



## **Conflicting Situations Policy West Bedlington Town Council**

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## **CONFLICTING SITUATIONS POLICY.**

There are regrettably isolated cases of conflict arising between the Council and its Officers from time to time.

The majority of these situations tend to arise in the first year after the election of a new Council where there is a predominance of Councillors new to Local Government, and a new Chairman is taking up the Office for the first time. This may be further exacerbated where Members who have not served for many years return to Office and lack current knowledge of the law and procedures.

The most important thing to recognise is that for local government to work effectively at this, or for that matter any level, there has to be a partnership between the Chairman, the Clerk and other Council staff. This relationship is crucial and both parties need to understand the other's role.

The Chairman needs to remember that his or her powers are constrained by Standing Orders and by the fact that it is the Council and not he or she who is the Clerk to the Council and Officers' employers. Indeed this relationship is held in law to be an implied term in the contract of employment: known as implied mutual trust and confidence.

The Clerk to the Council and all other officers must remember that he or she is employed by the Council and owes allegiance to each and every Member collectively.

The Chairman is, of course, the leader and spokesperson for the Council but he or she cannot go beyond what it is known that the Council will support in carrying out his or her functions.

It is important that both the Chairman and the Clerk to the Council appreciate fully at an early stage each other's functions. Some guidelines (Member Officer Protocol) should always be in place before either party starts to perform. A mutual discussion over the job description may not be a bad place to start. A mutual affirmation of understanding and support would be a good place to finish.

In addition to a clear and concise job description it is also absolutely essential on the Officer's side that they should have a Contract of Employment. (Employment Rights Act 1996). These two documents alone will avoid many areas of misunderstanding.

Attention is particularly drawn to a frequently found Clause in a job description that, generally, falls at the end and is couched in such terms as: 'And such other duties that from time to time shall be required by the Council'. Great care should be taken in any instance where this clause is invoked to ensure that what is being required is both legal and reasonable. As a general test in complaints brought to an Employment Tribunal the 'Test of Reasonableness' will be the basis for a finding. A Council should always be found to have acted reasonably in all situations in dealing with employees.

Where any difficulties between the Clerk to the Council and the Council or individual Councillors become apparent then expert advice should be sought at the earliest possible moment to try and prevent a relationship becoming irreparably harmed. It is strongly recommended that the Council takes a subscription to the County Association of NALC and pay the membership fee for the Clerk to the Council to the SLCC. Both of these measures offer a pathway to such expert advice for both the Chairman and the Clerk to the Council. Each is of clear benefit to the Council as a whole.

Change is inevitable: much brought about by changes in legislation that impact on the smallest Local Council as on the largest. The Officers must be prepared to accept changes in working practice and all lawful requests.

The Clerk to the Council will be the supervisor of all subordinate Officers and staff. Changes must be left to the Clerk to the Council to manage with his or her staff.

If a conflict situation becomes apparent the provisions of the Employment Act 2002 need to be borne in mind. The section dealing with the need for a Disciplinary and Grievance procedure to be in place draws attention to the need to have a clear and formal process with the avenue of appeal against decisions stated. It is also worth noting that under the Act an Employment Tribunal has the power to levy a financial penalty of up to £5000 on either side appearing before it where a case has not been managed according to a proper internal procedure seeking conciliation of the dispute and where the case brought to the Tribunal is ill-prepared, vexatious or facetious.

Finally, in cases of real difficulty either party can approach ACAS Tel 08457 474747 ([www.acas.org.uk](http://www.acas.org.uk)) who will mediate on all contract of employment problems and whose decision is binding on all parties and will be upheld by any Employment Tribunal.