



Lostwithiel Town Council

Induction Pack for New Councillors

Last reviewed: August 2022

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Introduction

Welcome and congratulations on your election to serve as a member of Lostwithiel Town Council. This guide is to help you understand

- Your obligations as a Councillor
- Your role as an elected member
- The council's rules and procedures for the conduct of its business.

This guide also contains details of the Council's Standing Orders, Financial Regulations and other documents which you will find offer helpful guidance.

The Council is able to use email for the mailing of council agendas, meeting papers and other notices. You will be supplied with your own Councillor email address for Town Council use only. This will become your official email address and correspondence will be subject to requests under the Freedom of Information Act.

If you have any queries during your term of office please do not hesitate to contact the Clerk who is always willing to help.

Contact Details

Mrs Sandra Harris
Lostwithiel Town Council
Taprell House
North Street
Lostwithiel
Cornwall
PL22 0BL

01208 872323

clerk@lostwithieltowncouncil.gov.uk

The Clerk is normally available on Tuesday - Thursday between 9am & 5pm.

The Clerk is your first point of contact for all matters including any complaints, or requests for action or matters concerning the business of the Council.

Section A - Getting Started

1. Declarations of Acceptance of Office

On accepting the office as Councillor, you will be asked to complete a Declaration of Acceptance of Office. When you sign the Declaration, you will undertake to observe the Code of Conduct adopted by the Council so it is essential you have read the Code, a copy of which is attached, and about which more details are given at Paragraph 3 below.

You cannot participate as a Councillor (including participating in any meetings of the Council, its committees, sub committees or as a representative on an outside body) until you have signed a Declaration of Acceptance of Office.

The relevant form is included with your meeting papers, please bring this to the meeting on Tuesday. The Town Clerk will be available from 6.30pm to witness your signature on the form.

2. Registering Financial and Other Interests

As a member of a local authority you are also statutorily required complete a Register of Pecuniary (Financial) Interests. This form will be lodged with the Monitoring Officer of Cornwall Council and the Clerk will also hold a copy for future reference. It is a public document and will be published on line by Cornwall Council; it may also be inspected on request by any member of the public and may be referred to where there is an alleged breach of the Council's Code of Conduct.

A registration form is attached for you to complete and return to the Clerk within 28 days of your election to the council. This is a requirement of the Code and will enable you to register your Disclosable Pecuniary Interests. Full instructions are given on the form regarding its completion.

The details, which you will need to register, are set out in full in Part 5 of the Code of Conduct for Members. You are also required to register any change to the interests previously registered, within 28 days of becoming aware of such a change. If you have any changes to register at any time, please inform the Clerk so ensure that the appropriate changes are advised to the Monitoring Officer.

Please note that you are responsible for keeping your Register entries up to date. The fact that you have registered a particular interest in writing, does not absolve you from making a disclosure of that interest at meetings should circumstances arise. In fact, it should remind you of the need to make a disclosure. Further information on making disclosures at meetings is given in Section D.

3. Code of Conduct

As an elected member, you are required to consider all matters with an open mind, in an open and transparent process free from an interest. The Council has adopted a Code of Conduct for its Members, which reflects its statutory requirement to promote and maintain these high standards of conduct as required by the Localism Act 2011. The Code applies to you whenever you are acting as a Councillor or the public perceive you to be acting as a Councillor and it is essential that you become familiar with its contents as soon as possible.

When signing your Declaration of Acceptance of Office, you undertake to observe the Code and uphold the principles of public life. You are required to treat fellow Councillors with respect and not seek to undermine, bully or harass your Clerk and other members of staff.

The importance of this cannot be over-emphasised; breaches of the Code may be reported to the Monitoring Officer of Cornwall Council who has the duty to consider and investigate potential breaches of the Code. If a case is serious enough, it may be referred to an independent panel to make a judgement, which could result public censure or in certain circumstances a criminal action.

A copy of the Code is attached and further guidance on the Code is given at Section D.

4. Members' Allowances

The Council has not adopted the Local Authorities (Members Allowances) (England) Regulations 2003 for the payment of a Basic Members Allowance.

5. Freedom of Information (FOI)

The Council is obliged by law to make information on its activities available to the public on request. It maintains a Publication Scheme, which is available

to the public and identifies classes of information, which are routinely in the public domain. All information held by the Council is available to the public although in certain cases an exemption may apply which may permit the Council to refuse to supply information.

Information held by Members of the Council is also covered by FOI and therefore Members may be approached to produce their records if a specific enquiry warrants it. This includes notes, answering machine messages, recorded telephone conversations etc and you should seek advice from the Clerk if you have any concerns or are approached by a member of the public for this information.

6. Training

The Council recognises that members and the Clerk should attend regular sessions to update and improve their understanding of matters affecting local government. It supports and encourages Councillors and the Clerk to attend training events, conferences and seminars provided by organisations including the Cornwall Association of Local Councils, Society of Local Council Clerks, and Cornwall Council. You are expected to undertake Code of Conduct Training within six months of your election, and it is recommended that you also attend training relevant to any role you undertake within the Council.

Examples of training available include

- Code of Conduct
- Councillor Skills
- Chairmanship
- Planning
- Finance including budgeting, audit and risk management

Please contact the Clerk for further information on your training requirements.

Section B - Council Meetings

Attending your first meeting

Having completed all of the above, the first meeting you attend will be the first meeting after your election/co-option to office. An agenda and papers will be sent to you at least 3 working days before the meeting and you should familiarise yourself with the items for discussion. You may find it helpful to meet with the Clerk and/or Chairman before your first meeting to understand the issues to be discussed.

If you have any queries regarding any item please do not hesitate to contact the Town Clerk.

Calendar of Meetings

The Council meets on the first Tuesday of every month.

A calendar of meetings is published each year and you should endeavour to attend as many meetings as possible. In addition, the Chairman may call additional meetings of full Council as required. These are known as Extraordinary meetings and may be called giving 3 clear days' notice.

1. The Annual Parish/Town Meeting

The Annual Parish/Town Meeting must be held between March and June of any year. It is open to all the electors in the parish and is normally chaired by the Chairman of the Council.

Strictly speaking electors can set the agenda, and in practice these meetings often celebrate local activities and debate current issues in the community. Members will therefore find it useful to be present.

2. The Annual Meeting of the Council

The Annual Meeting of the Council is held in May. The agenda for this meeting includes:

- The election of Chairman and Vice Chairman for the year

- Confirmation of the Council's Committees
- Appointment of members to the various council committees
- Appointment of representatives to outside bodies

3. Organisation of Meetings

Meetings will currently take place in the Library in Lostwithiel. All meetings start at 7pm unless the agenda states otherwise. Please note that committee meetings may start at other times and you should always check the date, time and venue before attending any meeting. This information will be at the top of the summons to attend.

An agenda is produced by the Clerk for each meeting, and copies of the agenda and supporting material are despatched to Members generally on the Wednesday before the date of the meeting, giving you the statutory 3 clear days notice.

4. Agenda, Reports and Minutes

The statute requires that you are 'summoned' to attend a council meeting. This formal notice will give you the date, time and place of the meeting and will include an agenda to give you details of the items to be discussed and the level of discussion to take place i.e. whether you are considering what action to take, receiving a report, resolving to take action. It is important that you take the time to read these papers before attending the meeting to familiarise yourself with the issues to be discussed.

When you receive agenda and reports for meetings, you will sometimes find a report marked "CONFIDENTIAL". Any information in this report is to be treated as confidential and **should not be divulged** to anyone who is not a Member of the Council; where the paper relates to a committee meeting this may also include other Councillors who are not on the committee. If you have any doubts, please contact the Clerk who will be able to advise.

After each meeting Minutes are prepared by the Clerk. The Council agenda, together with the Minutes of the last meeting and of meetings of Committees form the basis on which the Council conducts its business.

The Council also has a system of public participation time at its meetings, where members of the public can raise issues, speak to items on the agenda and question council decisions.

If you wish to have an item put on the Agenda for discussion, please contact the Clerk.

5. Constitution of Committees and Committee Structure

The council determines its committee structure at its Annual Meeting in May.

You will receive copies of all papers relating to any of the Council's committees and if the Standing Orders allow, may be able to attend and observe their meetings. However, you will not be able to participate or vote on committees unless you have been appointed to the Committee by the Council.

Section C - The Respective Roles of Members and the Clerk

Introduction

This short note has been prepared with the intention of giving Members of the Council some guidance as to the respective roles of both Members and the Clerk in helping the Council to function, and on how these roles work in practice.

The Role of Members

Members are collectively responsible for making Council policy, for which they are accountable to the electorate.

Members are not directly involved in the day-to-day provision of services to the public. This does not of course mean that there should be no contact between Members and the Clerk on such matters and, indeed, Members may often find that they are asked by electors to pursue matters on their behalf. However, Members have no executive authority, and will need to deal with all matters either through their collective Council membership or in liaison with the Clerk concerning a local problem.

It therefore follows that there are no circumstances where an individual Member can issue an instruction to the Clerk or a Contractor. Likewise, a Member must never act "on behalf of the Council" in the organisation of any function or service. Particular care should be taken in letters/comments to the Press, to ensure they understand you speak as a "Councillor" and not on behalf of the Council as a whole. Generally, the Clerk on behalf of the Council issues Press statements.

The Role of the Clerk

The role of the Clerk is twofold, for which they are accountable to the Council. Firstly, they are the professional advisor to the Council on matters of policy and, secondly, the executor of Council policy, i.e. in carrying out the instructions of the Council.

The Clerk takes no part in the decision making of the council except that they provide the independent and unbiased information to support the council in its decision making.

How These Roles Work in Practice

Members take decisions on matters of major policy at meetings of the Council, after having considered the recommendations of any Committee. Any Committee will, in turn, have considered the recommendations of the Clerk. Members, take decisions on policy matters of more limited significance at meetings of any Committees, after having considered the recommendations of the Clerk and depending on their delegated powers. Within the framework of policies decided by Members, either at full Council or Committees level, the Clerk, often in consultation with the Chairman, will take many decisions every working day. Most of these decisions will be concerned with the day-to-day management of services to the public, but others will be concerned with more important matters.

Statutory Powers and Duties

The Council derives its powers from statute. A few of these are mandatory (i.e. the Council **must** carry them out) but most are discretionary (i.e. the Council **can** carry them out if it wishes). In all cases, both Members and Officers must work within the law. The Clerk will act as advisor to the council to ensure that it acts legally at all times. From time to time this may mean the Clerk advising members during a meeting to alert members to possible legal issues in the decision-making process.

Summary

- Members are responsible for making Council policy, but do not have executive authority.
- The Clerk is responsible for advising Members on the making of Council policy and for ensuring that such policy is carried out.
- The Council's Terms of Reference determines which Committee, if any, deals with particular matters, and at which level decisions are taken.
- Many matters are delegated to the Clerk, who can make decisions on them working within established Council policies.
- The day-to-day management of services is the responsibility of the Clerk.

- Both Members and the Clerk must work within the law.
- Mutual respect between the Clerk and Members is essential in order for the Council to function effectively. Personal attacks on the Clerk should be avoided (and would be contrary to the Code of Conduct), as, under the convention of Local Government, Officers are unable to defend themselves from such comments in public.

Since the 1970s the role and functions of parish, community and town councils have increased immeasurably and many such local councils have budgets running into millions and employ many staff. The chief officers of such councils often feel the title Clerk does not properly reflect their important managerial role. Even in the smallest parish council, it is often thought “clerk” suggests a secretary with some admin skills and does not reflect the many other roles the modern parish council officer must fulfil including legal and financial advisor, publicity officer, events organiser, staff supervisor etc. As a result, there is a growing use of other titles such as Council Manager and Executive Officer.

The Clerk can only be appointed and removed from appointment by the Council and he/she is accountable to the Council as Corporate Body. The Clerk cannot be line-managed by any one councillor.

Together with the Mayor (Chairman of the Council) the Clerk is the face of officialdom in the community. The Clerk is often called the 2nd Citizen in view of the advisory and ceremonial role played alongside the 1st Citizen (Mayor/Chairman).

The role is important, both for the Mayor to be supported by a very senior officer and for the dignity of the Office of Town Clerk. The Mayor meets important people and the Town Clerk should have access to such people as well as being able to advise the Mayor and Council on the public front which the council wishes to promote on a range of issues. Although the Town Clerk is not entitled to precedence as such (except for Royal visits), he/she should be very close to the Mayor, both as the Council’s senior officer and as the main officer support for the Mayor. Custom and practice give the Town Clerk a very high billing (“Civic Ceremonial” Guidance for Councils by Paul Millward).

A constructive partnership between the Clerk, Chairman and Elected Members is essential for the proper and efficient functioning of the Council.

Section D - Code of Conduct and Declaration of Interests

Introduction

The law relating to the declaration of Disclosable Pecuniary Interests and Non-Registerable Interests is complicated. It is laid out in the Localism Act 2012 and associated regulations but the purpose of this note is to simplify matters as far as possible. There are a number of guidance notes which give more detailed information and can be referred to as particular circumstances arise.

Agenda papers are generally despatched approximately 5 days in advance of the meeting to which they relate. On receiving an agenda, you should check the items of business listed, and consider whether there is a need to declare an interest (and, if so, what type of interest) in any of the items. The Clerk is always willing to offer advice and guidance before (but preferably not on the day of) a meeting, but should not be asked to do so during a meeting.

Declaration of Interests

During your term as a Councillor you will from time to time have close links to items being discussed. The Council's Code of Conduct requires you to consider these links and if necessary declare a level of interest in the matter and leave the room when the matter is being discussed.

There will be an opportunity at the beginning of the agenda for the council to notify the meeting of any interest but you also have a duty to declare an interest as soon as you become aware of it later on. This may mean declaring the interest during the discussion rather than at the start of the meeting.

You must state the level of interest and the nature of it and ensure that these are recorded in the Minutes of the Meeting.

Disclosable Pecuniary Interests

As a Councillor, you are required to complete a Register of Disclosable Pecuniary Interests which is held by the Monitoring Officer at Cornwall Council and locally with your Clerk. You are required to declare interests held by yourself and your spouse/civil partner under the following headings.

- Employment
- Sponsorship
- Contracts held with the Council
- Land held in the parish (owned, rented or leased)
- Licences with the council
- Tenancy
- Securities and Capital held in bodies which have a place of business in the parish/town

Further guidance and clarification is given in the Code of Conduct Guide for Members which is attached.

You will have a Disclosable Pecuniary Interest whenever the Council is discussing something which affects anything on this register and you must declare the interest and **must leave the room** during the discussion (including when raised by the public during public participation.)

The Localism Act 2011 confirms that a breach of this part of the code is a criminal offence with a potential police prosecution and a fine of £5000.

Non-Registerable Interests

During your time in office, the Council will also discuss many things which may have an impact or relevance to yourself, a family member, a close personal acquaintance or an outside body on which you serve. If this interest is financial i.e. would have a financial impact on you, a family member, close personal acquaintance or outside body, you have a Non-Registerable Interest.

Only you can decide this, but remember it is not whether you think that your judgement of the public interest would be prejudiced, but what a member of the public with the relevant facts would reasonably think. In other words, you must put yourself in the position of an ordinary member of the public and view the situation through their eyes, and not have regard to what you might consider to be your incorruptibility.

If you decide that you do have a Non-Registerable interest, you **must leave the room** any time when the item is being discussed. Again, your withdrawal from the meeting will be recorded in the Minutes.

This is a complex area; if you have any queries you should always seek advice from the Clerk who may refer you to the Monitoring Officer or CALC. You may find the following examples useful:

Example 1 - Planning

Your neighbour has submitted a planning application. You must declare a Disclosable Pecuniary Interest because the application affects the land which you have declared on your Register. You also have a Non-Registerable Interest because the proposal will affect you, your family and neighbours. You must leave the room whenever the matter is being discussed including any discussion during public participation. You re-join the meeting as soon as the public participation on the application has finished and leave the room again whilst the Council is considering the proposal. Your actions will be recorded in the Minutes.

As a Councillor, you are unable to address the council to raise your concerns/comments. You may write to the Council, ask someone to represent you, and signpost the public to other members of the council.

Example 2 - Funding Application

You chair a local group which has applied to the council for a grant. The grant affects the financial wellbeing of an outside body and you will therefore declare a Non-Registerable Interest in the item. However, the Code recognises that the council might benefit from your knowledge and therefore you will be invited to stay during the first part of the discussion to help inform the discussion. The Chairman will then ask you to leave the room whilst the Council makes its final decision.

You re-join the meeting as soon as the public participation on this item has finished and your actions will be recorded in the Minutes.

If you are in any doubt whatsoever as to whether or not you have an interest, and particularly whether or not it is a Disclosable Pecuniary Interest, you should always err on the side of caution. The Clerk is able to offer advice and guidance on such matters before the meeting, but, as stated above, the decisions on whether or not you have an interest is yours, and yours alone. No other member of the council can force you to make any declaration, but failure to do so could result in a complaint being made against you.

Dispensations

At times, it may be helpful for the Council to allow a member or members to stay in the room in spite of the declared interest. In certain circumstances, the council can award a dispensation which either allows you to stay for the discussion or stay for the discussion and vote. Requests must be made in writing and meet one of the statutory criteria. A Guide to Dispensations including how to make a request is attached.

Gifts and Hospitality

Guidance regarding the acceptance of gifts and hospitality, and the declarations of such, is also included in the Code of Conduct. The Council's code establishes the policy for gifts and hospitality and you must bear this in mind at all times.

You should treat with caution any offer of a gift or hospitality that is made to you personally, particularly if the person making the offer may be doing or seeking to do, business with the Council, or may be applying for planning permission or some other kind of decision.

In addition to the above-mentioned requirements, you are strongly advised to register all offers of gifts or hospitality whatever the value and whether you accept them or not. You will then be protected in the event of a complaint or enquiry, and Cornwall Council's Monitoring Officer will be made aware of inappropriate offers made to Members (especially where a series of lower value offers is made).

Section E – Guidance Notes

The General Principles of Public Life

The following is a list of principles, which the Secretary of State has ordered should govern the conduct of Members. The Code of Conduct is consistent with these principles.

- **Selflessness**
Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
- **Honesty and Integrity**
Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
- **Objectivity**
Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
- **Accountability**
Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.
- **Openness**
Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
- **Personal Judgement**
Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

- **Respect for Others**

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

- **Duty to Uphold the Law**

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

- **Stewardship**

Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

- **Leadership**

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

Section F - Appendices

The Council produces a number of documents and policies which are attached as appendices to this Induction Guide.

- 1.** Standing Orders
- 2.** Financial Regulations
- 3.** Calendar of meetings

Please feel free to add to this folder during your term of office, as it will become your first point of reference as a Councillor.