



Lostwithiel Town Council

Delegation to Town Clerk Policy

**Approved 13th May 2025
Minute reference 013/25**

1. Council

a) Individual Councillors

Section 101 of the Local Government Act 1972 and relevant case law (*Regina v Secretary of State for the Environment ex parte London Borough of Hillingdon 1986*) are clear in their instruction that all Members must deal with matters through their collective Council membership. There are no circumstances where an individual Member can issue an instruction to the Clerk, any other employee or a Contractor; make a decision on behalf of the Council; or authorise any expenditure. Therefore, no individual Town Councillor has any delegated responsibility.

b) Full Council Reserved Powers

The following matters are reserved to the Council for decision, notwithstanding that in some instances the appropriate Committee(s) may make recommendations thereon for the Council's consideration.

- Electing the Town Mayor & Deputy Mayor
- Determination and setting of the Precept
- Borrowing money
- Approving the end of year accounts and annual return
- Appointment of an internal auditor
- Co-option of Councillors to the Council
- Matters relating to the Council's Code of Conduct
- Approval of Special Dispensations (i.e. non-attendance due to ill health)
- Appointing Committees, Sub-Committees, Working Parties & Steering Groups (unless specifically delegated under Terms of Reference)
- Filling of Councillor vacancies on any Committee/ Sub-Committee/ Working Party/ Steering Group
- Making, amending or revoking Standing Orders, Financial Regulations or this Delegation Policy

- Making, amending or revoking bylaws
- Making of Orders under any statutory powers
- Receiving and noting of all minutes approved by the Council, its Committees, Sub-Committees, Working Parties and Steering Groups
- Incurring capital or revenue expenditure which is over and above the Council's approved budget and any virements required
- Nomination and appointment of representatives of the Council to any other authority, organisation or body
- Any proposed new undertakings
- Prosecution or defence in a court of law
- Nomination or appointment of representatives of the Council at any inquiry on matters affecting the Parish, excluding those matters specific to a Committee
- Approval of application for Local Council Award Scheme accreditation
- Confirming eligibility to exercise the General Power of Competence
- All matters affecting the appointment, promotion, discipline, salary and conditions of service of the Town Clerk/RFO following consideration of a recommendation from the Staffing Committee

2. Standing Committees – Terms of Reference

The Terms of Reference for all Council Committees shall be reviewed annually in their entirety

3. Working Groups – Terms of Reference

Working Groups/Parties may be formed by resolution of the Council at any time. The remit of such a Working Group/Party will be decided upon at the time it is formed by means of a Minute detailing the

Terms of Reference. The Terms of Reference for each of the Council's Working Parties shall be reviewed annually in their entirety

4. Delegation – Limitations

Committees shall, at all times, act in accordance with the Council's Standing Orders, Financial Regulations, this Delegation Policy and, where applicable, any other rules, regulations, schemes, statutes, By-laws or orders made and with any directions given by the Council from time to time.

5. Delegation to Proper Officer & Responsible Financial Officer

This document does not supersede any powers and duties conferred to the Proper Officer or RFO by the Town Council's Financial Regulations & Standing Orders and is to be used in conjunction with these documents.

The Town Clerk shall be the Responsible Financial Officer to the Council and shall be responsible for the Town Council's accounting procedures in accordance with the Accounts and Audit Regulations in force at any given time.

The Town Clerk is designated and authorised to act as the Council's Proper Officer for the purposes of all relevant sections of the Local Government Act 1972 and any other statute requiring the designation of a Proper Officer.

The Town Clerk is specifically authorised (via legislation) to:

- Receive declarations of acceptance of office.

- Record Member's Register of Interests
- Receive and retain plans and documents.
- To consider and grant dispensations to Councillors to take part in Council business where they would otherwise be prohibited because they have a disclosable pecuniary interest.
- Sign Notices or other documents on behalf of the Council.
- Receive copies of bylaws made by the Unitary Council.
- Certify copies of bylaws made by the Council.
- Sign and issue summonses to attend meetings of the Council.
- Give public notice of the time, place and agenda at least three clear days before a meeting of the Council (with the exception of Extraordinary agendas which require Councillors signature)
- Convene a meeting of the Council for the election of a new Chairman of the Council, occasioned by a casual vacancy in that office.
- Act as the Council's designated Officer for the purposes of the Freedom of Information Act and General Data Protection Regulations

The Town Clerk is responsible for the management of the Council and all delegated functions shall be deemed to be exercised on behalf of and in the name of the Council. In addition, the Town Clerk has the delegated authority to undertake the day-to-day administration of services, resources and assets, together with routine inspection, control and compliance in line with the budgets and policies approved by Members.

a) Finance

The Town Clerk is delegated by Council to:

- Sign contracts for the purchase and supply of goods and services provided within budgets set and projects approved by Council.
- Authorise minor repairs/variations to Council agreed contracts in accordance with specified limits listed in the Council's Standing Orders & Financial Regulations.
- Incur expenditure up to the limit specified in the Council's Standing Orders & Financial Regulations on any repair and maintenance, general maintenance or emergency issue without prior reference to the Council. i.e. removal of a fallen tree, emergency tree works, removal of invasive plant, purchase of regular planting, extra grass cuts, play area repairs. Any such action is to be reported to the next meeting of the Council.
- Authorise emergency expenditure up to the limit specified in the Council's Standing Orders & Financial Regulations.
- Appoint pest control for rats & moles to a maximum value of £300 without prior reference to the Council.
- Make all decisions, in line with Council Policy, regarding charges for interments at Castle Hill Cemetery.
- Spend up to £250 monthly on Council signage, stationery, stamps and general office costs without prior approval of the Council.
- Operate the Council's banking arrangements.
- Take any proceedings or other steps as may be necessary to enforce and recover any debt owing or other obligation due to the Council

- Authorise routine recurring expenditure within the agreed budget
- Responsible for the overall management of all budgets in accordance with Council policies
- Manage the Council's corporate payment card

b) Legal

The Town Clerk is delegated by Council to:

- Make applications for all statutory consents necessitated by any approved Council proposal or development.
- Sign, or where appropriate, have sealed on behalf of the Town Council, any orders, deeds or documents necessary to give effect to any of the matters contained in reports or in any resolution passed by the Town Council
- Apply the affixing of the Common Seal of the Council to documents in accordance with Standing Orders
- Take all appropriate steps to secure the Council's legal position in urgent circumstances with reference to its assets or statutory functions subject to prior consultation with the Mayor or Deputy Mayor.
- Act as Data Protection Officer including the fixing and levying of charges for the provision of information.
- Manage Council land & property by initiating legal action or proceedings against unauthorised encampments or encroachments on Council land having first taken legal advice

- To institute, defend and appear in any legal proceedings authorised by the Town Council. All actions to follow the recommendations of the Council's solicitor
- To appear or make representation to any tribunal or public inquiry into any matter in which the Council has an interest (in its own right or on behalf of the residents of Lostwithiel) having taken legal advice if appropriate

c) Staffing

The Town Clerk is delegated by Council to:

- Act as Line Manager and have sole management responsibility, sole day to day supervision and control of all staff.
- To direct the work of employees with the power to discipline employees if required.
- Administer all staff policies and procedures.
- Conduct annual staff appraisals
- Provide guidance to the Council's Staffing Committee on recommendations for employees' salary reviews in accordance with the Council's staff appraisals
- Authorise other staff overtime and expenses.
- Calculate and make arrangements to pay all staff salaries, overtime, tax, NI and pension contributions.
- Implement and monitor the arrangements for annual leave, flexi time, sickness absence, maternity & paternity leave in accordance with the Council's policies.
- Preparation of the job description and person specification and the placing of the advertisement for all staff vacancies.

- Delegate duties to staff as considered appropriate.
- Manage staff performance.
- Authorise staff training within the agreed training budget.
- Commission legal and professional advice on staffing matters.
- Deal with day to day matters relating to the use of office accommodation space.
- Authorise the provision of protective clothing
- Oversee the discharge of the Council's responsibilities under the Health & Safety at Work Act 1974

d) Other

The Town Clerk is delegated by Council to:

- Exercise in their own right or to authorise any Council Officer to exercise statutory powers of entry and inspection for the purpose of any function under their control.
- To deal with all incoming and outgoing correspondence (but not correspondence requiring an opinion to be taken by the Council or a Committee)
- Issue all Council correspondence without prior authorisation of drafts by Council (except where the correspondence requires an opinion to be taken by a Council or Committee).
- Have sole use of the Town Council crest for Town Council related correspondence.
- To sign on behalf of the Town Council any document necessary to give effect to any decision of the Town Council

- Manage the provision of all the Council's current services, buildings, land & resources and take appropriate action on all issues for which the Town Council has established a policy i.e. Allocate burial spaces & issue Grants of Exclusive Rights of Burial and Exclusive Rights to Erect Memorials and to approve the wording on memorials in line with Council Policy.
- Allocate allotments and issue allotment tenancies in line with Council policy.
- Alter the date or time of a Council or Committee meeting following consultation with the Mayor or appropriate Chair.
- Decide arrangements for the closure of the Council offices in the Christmas/New Year period and to set the date for the first January Council meeting.
- Authorise Utilities or the Environment Agency to work on Town Council land i.e. pruning to clear overhead power lines and removal dead/dangerous/fallen trees along the river bank.
- To apply for all Council planning consents.
- To deal with all press and public relations on behalf of the Council including the Issuing of Council press releases
- To lead the Council's response in the case of a major emergency in consultation with/ or under the direction of Cornwall Council and the Emergency Services.
- To be responsible for the Council's Information and Communication Technology provision and management including the replacement of out-dated equipment, or the purchase of new equipment to replace broken equipment within the approved Budget.

- To adjust grass cutting frequencies and other maintenance requirements in relation to the maintenance of the various open areas for which the Council is responsible
- To authorise the casual lettings of the Council's various properties subject to payment being received in accordance with the approved scale of charges where appropriate
- To authorise the attendance of individual Councillors at talks, seminars, training events and conferences at the Council's expense.
- To grant permissions for use of recreational open space in accordance with Council policy and statutory requirements
- To enter into contracts for the supply of Utilities where applicable
- Undertake play area inspections
- Take editorial control of the Council's website and social media accounts

e) Urgent Matters

- The Town Clerk is authorised to act on behalf of the Council in an urgent situation and report back to the Council as soon as practicable.
- In the event of any matter arising which requires an urgent decision, the Town Clerk will consult with the Mayor & or the Deputy Mayor before acting on behalf of the Council.
- Before the Clerk exercises the delegated powers granted by the above paragraph, the Clerk and the Mayor & or Deputy Mayor shall consider whether the matter justifies summoning an Extraordinary Meeting or Committee Meeting.

- Whenever any action is taken in this way, full details of the circumstances justifying urgent action shall be submitted in writing to the next available meeting of the Council or Committee.
- In an emergency the Town Clerk is empowered to carry out any function of the Council other than matters limited to Council.

6. Absence of the Town Clerk

In the absence of the Town Clerk, these delegated powers are negated. The powers do not pass to an Acting Town Clerk unless by specific resolution of the Council.