



Wells City Council

PROTOCOL FOR COUNCILLORS AND STAFF

Document No.28

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| Purpose | This protocol has been adopted in order to provide guidance to both Councillors and Staff in the management of their interactions with each other as well as with representatives and staff of other outside bodies |
| Additional Papers | This protocol should be read in conjunction with: Document 1 Standing Orders |
| Reviewed by | Staffing |
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Wells City Council Constitution

Protocol for Councillors and Staff Relations

January 2025

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1. Introduction and principles

Mutual understanding, openness on these sorts of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Cllrs and staff.

The purpose of this protocol is to guide councillors and staff of Wells City Council in their relations with one another and their dealings with other councillors 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.

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 councillors receive objective and impartial advice and that staff are protected from accusations of bias and any undue influence from councillors. Equally, any concerns are address through the noted process (Section 11) expediently.

It also seeks to reflect the principles underlying the code of conduct which apply to councillors. The objective of this code is to enhance and maintain the integrity (real and perceived) of local government and the code, therefore, demands very high standards of personal conduct.

The Council has adopted the codes of Conduct for councillors, and this protocol should be read in conjunction with that code and the relevant provisions of the Council's other adopted policies.

Principles underlying councillors/staff relations:

The Nolan Report on Standards of Conduct in Local Government suggests that 'No local authority can function properly without a good relationship between its councillors 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 councillors (selflessness, honesty and integrity, objectivity, accountability, openness, personal judgement, respect for others, duty to uphold the law, stewardship and leadership) require councillors 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 councillors.

2. Roles and Responsibilities

Both Councillors and staff are servants of the public and they are indispensable to one another, however, their responsibilities are distinct.

Role of councillors:

Councillors are responsible to the electorate and serve only so long as their term of office lasts.

Councillors are democratically elected and are accountable to the electorate for their actions.

An important feature of each councillor's role is to represent the interests of their constituents, irrespective of how they may have voted in an election or whichever ward they live in. The expectation is that councillors will be aware of the views of their constituents on major policy developments before decisions are taken collectively at Council meetings.

Councillors should support the Town Clerk in the application and adherence of policy and procedure.

Councillors must not issue orders, instructions or directions to staff. Exception is given to the Mayor who has support from staff to assist with Mayoral duties such as diary keeping.

Councillors should avoid disrupting staff members work by imposing their own priorities, working instead councillors should compare their own ideas and suggestions to the current work programme to ensure new projects are consistent with the agreed priorities and principles of the Council.

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, particularly Managers to plan and prioritise their work programme, councillors 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.

Where councillors wish an officer/s to conduct a project or piece of work which will require a significant amount of staff time, a councillor should first discuss their request with the line manager of the relevant officer or with the Town Clerk.

Councillors 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).

Councillors 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.

Role of the Town Clerk:

The Town Clerk is the Proper Officer for the Council and is responsible for the overall management of the staffing processes of the Council, as set out in this Protocol and the Staffing Handbook.

The Town Clerk is responsible for day-to-day managerial and operational decisions within the Council and the provision of support to all councillors.

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. The Town Clerk, or another staff member or adviser as they determine, shall research topics of concern to the Council and provide unbiased information to enable the Council to make an informed decision.

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. It should be recognised that it is the Town Clerk, rather than councillor, who takes the action and it is the Town Clerk who is legally accountable for it.

On occasion, a decision may be reached which authorises the Town Clerk to act between meetings following consultation with a specific councillor or committee (delegation).

Authorisation to carry out work on behalf of the Council can only be issued by the Town Clerk and/or the Responsible Finance Officer, or nominated officer in their absence. The office of Mayor or as a Committee Chair does not confer this status.

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 answerable to any individual Councillor, including the Chair (Mayor).

The Town Clerk has a right and a duty to report to the Council, or any committee or subcommittee on any issue which they deem appropriate and they have a right and obligation to obtain sound advice as they deem appropriate in order to assist in their role in reporting to the Council.

Role of staff (including Town Clerk):

Support from staff is needed for all the authority's functions including Council, Committees and individual councillors representing their communities etc.

All staff report directly to and are employed by the Town Clerk as referenced within the staff handbook.

Certain statutory staff members, such as the Responsible Financial Officer, have specific roles. These are addressed in Standing Orders and Financial Regulations. Their roles need to be understood and respected.

Authorisation to carry out work on behalf of the Council can only be issued by the Town Clerk and/or the Responsible Finance Officer, or nominated officer in their absence the office of Mayor or as a Committee Chair does not confer this status.

Staff within a department are accountable to their Line Manager and whilst staff should always seek to assist a councillor, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Line Manager.

Staff will do their best to give timely responses to councillor's enquiries. However, staff should not have unreasonable requests placed on them. Their work priorities are set and managed by their Line Managers.

Before agreeing to any project or piece of work requested by councillors that will require a significant amount of staff time, officers should discuss the work with their line manager to evaluate capacity and set measurements for success.

Staff should not discuss with a councillor, personal matters concerning themselves or another individual staff member. This does not prevent an officer raising on a personal basis, and in their own time, a matter with their ward councillors.

Staff should respect the free time of councillors. Council business should only be discussed when both councillor and staff member are acting in their official capacity.

4. Staff member advice to Party Groups and individual Councillors

It must be recognised by all staff and councillors that in discharging their duties and responsibilities, staff serve the Council and not any political group, combination of groups or any individual councillor of the Council.

In the law relating to town or parish councils, there is no provision for dealing with party political groups. Staff must always maintain political neutrality.

They are not servants of any party, group, or individual although where a party or group has most 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 councillors, treat them in a fair and even-handed manner.

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

1. Staff assistance must not extend beyond providing information and advice in relation to matters of Council business.
2. Staff must not be involved in advising on matters of party
3. 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.
4. Whilst support for councillor's ward work is legitimate, care should be taken if staff are asked to accompany councillors to ward surgeries. In such circumstances:
 - a. The surgeries must be open to the general public, and
 - b. Staff should not be requested to accompany councillors to surgeries held in the offices or premises of political parties.
 - c. Staff must never be asked to attend ward or constituency political party meetings.
5. It is acknowledged that some Council staff may receive and handle messages for councillors 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.
 - a. In seeking to deal with constituents' queries or concerns, councillors 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 Cllrs in the requested timescale and may need to seek instructions from their Line Managers.

5. Use of Council resources

A councillor 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, commercial or private 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 councillor has been elected or appointed.

The Council provides support services such as stationery, typing, printing, photocopying to councillors to assist them in discharging their role as councillors 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.

6. Councillors access to information and to Council documents

There is a general presumption of open government within the Council. Councillors are free to approach any Council department to obtain such information, explanation and advice (about that department's functions) as they may reasonably need in order to assist them in discharging their role as councillors of the Council. This can range from a request for general information about some aspect of a department's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the appropriate line manager concerned.

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.

As regards the legal rights of councillors to inspect Council documents, these are covered partly by statute and partly by the common law. Councillors 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 Councillor is a Cllr 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. A Councillor has prima facie right to inspect Council documents so far as their access to the document is reasonably necessary to enable the Councillors properly to perform their duties as a Councillors of the Council.

This principle is commonly referred to as the 'need to know' principle. The exercise of this common law right depends therefore, upon an individual Councillors being able to demonstrate that they have 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 enough. The crucial question is the determination of the 'need to know'. This question must initially be determined by the Line Manager whose department holds the document in question, in consultation with the Town Clerk. A councillor can appeal to Full Council for release of any document.

In some circumstances (e.g. a Committee Cllr wishing to inspect documents relating to the business of that Committee), a Councillors '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), the Councillors 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. Any Council information provided to a Councillors must only be used by the Councillors for the purpose for which it was provided, i.e. in connection with the proper performance of the Councillors duties as a Councillors 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.

A Councillors must not:

1. Disclose information given to them in confidence by anyone or information acquired which they believe 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
2. Prevent another person from gaining access to information to which that person is entitled by law'
3. Any such breach of confidence may result in censure by the Council or in a complaint to the Standards Board for England or, if sufficiently serious, in civil action against the Councillors and/or the Council for damages.

7. Correspondence (including email)

Correspondence between an individual Councillors and a staff member should not normally be copied (by the staff member) to any other councillor. Where it is necessary to copy the correspondence to another Councillors, this should be made clear to the original Councillors.

In other words, a system of 'silent copies' should not be employed. Letters and emails must be sent on Wells City Council headed paper or from a Council account. It will, however, be appropriate in certain circumstances (e.g. representations to a government minister) for a letter or email to appear in the name of the 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 Councillors.

8. Publicity and press releases

Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the authority, explaining its objectives and policies to the electors and Council tax-payers.

Increasingly, local authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council's activities is, in the words of the Government, "to be welcomed".

Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made in accordance with clear principles of good practice.

The Government has issued a Code of Recommended Practice on Local Authority Publicity.

The purpose of the Code is to set out principles that should apply to all publicity at public expense and which traditionally have applied in both central and local government and concerns the content, style, distribution and such other matters as appropriate.

Staff and Councillors of the Council will, therefore, in making decisions on publicity, take account of the provisions of this Code.

If in doubt, staff and/or Councillors should initially seek advice from the Town Clerk. Care should be paid to any publicity used by the Council around the time of an election. Press releases will be issued in accordance with the Media Communications Protocol as adopted by the Council (still to be adopted by WCC).

Relations with the media are the responsibility of the Town Clerk in consultation with the Mayor or Leader of the Council.

The Town Clerk may authorise other staff to provide information or delegate day to day matters in accordance with the approved policy and protocol.

Councillors may comment on approved Council policies but may not comment on behalf of the Council on any non-policy matter.

If any Councillors wishes to make comments to the press, it must be made clear that the comment is that of the individual Councillors and NOT the corporate view of the Town Council.

As outlined in the protocol there are two types of press release:

1. Official Council Releases – An Official Council release is made on behalf of the Council as a whole; it will be written by an officer and issued by the Town Clerk. It is non-party political and will normally include a quote from the relevant Councillors. This is usually the Chair of the Council or Committee Chair.
2. Councillor Press Releases - Councillors press releases are personal and are written and issued by the Cllr responsible. This release may or may not be political and should not include the name of any officer, use the Council logo or the Council telephone number as a point of contact. It would be beneficial for copies of intended releases, especially those of a factual nature, to be provided to the Town Clerk. Councillors seeking advice can either contact the Town Clerk or the Monitoring Officer at Somerset Council. The Town Clerk will assist Councillors in their relations with the media. Any staff member assisting a Councillors with media relations must always act in the interests of the whole Council and in a politically impartial manner. Other than factual statements, Councillors should not seek assistance from a staff member with the preparation or issue of any media statement that will adversely affect the reputation of the Council.

9. Involvement of local Councillor

Whenever a public meeting is organised by the Council to consider a local issue, the Councillors representing the Electoral Division at County Council or Divisions (District Wards) affected should as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Councillors should be notified at the outset of the exercise. More generally, staff should consider whether other policy or briefing papers, or other topics being discussed with Committee, should be discussed with relevant Ward Councillors.

10. Arbitration

Where necessary, the Town Clerk will arbitrate on the interpretation of this protocol.

11. Escalation

Both staff and Councillors have the ability to raise a concern if they feel this protocol has not been adhered to by either party. It is encouraged that both parties discuss the matter productively in the first instance. However, if that is not successful, the below reference the routes that should be followed. In all instances, staff and councillors have the opportunity to be supported by an independent note taker in any meetings that may be required:

Town Clerk about a Councillor

If the Town Clerk raises a complaint about a Councillor, then the following process should be followed:

Where the Town Clerk holds concerns associated with Councillor conduct or behaviour, an approach can be made to the Red Robes of the Council to seek their support in mediation of the issue before formal process ensues.

It is the responsibility of the Red Robes to support the wider Councillor cohort to understand any misgivings in conduct or behaviour and seek initial rectification.

Should this not be resolved, then the Town Clerk should raise a written complaint to the Management Committee, which consists of the Mayor, Chair of Finance and Chair of Staffing.

On receipt of a complaint, the Management Committee is required to acknowledge in writing the complaint within 3 days of receipt, following which an investigation should be completed within the next 7 days, with necessary interviews of those parties being involved.

Within 24 hours of the final meeting, a conclusion report should be provided to all parties detailing the outcomes, timeframes and commitments of all parties.

Staff (not Town Clerk) about a Councillor

If a member of staff who is not the Town Clerk, raises a complaint about a Councillor, then the following process should be followed:

A formal written complaint should be provided to the Town Clerk.

On receipt of a complaint, the Town Clerk is required to acknowledge in writing the complaint within 3 days of receipt, following which an investigation should be completed within the next 7 days, with necessary interviews of those parties being involved.

Within 24 hours of the final meeting, a conclusion report should be provided to all parties detailing the outcomes, timeframes and commitments of all parties.

Councillor about the Town Clerk

It is encouraged that matters are discussed directly between both parties, however, if a Councillor wishes to formally complain about the Town Clerk, the complaint should be made in writing to the Management Committee, which jointly consists of The Mayor, The Chair of Finance and the Chair of Staffing.

On receipt of a complaint, the Management Committee is required to acknowledge in writing the complaint within 3 days of receipt, following which an investigation should be completed within the next 7 days, with necessary interviews of those parties being involved.

Within 24 hours of the final meeting, a conclusion report should be provided to all parties detailing the outcomes, timeframes and commitments of all parties.

Councillor about a member of staff (Not Town Clerk)

If a Councillor makes a complaint about a member of staff that is not the Town Clerk, then the following process should be followed:

Where a councillor holds concerns associated with member of staffs conduct or behaviour, an approach should be made in writing to the Town Clerk.

The Clerk will acknowledge the complaint within 24 hours of receipt and investigate the matter, inviting both members to interview discussion as required and seek to provide a written response to both parties within 7 days of the initial matter being raised.

In the instances where mediation is required, the Town Clerk will initiate these proceedings as soon as practicable possible.

Further Escalation

Where a Councillor or member of staff feels that the Town Clerk has not fully investigated their complaint, the concerns should be raised to the Clerks employment committee. This is the Mayor of the Council, the Chair of Finance or Chair of Staffing Committee, in line with the Councils Scheme of Delegation and the process as referenced above should be followed.

A written request should be made for review of the processes followed and outcomes reached detailing the reasons further review of the matter is considered to be needed.

Upon receipt, the request for review should be acknowledged within 24 hours.

The Management committee will convene any required meetings with those individuals and seek to provide a written outcome within 7 days of the final meeting.

Where a complaint has been made against the Town Clerk, and the routes of review above have been exhausted, without the complainant being satisfied with the outcome, the complaint should be referred to Full City Council as a confidential item. At which time, additional support for review and resolution will be sought from an appropriate outside body with the associated costs and timeframes being agreed as part of the procurement process for support.