

Parish Council Notes

A review of

- Roles and responsibilities
- Law
- Procedures

The Council

Is appointed in perpetuity as a body corporate

Represents the interests of the community

Improves the quality of life for people and the local environment by delivering services to meet local needs

Influences other decisions makers, for example in planning matters

Works with other groups in the community

Must be empowered by statute or regulations – powers or duties

Councillors

Effectively represent the interests of their ward or parish

Fulfil any statutory requirements

Actively encourage community participation and citizen involvement in the work of the council

Represent the council to the community and the community to the council

Undertake appropriate training and development to help fulfil the requirements of the councillor role

Fulfil the requirements with regards to interests

Understand the council's policies and *standing orders and contribute to policies and plans (*a new model of standing orders about to be released as at Sept 2013)

Understand the contract between the council and the clerk as employee/officer

Understand that they do not take matters into their own hands

Understand that councillors cannot be delegated decisions – the council as a whole or quorate must make decisions

Understand that they do not represent their own view as that of the council

Undertake to be prepared for meetings (this more than anything needs to be implemented. Preparation for meetings understanding what is on the agenda and seeking a view of those who councillors represent where appropriate) The 5 **Ws** to prepare for a meeting are:

What is the meeting for?

What part should I play?

What papers must I read?

Which people do I need to consult?

What did I promise to do before this meeting?

"As a councillor you have a responsibility to be well informed, especially about diverse local views. You cannot assume that you represent the interests of all your electors without consulting them."

Tools for gathering views and information: surveys and questionnaires; Design statements; Parish Maps; Community conference or workshop; Parish Plans; Neighbourhood Plans.— *The good councillor's guide.*

Councillors' Conduct and Interests

There are 7 Nolan principles to apply to the conduct of people in public life:

Selflessness – act in the public interest

Integrity – no improper influence or seeking to benefit yourself or your family

Objectivity – be impartial and fair

Accountability – be prepared to submit to public scrutiny

Openness – be open and transparent

Honesty – be truthful

Leadership – promote, support and exhibit high standards of conduct and willing to challenge poor behaviour

The Clerk

The Clerk's role is set in law. A formal and statutory position

The Clerk implements decisions made by the council

Provides legal and financial advice to support the council's decisions

Public relations and correspondence

Is responsible for the agenda

Is NOT a glorified secretary

Note: For reference and legal guidance Arnold Bakers Guide to Local Councils book updated 2013 and available with a discount from WALC (RRP £70)

The Clerk is an employee of the council, covered by employment law

Should have a contract and job description with disciplinary and grievance procedures in place

Is employed under national agreement on terms and conditions and recommended salaries

Law Duties of a Local Council

A council must:

Hold at least 4 meetings a year, one of which MUST be an Annual Meeting of the Council

At the Annual Meeting of the Council you should elect a chairman and probably a vice chairman and appoint committee members and representatives to other bodies

Provide allotments if the council considers that there is a demand for them from local residents and it is reasonable to do so

Comply with its obligations under the Freedom of Information Act 2000 and the Data Protection act 1998

Comply with Employment Law

Consider the impact of their decisions on reducing crime and disorder in their area

Have a regard to the protection of biodiversity in carrying out their functions

Note: WALC has a document that outlines what documents MUST be kept and what can be disposed of – like emails.

Powers and Duties

A council must do what the law requires it to do

A council may only do what the law says it may do

A council cannot do anything unless permitted by legislation

Does the council have a legal power to act?

Discussion Note: Do you have the power to act – campaigning – for example to change a speed limit?

Powers – A council may...

Among other things support:

Local clubs and societies

Community buildings

Tourism

Fêtes and festivals

Cemeteries and crematoria

Open spaces, parks, playgrounds and footpaths

Note: Refer to *table of powers and duties*. Also the council must exercise its powers “reasonably”.

Section 137 Local Government Act 1972

“A local authority may...incur expenditure which in their opinion is in the interests of, and will bring benefit to, their area or any part of it or all or some of its inhabitants”.

“The benefit obtained must be commensurate with the expenditure incurred”. (Local Government Act 1989)

£6.98 per head of local government elector (2013/2014) Note: on something for which it has no other power.

General Power of Competence

This is a complex new power under the Localism Act

Gives the power to do “anything that individuals generally may do”

Power of “First Resort”

Requires criteria to be met

Associated risks and restrictions to be taken into account

Procedures

Many of the procedures for local councils are set out in LGS 1972 with meeting procedures covered in schedule 12 of this act

Powers are discretionary, procedures are mostly mandatory

Meetings

There must be at least 4 meetings a year including an Annual Meeting of the Council

The chairman is elected at the Annual Meeting of the council and this MUST be the first item of business

There MUST also be an annual town or parish meeting for the electors and chaired by the local council chairman

Extraordinary meetings may be convened

At least 3 clear days MUST be given to the general public for a normal full council meeting (the 3 days are not defined as working days. It does not include the day the agenda was sent out or the day of the meeting. It also excludes Sundays and Bank Holidays. It is good practice to exclude Saturdays too)

A “summons” to attend is directed to those members entitled to attend

The summons MUST specify the business to be transacted

As a councillor you have a duty to attend council meetings. If you cannot attend you must contact the Clerk with an apology and an explanation. If you fail to attend any meetings for 6 months, you will automatically cease to be a councillor unless you have been given an approved leave of absence.

Meetings MUST remain quorate at all times. So if you have to leave early you should forewarn the Clerk.

Meetings should not last more than 2 hours.

Decisions are called **resolutions** and are to be recorded as such in the minutes.

Never engage in personal attacks. Be respectful and work through the chairman.

Clarification – Two Annual Meetings

The **Annual Meeting of the Council** is a full council meeting held in May. This is where you elect a chairman and probably a vice chairman, and appoint committee members and representatives to other bodies. This is more like an AGM.

The **Annual Parish or Town Meeting** is a meeting of the electorate taking place between 1 March and 1 June. It is NOT a council meeting and has no prescribed format. Electors can contribute to the agenda and in practice these meetings often celebrate local activities and debate current issues in the community. The chairman of the council, any 2 councillors or any 6 electors can call the Annual Parish or Town Meeting. The chairman, if present, will chair the meeting. It is best practice to hold the Annual Meeting of the Council and the Annual Parish Meeting on different occasions to avoid confusion.

Agendas

It is recommended that agendas be informative, not just Street lighting or Village Hall. This gives members an opportunity to consult, research or prepare before the meeting. Detailed agendas equal shorter minutes.

Agendas are part of the summons and are signed by the Clerk. They have the time and date of the meeting (also the venue) and include the business to be transacted

Agenda items must detail what is to be discussed, vague items make for vague discussion

“Matters arising” and “Any Other Business” as stand-alone items are to be avoided

Minutes

An official record of acts and decisions of the council

Entered into a book – loose leaf minute books are lawful if the pages are numbered

Minutes signed and pages initialled by the chairman

Can be held on a computer but the minute book is the ONLY lawful and authentic record

Further notes:

There is no need to record majorities, proposers or seconds

AOB – there can be NO DECISION if specific details are not on the agenda. However it can be moved forward to the next meeting as an agenda item

Old minutes can be archived with the Records Office

It is recommended that copies of minutes, the clerks contract, policies, standing orders, deeds etc are stored in a “Chairs BOX” in case of a fire.

NALC are releasing a new book in October 2013 called Local Councils Explained.

(All the information above taken from a workshop run by Katie Fielding of WALC September 2013)

What happens if a decision needs to be taken between meetings? Where the matter needs full discussion the chairman can call an extraordinary meeting. However, Section 101 of LGA 1972 allows a council to delegate the power to make decisions to an officer, committee, sub-committee or another council. It is good practice to specify in the standing orders the kinds of decisions the Clerk can make such as routine decisions, dealing with emergencies or spending small sums of money. Standing orders may require decisions to be taken after consultation with 2 councillors (including the chairman) but the decision remains with the officer. MOST importantly, the council must NOT allow delegation to a single councillor – not even the chairman. – *The good councillor guide*.

Services and Community Rights

A good council will have a strategic plan. This might be business plans, corporate plans or action plans

A good council will consult, listen, identify what is missing and then agree priorities for action.

Work with voluntary and community groups to develop and facilitate projects that benefit their communities

Community Right to Buy (was Bid) gives communities a better chance to save a local asset. A community can nominate buildings/land as an asset and stop the clock on a sale for 6 months. This gives time to raise finance for a bid. It takes 21 people on the electoral register to nominate an asset.

Community Asset Transfer where you can take over managing a publically owned asset at less than market value

Community Shares – a way to raise funds

Community Right to Challenge – a way to tender to deliver a public service of you feel a better service can be provided locally.

Neighbourhood Planning – this is NOT a way to prevent new buildings but rather is a way to shape how they are delivered locally. This is where your Parish needs are identified as different from the core strategy or Local Development Plan but do not overtly conflict with the designated planning

allocation. For example Henley on Thames has an allocation of 700 new homes. Rather than see them all in one place within the town boundaries, Henley formed a neighbourhood with a contiguous Parish and after consultation has identified at least 4 areas suitable for redevelopment, 2 of which straddle the town/parish boundaries, plus an area for economic development. Thus spreading the impact of the new houses across the neighbourhood planning area. Neighbourhood plans can be simple having only 1 or 2 themes such as Housing and Environment or complex having 12 or more themes. However the process takes about a year to go through and requires skills that may not be available to some parishes. Local Authorities and planning play a vital role in this process and can access funds to support them. The Dept for Communities and Local Government has details of the 3 NP's already passed plus the inspectors reports on them with other already in process. Upper Eden in Cumbria is a simple Plan for 17 Parishes, whilst Thame remains the most complex and Exeter St Davids a good example of NP's driving change for the benefit of its community. There are currently 779 NP in process nationally.

Neighbourhood Community Budgeting aim to give communities more influence and control over local public services. Pilots are currently underway.

Community Right to Build – small scale developments. As defined by DCLG 12 houses and a community room.

Neighbourhood Development Orders arise from Community Right to Build and give communities the right to propose small scale, site specific community led developments such as solar panels on houses, building shops, homes or businesses where they want, without going through the normal planning application route. These are NOT available in conservation areas. Any project under the community right to build is managed by the local council or community group.

The Parish or Community Plan – is NOT a land use plan. It is a set of policies ad an action plan for the next few years covering a wide range of themes. A Plan creates a Budget that determines the Precept.

Whatever you do as a council it is implicit that one aim is to improve the local environment and services for the benefit of your electorate by listening to their views.

Quiz

True or False?

1. The chairman can make a decision on behalf of the council between meetings if there is an emergency?
2. The press and public have a right to attend all council and council committee meetings?
3. The public can speak at all council meetings?
4. If you were elected in May, your first meeting as a councillor will be the Annual Parish or Town Meeting?
5. Chairmen can use their casting vote in whatever way they see fit?
6. If there are 17 councillors, the quorum is 6?
7. A councillor can propose making a donation to the youth club under any other business?
8. A councillor MUST register the name of their employer in the Register of Interests?
9. A council's standing orders do not apply to workshops or partnership meetings?
10. The minutes of a council meeting can be used as evidence in a court of law?

Quiz Answers

1. False - all decisions MUST be made by the council
2. True
3. True – in the allotted time or via questions sent in for the agenda
4. False – unless the Annual Meeting of the Council (AGM) and Annual Parish or Town Meeting are combined.
5. True
6. True – quorum is one third or three whichever is the greater.
7. False – no decisions can be made under AOB
8. True
9. False
10. True