

PERRANZABULOE PARISH COUNCIL COUNCILLOR OFFICER PROTOCOL

INTRODUCTION

In this document, the term “Officer” normally refers to the Clerk to the Parish Council, who is the Proper Officer responsible for the implementation of Council decisions.

Perranzabuloe Parish Council exists to serve the interests of its parish. Councillors and officers have a joint responsibility to ensure that they work collaboratively to ensure an efficient, transparent and democratic Council focused on these interests.

Perranzabuloe Parish Council is determined to provide excellent local government for the people of Perranzabuloe. It has produced this Councillor Officer Protocol in order to promote the highest standards in public life and harmonious working relationships. The Council has agreed the following protocol about the relationship between Councillors and Officers in order to clarify roles and responsibilities.

Given the variety and complexity of such relations, this protocol cannot be prescriptive or cover all eventualities. However, it does aim to be instructive and offer guidance on some common issues and provide points of principle that can be applied to other issues that might arise.

The protocol refers extensively to Councillors’ relationships with Officers and other staff directly in the service of the Council. The principles of the protocol also apply to Councillors’ dealings with other people not directly employed by the Council but who are in an employment based relationship with the authority.

Partnership, based on mutual trust and respect between volunteer Councillors and paid officers, is essential in achieving good local government. However, this partnership will not be effective unless there is a clear understanding by all of the role and obligations of Councillors and the separate roles and duties of Officers. This protocol sets out these roles, obligations and duties and also the ground rules for all to observe, and is based on guidance from the Cornwall Association of Parish Councils. It should be read in conjunction with the Perranzabuloe Parish Council’s Standing Orders. The standards of the protocol are binding and apply equally to elected Councillors and co-opted Councillors and to Officers where there is a joint responsibility.

Roles of Councillors and Officers

There shall be mutual courtesy and respect between Councillors and Officers with regard to their respective roles.

Councillors and Officers shall each carry out their respective duties in the best interests of the whole community.

This protocol applies to all dealings between Councillors and Officers and not only at formal meetings.

COUNCILLORS must observe the Code of Conduct whenever they are conducting the business of the Council, and/or representing the Council.

Councillors are responsible to their electorate for so long as their term of office lasts and have a duty to act in the best interests of the electorate and the Council. Officers are responsible to the Council.

Councillors ensure the Council and its Officers are aware of the concerns of the electorate and help decide the overall direction of the Council and, where appropriate, act in a supporting role in carrying out the work of the Council. Councillors have personal, individual and collective responsibility for the Council and its activities. They are responsible for ensuring that adequate management and financial arrangements are in place and they monitor the performance, development, continuity and overall well-being of the Council.

Councillors may be designated to act in a certain role or as a positive focus for a particular section of the Council's activities. However, the Council is not entitled to delegate decision-making on behalf of the Council to individual Councillors. The Council is entitled to delegate certain decision-making and functions to an Officer or to committees of Councillors.

Councillors:

- Develop and set policies that will then be implemented by Officers
- Monitor how those policies are being implemented.
- Where their office allows them to do so, provide guidance to Officers on how those policies are to be implemented, either if Councillors wish to do so or if Officers ask for guidance.
- Represent the views of their community constituents
- Recognise the statutory roles of the Clerk, as Proper Officer and Responsible Financial Officer to the Council, and of the significance attached to their advice.
- Promote the highest standards of conduct and ethics.

Councillors must not insist that any Officer take any action, or not take action that the Officer considers unlawful or illegal, is in direct contradiction of any code or guidance, contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.

Any council information provided to a Councillor must only be used by that Councillor for the purpose for which it was provided, namely in connection with the Councillor's duties as a Councillor of the Council, unless the information is already in the public domain.

Councillors must not disclose information given to them in confidence by anyone without the consent of the person authorised to give it, or unless they are required to do so. Equally, Councillors must not prevent other persons from gaining access to information to which those persons are entitled by law.

Councillors should always seek advice from the Clerk before disclosing confidential information, in order to safeguard against possible breaches of the Data Protection Act (which applies to all information of a personal nature). Generally, personal information cannot be released without the consent of the person to whom it relates. Improper disclosure of confidential information can put the Councillor and the Council at legal and financial risk.

Regular contact between Councillors and Officers is necessary to ensure the efficient working of the Council and should occur on a planned and reasonable basis in order that it is constructive and not destructive to the ability of Officers to perform their duties on behalf of the Council.

Planned appointments, where meetings are needed to further the interests of the Council, are the best way of arranging contact between Councillors and Officers. This protects the interests of the Council and its employment responsibilities by ensuring that the ability of the Officer to carry out the work of the Council is not impeded and to ensure that the Officer can set aside an appropriate amount of time to meet with and concentrate on a Councillor or group of Councillors

OFFICERS give advice to the Councillors and carry out the decision and work of the Council. Officers manage and provide the services for which the Council has responsibility. They are accountable for the efficiency and effectiveness of those services and for proper professional practice in discharging their responsibilities and for taking decisions within agreed policy. They provide advice to the public and

Councillors in respect of the services provided. They initiate policy proposals, implement agreed policy, ensure that the Council acts lawfully and in accordance with the principles of sound financial management and represent the Council on external bodies.

Officers:

- Implement the policies set by Councillors
- Will seek appropriate guidance on implementation of the policies set by Councillors if they are unclear about any aspect of those policies.
- Give professional advice to Councillors as may be required by them from time to time, recognising the different needs for advice Councillors may have in their different capacities as Councillors.
- Carry out their delegated functions to the best of their ability and in the interests of the Council.
- Must remember that he/she is employed by Perranzabuloe Parish Council as a whole and not by any particular part of the Council
- Are under a duty to help all Councillors and all parts of the Council equally
- Must take all relevant matters into account when formulating advice to Councillors.

Officers must not:

- Set policy other than for the smooth running of office procedures and processes and as may have been delegated through Standing Orders.
- Take any action, or not take action, which would be unlawful or illegal, is in direct contradiction of any code or guidance, contrary to the Council’s budget or policy framework, or which would be likely to amount to maladministration.

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It is clearly important that there should be close working relationship between Councillors and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers ability to deal impartially with other Councillors. Officers must ensure their neutrality in representing the Council is not compromised.

Whilst Councillors might be consulted as part of the process of drawing up proposals for consideration on the agenda of a forthcoming meeting, it must be recognised that Officers are under a professional duty to provide an agenda.

Officers also submit reports based on their professional judgement to the Council. The Clerk will always be responsible for the contents of any reports submitted in their name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report.

Any issues arising between a Councillor and the Clerk should be resolved informally if possible using appropriate procedures and, where appropriate progressing through relevant Council procedures where more formal resolution becomes necessary.

Officer’s advice must be full and impartial and should include all relevant options to enable a full considered decision of the Council.

RELATIONSHIP BETWEEN COUNCILLORS AND OFFICERS

The relationship between Officers and Councillors should be characterised by mutual respect, courtesy, trust, honesty and understanding of each other’s roles. This is essential to good local government.

This should prevail in all meetings and contacts whether formal or informal; this protocol should also inform behaviour with external contacts, e.g. Partner Organisations to ensure that Councillors and Officers are conducting themselves in a way that is appropriate when representing the Council.

Neither Councillor nor Officer should seek to take unfair advantage of their position in their dealings with each other. Councillors should not apply pressure on Officers to do anything that they are unwilling to do or are not empowered to do. Similarly, Officers must not seek to use influence on an individual Councillor to make a decision in the personal favour, as opposed to in the interests of the Council.

Close personal familiarity between individual Councillors and Officers can damage the principle of mutual respect. It could also, intentionally or unintentionally, lead to the passing of confidential information which should not properly be passed between them, such as personal details. Such familiarity could also cause embarrassment to other Councillors and/or other Officers and could even give rise to suspicions of favouritism. It should therefore be avoided.

Any close personal or family relationship (e.g. parent/child; spouse/partner) between employees and Councillors should be disclosed to the Clerk or Chairman who will then decide how far this needs to be disclosed to others. Councillors must also declare any such relationship with an Officer which might be seen as influencing their work.

Councillors must not sit on a Council body responsible for any employee who is a relative or a friend as defined by the code of conduct.

Officers and Councillors should address each other formally at meetings of Full Council, Committee Meetings and any other formal meetings that Officers attend that are open to the public

Councillors must not obstruct the work of Officers by unnecessarily taking up their time or in any way acting to impede their ability to proceed with their professional duties. Officers must equally respect the role of Councillors and will only request additional supporting work from Councillors where necessary or beneficial to the Council.

Councillors and Officers must conduct themselves in a way that is acceptable within a professional environment. They must afford dignity, trust and respect to everyone and themselves. They must have awareness of the effect of their behaviour on others and only make a reasonable and manageable demand. They must communicate honestly and openly, clearly stating what they mean and expect of others. They must provide honest feedback based on evidence and be open to constructive criticism. They must start from the assumption that everyone is working to the best of their ability, considering their current stage of personal and professional development.

Examples (not a comprehensive list) of unacceptable behaviour are:

Discrimination – Council affords equal opportunities in the workplace irrespective of disability, gender, race, religion, age, sexuality and marital status.

Harassment, which is conduct that is unwanted and offensive and affects the dignity of an individual or group of individuals.

Bullying, a type of harassment consisting of persistent actions, criticism or personal abuse in public or private, which humiliate, intimidate, frighten, undermine or demean the individual.

Councillors must not insist that any Officer take any action, or not take action that the Officer considers unlawful or illegal, is in direct contradiction of any code or guidance, contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.

Regular contact between Councillors and Officers is necessary to ensure the efficient working of the Council and should occur on a planned and reasonable basis in order that it is constructive and not destructive to the ability of Officers to perform their duties on behalf of the Council.

COUNCILLORS ACCESS TO DOCUMENTS

Councillors' right to inspect Council documents is restricted and will not apply to certain items, for example because they relate to individual employees. Officers will provide documents, which are, on the face of it, reasonably necessary to enable Councillors properly to perform their duties for the Council. This is often referred to as the 'need to know' principle. However, Councillors do not have a 'roving commission' to examine any documents nor access the computers of the Council. Mere curiosity is not sufficient.

A Councillor requesting access to documents should direct their enquiry to the Clerk. Officers will be concerned to furnish Council Councillors with such information, advice and access to documents which they require for the proper performance of their duties conducted for the Council. If disclosure of a document is in the Officer's view either not required or not appropriate, they will inform the Councillor and will give reasons why disclosure would not be appropriate.

Any dispute regarding a Councillor's access to a document should be referred for resolution to the Chairman and, where needed, through formal council procedures.

REPRESENTING INTERESTS

Officers are neutral in that they serve the whole Council and not a particular sector. Councillors might have an affiliation with a particular group within the public but should be making decisions based on the responsibility to the Council and its electorate as a whole.

COMMUNICATION AND ADVICE

Save in exceptional circumstances, all letters and other communication on official Council business should be sent out in the name of the Proper Officer (The Clerk). Communications which create obligations or give instruction on behalf of the Council should never be sent out under the name of a Councillor.

PUBLIC RELATIONS AND PRESS RELEASES.

The Clerk has overall responsibility for public relations and press releases on behalf of the Council. Political and lobby/action group press releases and publicity must not be issued at the initiative of individual Councillors or Officers using the resources of the Council. There is, of course, nothing to prevent any Councillor from communicating with the media, but they should bear in mind that they are not doing so on behalf of the Council and should not use Council facilities or resources for this purpose.

Subject to the provisions of the Freedom of Information Act 2000 correspondence between individual Councillors and officers will be treated as confidential unless the Councillor or Officer indicates otherwise.

DISPUTES

With goodwill, respect and integrity on both sides there ought to be very few occasions when a disagreement between an Officer and a Councillor cannot be resolved amicably. If there is a serious dispute of substance it should be discussed in the first instance between the Councillor and the Clerk and dealt with by the Chairman, where needed, or Council procedures. It should be noted that two frequent routes of action for unresolved disputes and behaviour issues are recourse to disciplinary/grievance procedures (and in some cases employment tribunals) and reports of breach of the Code of Conduct.

COMPLAINTS ABOUT OFFICERS OR SERVICES

Councillors have the right to criticise reports or the actions taken by Officers, but they should always

- Avoid personal attacks on Officers
- Ensure that criticism is constructive and well-founded.

Councillors should avoid undermining respect for Officers at meetings, or in any public forum. This would be damaging, both to effective working relationships and to the public image of the Council. It would also undermine the mutual trust and courtesy that is an essential element of a well run authority.

Complaints about Employees or Council services should be made to the Clerk. Within three days the Clerk will

- Acknowledge your complaint
- Say if they intend to take action
- Say how long they need to investigate.

Councillors have a right to know if action has been taken to correct a matter, but they must not, either,

- Influence the level of disciplinary action to be taken against an Officer, nor
- Insist (nor be seen to insist) that an employee is disciplined.

Where appropriate Councillors will be told the outcome of the investigation.

If a Councillor is not satisfied that action has been taken to deal with the complaint it may be referred to the Chairman by the Councillor concerned.

COMPLAINTS ABOUT COUNCILLORS

Complaints about Councillors behaviour by Officers should be made to the Monitoring Officer at Cornwall Council. Within three days, the Monitoring Officer will,

- Acknowledge the complaint
- Say if the monitoring Officer intends to take action
- Say how long the Monitoring Officer needs to investigate
- Where appropriate the Monitoring officer shall also advise the Chairman.

Where appropriate the Officer will be told the outcome of the investigations.

If an Officer is not satisfied that action has been taken to deal with the complaint it may be referred to the Chairman by the officer concerned. Nothing within this provision shall attempt to circumvent the provisions of the Code of Conduct or Councillors obligations under the Code.

FURTHER ADVICE

Advice on the application of this protocol should be sought from the Clerk.

Date of Meeting when adopting.....

Signed.....(Chairman)

Signed.....(Clerk)