clerk or other Officers should be arranged by an appointment; Appointments will not be available on the day the agenda is issued or on the day of a Full Council meeting and meetings should be relevant to the work of that officer. Members should be clear that the matter is legitimate Council business and not matters driven by personal or political agendas.

Correspondence between Members and employees should not normally be copied to any other party. There are exceptions to this general rule. If the original correspondence was copied to other parties then it may be legitimate to send a response to those parties.

There may also be occasions where the correspondent gives rise to concern for the employee for example in relation to possible breaches of the Code of Conduct or that the Council may be brought into disrepute by the actions of the Councillor. In such cases it is legitimate for the employee to share correspondence with the Chair of the Council or, where appropriate, the Monitoring Officer of Eden District Council.

Members are requested to reply in good time to any correspondence sent, to invitations to key Civic Events and to give their apologies to the Town Clerk or relevant Officer in respect of any meetings that they are unable to attend.

E-mails wherever possible will be replied to, within 5 working days and E-mails from Members to external parties (on Council matters) should be copied to the appropriate officer. Members are reminded that all emails are subject to the Freedom of Information Act 2008. Members should acknowledge their e-mails when requested to do so and Officers and Members are not required to send read receipt acknowledgements of emails.

Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer rather than in the name of a Councillor. It may be appropriate in certain limited circumstances (e.g. representations from the Council Chair, Mayor or Committee Chair to a Government Minister) for a letter to be sent out in the name of a Councillor, but this should be the exception rather than the rule.

Letters that create obligations or give instructions on behalf of the Council may not be sent in the name of a Councillor, because an executive act cannot be delegated to an individual Councillor

## **Relations with the media**

Publicity is a sensitive matter in any political environment because of the impact it can have. It is essential, therefore, that those Council decisions on publicity be properly made in accordance with clear principles of good practice. The Government has issued a Code of Recommended Practice on Local Authority Publicity.

Relations with the media needs to be handled with care to ensure the Council's position on any issue is represented properly. The Town Clerk and Community Engagement Officer will normally handle day-to-day contact with the press and media. Where necessary, they will consult the relevant Chair/Council Chair/Mayor/other Members.

Where a media interview is needed on major or Member issues, the Town Clerk and the relevant Chair/Council Chair/Mayor will discuss who is to be the appropriate spokesperson. On occasions, other Members may assume this role and, similarly, the Town Clerk may nominate one of his Officers to speak on his behalf.



Sometimes Members may be approached directly by the press and media and asked to comment or to appear for interview. In these circumstances, Members are asked, where practicable, to ensure the Town Clerk, and/or Chair/Council Chair/Mayor are made aware of the approach. If it is not possible for a Member to do this, Members are asked to do so as soon as reasonably practicable afterwards. In all cases, Members are asked to uphold the good name and integrity of the Council.

All press releases should be sent from the Council Office and not by individual councillors.

## **Members' access to information and council documents & confidentiality**

All Members have a right to expect to be kept informed about matters on which they may be required to make decisions, or which affect the Parish. The Clerk should aim to ensure that all Members are kept fully informed in relation to important issues.

If the Council organises a meeting to consider a local issue then all Members are invited to attend that meeting.

Members have the same right as the public to have access to agendas, reports and minutes of meetings which are held in public and have the right to access information given by the Freedom of Information Act.

This right does not, however, extend to documents relating to items that may appear in Part II of Agenda for meetings (confidential information). The items in question are those which contain "exempt information" as contained in Schedule 12A to the Local Government Act 1972 (see 'Access to Information' in the Constitution).

Both Members and Officers must note that where information of a possible defamatory nature is contained within a document, any inspection which is allowed is allowed on the clear understanding that neither the document nor its contents should be passed on to anyone else.

A Member must only use any Council information provided to him/her for the purposes for which it was provided i.e. in connection with the proper performance of the Councillor's duties as a Member of the Council.



For example, an early draft Committee report/briefing paper is not suitable for public disclosure and should not be used other than for the purpose for which it was supplied.

All confidential Agendas/Reports are circulated on pink paper and are "exempt information" as defined by the Local Government Act 1972. Reports or discussions thereon should not be revealed outside any Council meeting and the facility is available at the Council's offices for shredding confidential Agendas/Reports:

Once a report has been issued within Part II of the Agenda for a meeting, and until the Committee decides it should not be discussed in the absence of the press and public, Members and Officers must respect the confidentiality of the report and not disclose it to a third party. It does not follow that all the contents of the report must be regarded as secret.

A Member should never disclose or use confidential information for the personal advantage of himself/herself or of anyone known to him/her or to the disadvantage or discredit of the Council or anyone else. This point is emphasised in the Members' Code of Conduct.

It may be only certain items of information or terms of negotiations which justify the inclusion of that report in Part II. Other aspects of the report may already be within the public domain or otherwise outside the definition of "exempt".

A Member may accordingly refer to these aspects in discussion with third parties but must exercise proper care and judgement not to reveal those elements of the document which are protected, and it will always be prudent to consult the Town Clerk before doing so.

Any unauthorised disclosure of confidential information by Members constitutes a breach of the Members' Code of Conduct. In this event, the matter would be referred to the Principal Authority's Monitoring Officer for consideration.