

PARISH COUNCIL TOOLKIT



Association of **Council
Secretaries** and **Solicitors**

Foreword

The Toolkit was originally produced and published in October 2005 by a group of Monitoring Officers and Solicitors from the East Midlands Branch of the Association of Council Secretaries and Solicitors comprising Chris Brown (Broxtowe Borough Council), Kirsty Cole (Newark and Sherwood District Council), Paul Cox (Rushcliffe Borough Council), Barbara Ding (East Northamptonshire District Council), Philip McCourt (now at Milton Keynes Borough Council) and Geoff Pook (Rutland County Council).

The current document is a revised version of the original Toolkit and I am particularly grateful to Anthony Kilner, Policy and Development Officer of the Association of Council Secretaries and Solicitors, who has reviewed and revised the original documentation and has produced additional chapters on the formation of new parish and town councils, and governing documents for parish councils as well as producing revised standing orders.

The Toolkit is primarily intended to be used by town/parish clerks but it is hoped that it will also be useful for Monitoring Officers and for town/parish councillors (indeed some of the contents have been designed to be used as handouts for elected members).

Monitoring Officers less familiar with parish councils will find the Toolkit a useful reference for parish council governance arrangements.

The Toolkit is intended to be a "living document" which will continue to be altered, amended and updated. Comments as to how it might be improved or additional material added would therefore be welcomed.

ACSeS acknowledges and supports the work of the National Association of Local Councils and the Society of Local Council Clerks towards improving the governance arrangements of parish councils and it is hoped that the perspective offered by the toolkit will complement that work.

Kirsty Cole
President
Association of Council Secretaries and Solicitors
February 2006

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NOTE: The Toolkit does not contain model financial regulations. These can be obtained from NALC.

PART ONE

POWERS AND FUNCTIONS OF PARISH COUNCILS

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Association of **Council Secretaries** and **Solicitors**

Introduction

Powers and Functions of Parish Councils

Parish and Town Councils (known collectively as Local Councils) are the first tier of local government and the closest to the community they serve. A Town Council is a parish council which has resolved to call itself a Town Council. The chairman of a Town Council can also be called the Town Mayor. There are some 8,500 Parish and Town Councils in England. As a tier of local government they are elected bodies, with discretionary powers and rights laid down by Parliament to represent their communities and provide services for them. All local authorities are constituted in the same way with Councillors elected by the local government electorate and a Chairman, who must be one of them. Local Councils vary in size and capacity; many are very small, representing a few hundred people, others represent communities of over 30,000 people with budgets over £1m and expenditure and staffing levels per head of population similar to a small District Council.

A Local Council is a body corporate with perpetual succession and a name. It comprises a Chairman (or Town Mayor), and Councillors. Local Councillors are often referred to as "Members" – for example in the Code of Conduct. The number of Councillors is fixed by the District Council. A Local Council's lawful acts, assets and liabilities are its own and not those of its Councillors.

A local Council must act within the law. It can only spend, raise or use money if it has a statutory power to do so, otherwise it acts *ultra vires* (beyond its powers). Local Councils have a wide range of powers under different acts of Parliament. Most of these powers are discretionary, ie the Council *may* do something, rather than it *must* do something. The exercise of these powers may be subject to various consents, from, for example, the owner of land or another public body such as the highways authority. Almost all Local Council powers are concurrent with those of the District Council, i.e. the power may be exercised by either the Parish/Town Council or the District Council.

A Local Council has the unfettered right to raise money by precept (a mandatory demand) on the District Council. The precept required by the Local Council is then collected by the District Council as part of the council tax levied on tax payers in that parish. Local Councils act as a sounding board for local opinion and have important rights of consultation. County and District or Unitary Councils are obliged by law to consult the Local Council on certain matters affecting the parish.

The range of services and amenities provided by Local Councils varies enormously. Many provide public seats and shelters, litter bins and notice boards. Some provide recreation grounds, public halls, cemeteries, allotments and swimming pools. All play an important role in maintaining and improving local services and facilities, supporting local voluntary organisations and activities and influencing and lobbying on local development.

Local Councils are represented nationally by a National Association which has a network of county branches. The National Association offers extensive training and support for Local Councils and their Clerks through county based Training Partnerships. The Association of Larger Local Councils represents larger parish councils.

There are certain obligations which by law a Local Council must fulfil. For example:

- a. It must hold an annual meeting;
- b. It must hold at least three other meetings a year;
- c. It must appoint such officers as it believes necessary for the proper discharge of its functions (this may be a Councillor unpaid, but in common practice is a Clerk and/or Treasurer);
- d. It must make Standing Orders for the supply of goods and services to the Council.

The arrangements for meetings and proceedings of Local Councils are set out in Part II of Schedule 12 to the Local Government Act 1972, as supplemented by any standing orders adopted by a council.

List of Parish Council Powers

(this is not an exhaustive list)

Function	Powers & Duties	Statutory Provisions
Allotments	Duty to provide allotments. Power to improve and adapt land for allotments, and to let grazing rights	Small Holding & Allotments Act 1908, ss. 23, 26, and 42
Baths and washhouses	Power to provide public baths and washhouses	Public Health Act 1936, ss. 221, 222, 223 and 227
Burial grounds, cemeteries and crematoria	Power to acquire and maintain Power to provide Power to agree to maintain monuments and memorials Power to contribute towards expenses of cemeteries	Open Spaces Act 1906, Ss 9 and 10; Local Government Act 1972, s. 214; Parish Councils and Burial Authorities (Miscellaneous Provisions) Act 1970, s. 1
Bus shelters	Power to provide and maintain shelters	Local Government Act 1972, s. 214(6) Local Government (Miscellaneous Provision) Act 1953, s. 4
Bye-laws	Power to make bye-laws in regard to pleasure grounds Cycle parks Baths and washhouses Open spaces and burial grounds Mortuaries and post-mortem rooms	Public Health Act 1875, s. 164 Road Traffic Regulation Act 1984, s.57(7) Public Health Act 1936, s.223 Open Spaces Act 1906, s.15 Public Health Act 1936, s.198
Clocks	Power to provide public clocks	Parish Councils Act 1957, s.2
Closed churchyards	Powers as to maintenance	Local Government Act 1972, s.215
Common pastures	Powers in relation to providing common pasture	Smallholdings and Allotments Act 1908, s.34
Conference facilities	Power to provide and encourage the use of facilities	Local Government Act 1972, s.144
Community centres	Power to provide and equip buildings for use of clubs having athletic, social or recreational objectives	Local Government (Miscellaneous Provisions) Act 1976 s.19
Crime prevention	Powers to install and maintain equipment and establish and maintain a scheme for detection or prevention of crime	Local Government and Rating Act 1997, s.31
Drainage	Power to deal with ponds and ditches	Public Health Act 1936, s.260
Entertainment and the arts	Provision of entertainment and support of the arts	Local Government Act 1972, s.145
Gifts	Power to accept	Local Government Act 1972, s.139
Highways	Power to maintain footpaths and bridle-ways Power to light roads and public places Provision of litter bins Powers to provide parking places for bicycles and motor-cycles, and other vehicles Power to enter into agreement as to dedication and widening Power to provide roadside seats and shelters	Highways Act 1980, ss.43,50 Parish Councils Act 1957, s.3; Highways Act 1980, s.301 Litter Act 1983, ss.5,6 Road Traffic Regulation Act 1984, ss.57,63 Highways Act 1980, ss.30,72 Parish Councils Act 1957, s.1 Highways Act 1980, ss.47,116 Highways Act 1980, s.130 Road Traffic Regulation Act 1984, s.72 Highways Act 1980, s.96

	Consent of parish council required for ending maintenance of highway at public expense, or for stopping up or diversion of highway Power to complain to highway authority as to unlawful stopping up or obstruction of highway or unlawful encroachment on roadside wastes Power to provide traffic signs and other objects or devices warning of danger Power to plant trees and lay out grass verges etc. and to maintain them	
Investments	Power to participate in schemes of collective investment	Trustee Investments Act 1961, s.11
Land	Power to acquire by agreement, to appropriate, to dispose of	Local Government Act 1972, ss.124, 126, 127
Litter	Power to accept gifts of land	Local Government Act 1972, s.139
Lotteries	Provision of receptacles Powers to promote	Litter Act 1983, ss.5,6 Lotteries and Amusements Act 1976, s.7
Mortuaries and post mortem rooms	Powers to provide mortuaries and post mortem rooms	Public Health Act 1936, s.198
Open spaces	Power to acquire land and maintain	Public Health Act 1875, s.164 Open Spaces Act 1906, ss.9 and 10
Parish documents	Powers to direct as to their custody	Local Government Act 1972, s.226
Telecommunications facilities	Power to pay public telecommunications operators any loss sustained providing telecommunication facilities	Telecommunications Act 1984, s.97
Public buildings and village hall	Power to provide buildings for public meetings and assemblies	Local Government Act 1972, s.133
Public conveniences	Power to provide	Public Health Act 1936, s.87
Town and country planning	Right to be notified of planning applications	Town and Country Planning Act 1990, Sched.1, para. 8
Tourism	Power to encourage visitors and provide conference and other facilities	Local Government Act 1972, s.144
Traffic calming	Powers to contribute financially to traffic calming schemes	Highways Act 1980, s.274A
Transport	Powers in relation to car-sharing schemes, taxi fare concessions and information about transport Powers to make grants for bus services	Local Government and Rating Act 1997, s.26, 28 and 29 Transport Act 1985, s.106A
War memorials	Power to maintain, repair, protect and alter war memorials	War Memorials (Local Authorities' Powers) Act 1923, s.1; as extended by Local Government Act 1948, s.133
Water supply	Power to utilise well, spring or stream and to provide facilities for obtaining water from them	Public Health Act 1936, s.125

Who Does What?..... a (very) rough guide!

County Councils

Monitoring Officer for
County Members only

Education

Most schools
Special education
Nursery, adult, community

Personal Social Services

Securing provision for the elderly,
children and those with
disabilities (including social care
and health and residential care)
Inspection Services

Planning

Strategic planning/structure plans
Minerals and waste planning
Historic buildings

Highways/Transport

Public transport
Highways and parking
Traffic management
Footpaths and bridleways
Transport planning
Street lighting

Emergency Planning

Recreation

Parks and open spaces
Support for the arts
Archives and Record Office
Museums/Art Galleries

Economic Development

Tourism Development

District Councils

Monitoring Officer
Ethics & Probity for District &
Parish Members

Housing

Management and maintenance
of council houses
Working with Housing
Associations (known as
Registered Social Landlords)
Housing advice
Renovation grants
Homelessness
Unfit housing
Residential care

**Cemeteries and Burials,
Crematoria**

Planning

Local Development Framework
Development control (Planning
applications and enforcement)
Advertising consent
Historic buildings
Conservation areas
Tree preservation

Highways/Transport

Unclassified roads
Off-street car parking
Traffic management
Footpaths and bridleways
Road safety
Local transport plans
Street lighting
Street naming

Emergency Planning

Recreation

Parks, open spaces and halls
Swimming pools and leisure
centres
Support for the arts
Museums and art galleries

Economic Development

Tourism Development

Parish Councils

Clocks

**Closed Churchyards
Burials/Cemeteries**

Planning – as consultees

Bus shelters

War and other memorials

Street lighting

Public Open Spaces

**Village Halls
Playing fields
Museums and the Arts**

Tourism Development

Environmental Services

Refuse disposal
 Recycling
 Gypsy sites

Trading Standards**Registration of Births,
Marriages and Deaths****Library & Information Service****Grants to voluntary bodies****Community Planning****Environmental Services**

Refuse collection/street
 cleansing
 Recycling
 Management of travellers/gypsy
 sites
 Food safety
 Public conveniences
 Markets
 Dog and pest control
 Noise abatement
 Health & Safety
Seats
Licensing

Allotments**Electoral
Registration/Elections****Council Tax and Business
Rate collection****Grants to voluntary bodies****Help with Lottery Applications****Community Planning
Community Safety (anti-social
behaviour, alcohol byelaws)****Litter bins and litter
clearance****Local charities****Markets****Public seating
Licensing – as consultees****Allotments****Grants to voluntary
bodies**

NOTE: Both the county and district functions are discharged by single authorities in the case of metropolitan district councils and unitary councils.

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Association of **Council**
Secretaries and Solicitors

Parish Clerk and Other Employees Introduction to Role and Responsibilities

The Town or Parish Council Clerk is the 'engine' of an effective Local Council. He or she is its principal executive and adviser and – for the majority of smaller Local Councils - is the officer responsible for maintaining financial processes and records. The Clerk is often the Council's only employee.

The Clerk has a duty to give clear advice to all Members of the Council, including the Chairman, before decisions are reached, even when that advice may be unpalatable. The Clerk has a key role in advising the Council, and individual Councillors, on governance and ethical matters and liaising with the Monitoring Officer at the District/Unitary Council on ethical issues and the Councillors' Register of Interests.

The powers of other staff the Council may have derive from the Clerk, unless they are separately appointed by the Council for a specific purpose. Some larger Councils employ a range of administrative and support staff and many appoint a separate Responsible Finance Officer, with specific duties in relation to the budget, the annual accounts and audit, so as to ensure the proper financial management of the Council.

More Local Councils are nowadays providing training for their Clerk and encouraging them to seek professional recognition for the work that they do. A qualified Clerk is one of several pre-requisites for the Local Council to achieve Quality Council status and the National Association of Local Councils promotes a Certificate in Local Council Administration, and provides modest bursaries to assist smaller Councils in training the Clerk.

A Councillor may be appointed to act as Clerk to the Local Council but cannot be paid for doing so, and except in an emergency (to cover a temporary vacancy for example) it is not good practice for a Councillor to take on this role, because it confuses Officer/Member roles.

It should be noted that councillors may not be employees of their Council (there is an unacceptable conflict of interest) and may not become employees of their former Council until at least 12 months after ceasing to be a councillor. (Local Government Act 1972).

PARISH/TOWN COUNCIL

Clerk to the Council

Model Job Description

Overall Responsibilities

The Clerk to the Council is the Proper Officer and employee of the Council and as such is under a statutory duty to carry out all the functions of a local authority's Proper Officer, and in particular to serve or issue all the notices required by law of the Proper Officer of the Council.

The Clerk is responsible for ensuring that the lawful instructions of the Council in connection with its functions as a Local Authority are carried out. The Clerk is expected to advise the Council on, and assist in the formation of, overall policies to be followed in respect of the Authority's activities. The Clerk is responsible for producing all the information required for making effective decisions and for implementing all decisions of the Council. The person appointed is accountable to the Council for the effective management of all its resources and will report to the Council on them as and when required. Unless separately appointed, the Clerk is the Council's Responsible Finance Officer and is responsible for all the financial records of the Council and for the careful administration of its finances. The Clerk is the responsible officer in respect of the Health and Safety at Work etc. Act 1974, in regard to his/her own safety, the safety of other employees and that of members of the public, customers or other persons visiting any of the Council's premises.

Specific Responsibilities

1. To ensure that legal, statutory and other provisions, governing or affecting the running of the Council, are observed.
2. To monitor and balance the Council's accounts and prepare records for audit purposes, and VAT.
3. To ensure that the Council's obligations to insure are properly met.
4. To prepare, in consultation with appropriate Councillors as necessary, agendas for meetings of the Council and its committees; to attend such meetings and prepare minutes for approval.
5. To receive correspondence and documents on behalf of the Council and to deal with the correspondence or documents or bring such items to the attention of the Council. To issue correspondence as a result of the instructions of, or the known policy of, the Council.
6. To receive and report on invoices for goods and services to be paid for by the Council and to ensure such accounts are met. To issue invoices on behalf of the Council for goods and services to ensure payment is received.
7. To study reports and other data on activities of the Council and on matters bearing on those activities. Where appropriate, to discuss such matters with administrators and specialists in relevant fields.
8. To draw up both on his/her own initiative and as a result of suggestions by Councillors proposals for consideration by the Council and to advise on the practicability and the likely effects of specific courses of action.

9. To manage and supervise any other members of staff in keeping with the policies of the Council and to undertake all necessary activities in connection with the management of the salaries, conditions of employment, discipline and work of other staff in accordance with any current or future employment legislation.
10. To manage premises and facilities owned or operated by the Council in accordance with the directions or policies of the Council.
11. To monitor the implemented policies of the Council to ensure they are achieving the desired result and where appropriate suggest modifications.
12. To act as a representative of the Council as required.
13. To issue notices and prepare agendas and minutes for the Annual Parish Meeting; to attend the assemblies of the parish meeting and to implement the decisions made at the assemblies.
14. To attend all meetings of the Council and all meetings of its committees and sub committees.
15. To prepare, in consultation with the Chairman, press releases about the activities or decisions of the Council.
16. To attend training courses on the work and role of the Clerk as required by the Council.
17. To attend Conferences of the National Association of Local Councils (and/or Association of Larger Local Councils where applicable), the Society of Local Council Clerks, and other relevant bodies as required by the Council.
18. To be responsible as an officer and employee under the Health & Safety at Work Act for his/her safety at work and to take reasonable care for his/her health and safety and that of other persons who may be affected by his/her acts or omissions at work.

SIGNPOSTING ON EMPLOYMENT ISSUES

Some headline issues are set out below but legal advice should always be sought on particular applications or circumstances.

The Advisory, Conciliation and Arbitration Service (ACAS) is a useful source of information – www.acas.gov.uk

Other sources include – www.informationcommissioner.gov.uk
www.auditcommission.gov.uk

The Personnel section of the District or Unitary Council might be able to offer assistance.

- There is no requirement to have any particular employees but someone needs to be designated as the officer responsible for financial affairs. Usually, this will be the Parish Clerk.
- The Parish Clerk must be an employee of the Parish Council, not an independent contractor or self-employed person.
- The duties and terms and conditions of employment (including pay) should be set out in writing as soon as possible after appointment and within 13 weeks after the start of the employment.
- Officers who are paid must be appointed on merit.
- Councillors can be officers but they cannot be paid. Giving councillors such a role should be considered only in an emergency. Also, a former councillor cannot be appointed to a paid office until 12 months have passed since being a councillor of that council.
- There should be written procedures for disciplinary and grievance issues. (There is an ACAS Code of Practice.)
- Continuous service of 12 months entitles an employee to redundancy payments and to the right not to be unfairly dismissed. A series of temporary contracts is aggregated for this purpose.
- Discrimination laws operate to protect individuals at the time of appointment and during employment. They cover direct and indirect discrimination on the grounds of sex, marital status, colour, race, nationality, ethnic or national origins and disability. Harassment and bullying fall under this umbrella. Age discrimination rules will come into effect in October 2006. It is also unlawful to discriminate in employment and vocational training on the grounds of religion or belief.
- Employees have protection under the Public Interest Disclosure Act 1998 in respect of “whistle-blowing”.

The National Association of Local Councils and the Society of Local Council Clerks have negotiated a National Agreement on Salaries and Conditions of Service for local council clerks in England and Wales and negotiate annually on a salary award. A Model Contract of Employment and Job Description have also been agreed together with a Guide to Good Employment Practice in Local Councils. Local councils and their clerks may secure the advantages of these agreements through membership of their county/regional local councils' association and the Society of Local Council Clerks respectively.

PART THREE

ENSURING EFFECTIVE GOVERNANCE

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Association of **Council Secretaries** and **Solicitors**

Ensuring Effective Governance

Introduction

Parish and Town councils form one tier of local government in England and Wales and share many of the Characteristics of councils within the other tiers, namely, district councils, metropolitan district councils, unitary councils and county councils.

All tiers of local government derive their existence from democratic elections and they exercise their roles and functions given to them in legislation or by arrangement with another tier of local government.

All tiers of local government are democratically accountable and rules have been developed to demonstrate and guarantee that accountability, and to ensure that councils operate on a regulated and consistent basis.

Councils are required to conduct their business in an open way with properly organised meetings and agendas, and proper records of decisions.

Formal arrangements for the regulation of meetings should be provided in standing orders.

Financial arrangements for the regulation of the council's financial affairs should be provided in financial regulations.

Where functions are delegated, delegation arrangements should formally record such delegation provision to provide evidence of authority and transparency of approach.

Parish councils must adopt and have readily available the Code of Conduct issued by the Secretary of State under the Local Government Act 2000. This code is derived from the standards formulated by the Committee for Standards in Public Life.

Other protocols have been produced to govern particular aspects of council activities where experience has shown that problems can occur, such as the relationship between councillors and employees and gifts and hospitality.

Arrangements for dealing with complaints provide for formality of approach and a means of identifying problems in service provision.

This Part provides guidance on communication matters, including agendas and minutes, and on the governing documents the parish councils should produce and maintain.

The Independent Commission on Good Governance in Public Bodies (www.opm.co.uk/ICGGPS/index.htm) identified the following good governance standard for public services:

'Good governance means

- Focusing on the organisation's purpose and on outcomes for citizens and service users.
- Performing effectively in clearly defined functions and roles.
- Promoting values for the whole organisation and demonstrating the values of good governance through behaviour.
- Taking informed, transparent decisions and managing risk.
- Developing the capacity and capability of the governing body to be effective.
- Engaging stakeholders and making accountability real.

Ensuring that their governance arrangements are sound will enable parish councils to go some way towards meeting this standard.

Guidance for Parish Councils on Communication matters

Introduction

Local authorities have often fallen into the trap of assuming that routine documentation is for the benefit of the Council or to meet legal requirements. Agendas and minutes are then written in brief form, sometimes in a coded language that is user unfriendly to anybody else. Agendas and minutes are however a vital means of telling the community what the Council is considering and what decisions have been made on behalf of the community. This guidance contains a number of good practice ideas with a view to both raising standards of governance and providing a more effective means of communication.

Notice Board

This has been a traditional means of communication although sometimes at risk of abuse and often neglected. Modern materials and careful location can provide an effective mouthpiece and updated image for the Council.

The notice board should contain;

- The full title of the parish council.
- Website address.
- The name and address, telephone number and email address of the clerk.
- The list of members of the Council and means of contact (address, telephone number, email).
- Dates and times of meetings for the year.
- Agendas of forthcoming meetings.
- If practicable, minutes of meetings or a summary of recent decisions.
- Where minutes, the code of conduct and other public documents may be inspected.

It is essential that the notice board is kept up to date and notices replaced regularly. There should be a clear responsibility (generally the clerk's) for doing this.

There is nothing preventing the council making arrangements with other bodies for joint use of notice boards. A community notice board that meets the needs of both public bodies and local groups as well as providing useful information for visitors may be an economic means of achieving several objectives.

Agendas

Agendas for meetings of the parish council and its committees should be circulated and be made available to the public a minimum of 5 clear working days before the day of the meeting.

A covering letter to councillors comprises the statutory 'summons' to attend. The letter can be expressed in simple terms;

'You are requested to attend a meeting of the Council to be held in ---- on (date) at (time).

The agenda for the meeting is attached.

Yours sincerely

Clerk to the Council

The letter may contain additional information as to refreshments, access arrangements, smoking and any other appropriate information about the meeting.

The content of agendas will need to reflect any requirements of the Council's standing orders which may include specific items and the order of them.

It is sensible to adopt a standard style, by use of different fonts, size, highlighting, underlining and line breaks to improve the image and ease of reading of the document.

The agenda should have the name of the Council at the top, using the style that the Council has agreed. This may be in the form of a logo or include a pictorial logo or, where applicable, a coat of arms or adopted emblem. It is a practical marketing and image tool for local councils to adopt a house style and format that is then used in all official and formal documents. If a colour version is chosen, it is sensible to have a black and white version for economy use.

The agenda should contain beneath the Council title (and other logo or image) in clear bold format;

'Agenda for a meeting of the Council (Planning Committee etc) to be held on (date) at (venue) at (time)

Agendas for committee meetings might usefully include a list of the members of the committee, identifying the chair and deputy chair. (And their political group where this is relevant locally.)

It might be appropriate to include some notes prior to the agenda items, where this could be helpful to the public. Notes might include the fact that smoking is prohibited and that members of the public will only be permitted to speak at the discretion of the chair. It might be appropriate to include for meetings of the planning committee, for example, that a representative of the planning applicant and a representative of objectors will be permitted to speak for a maximum of 5 minutes each at the discretion of the chair (or whatever local practice has been adopted).

These notes are directed to the public to enable them to understand how the Council works. It is obviously important that copies of the agenda are available for the public attending meetings.

Agenda items should be numbered consecutively for ease of reference.

Procedural items

The agenda for meetings can often be divided between procedural items and business items and it may be helpful to identify this on the agenda. Procedural items will normally include;

Disclosures of Interests

It is suggested that agendas include a standard format and note or explanation on the following lines;

'To receive disclosures of personal and prejudicial interests from members on matters to be considered at the meeting. The disclosure must include the nature of the interest.

If an interest becomes apparent to a member during the course of a meeting that has not been disclosed under this item, the member must immediately disclose it.

Members may remain in the meeting and take part fully in discussion and voting unless the interest is prejudicial.

A personal interest is prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the member's judgement of the public interest.

Minutes

To resolve that the minutes of the meeting of the Council/committee held on the (date) (circulated to members) be signed as a correct record.

Apologies for absence

Chair's announcements

This should be limited to formal civic announcements, not matters that are or should be on the agenda.

Subject to the Council's standing orders or custom or practice, there may be other procedural items, by way of receiving information that is not to be the subject of discussion or debate at the meeting. For example;

Petitions

The Council may have arrangements for the receipt of petitions and for their formal referral to a committee or subsequent meeting for discussion.

Public questions, comments or representations

The Council may have arrangements for hearing members of the public. Standing Orders should provide for this to be limited to a fixed timescale, for each person to speak for no more than, say five minutes, and for the matter to be formally referred to a committee, or to be placed on the agenda of the next meeting, or to be responded to by the clerk, or to be noted, so that there is no discussion at the meeting on a matter that has not been given prior notice of in the agenda.

Appointment of members to committees

It may be necessary to change the membership of a committee during the course of a year in the event of a resignation or other reason.

Members questions to the Chair

Standing orders may include provision for members of the Council or the committee to put questions to the chair. The rules should specify that questions should relate to the functions of the Council or committee as appropriate, that notice of questions is given a few days before the meeting and that the agenda item be time limited.

Business items

Business items on the agenda will be determined by the activities of the Council or committee and the functions discharged. Some items will recur from previous agendas. It is good practice to provide a reference to the previous minutes on the agenda. Each matter should be given a clear heading that indicates what the agenda item is about and a brief indication of what the Council or committee is going to consider.

For example;

'Fencing at Smith Street allotment gardens

Minute 27 (Allotments Committee meeting 14 January 2005) refers.

The clerk will submit an estimate for repairs to the fencing for consideration by the Committee. '

More complicated items may require a written report, in which case the agenda item needs to refer to the report by its title and identification.

Agenda management

A draft agenda should be prepared in advance of the publication/despatch date and discussed with the Chair. The Chair has responsibility for the proper conduct of the meeting and needs to be involved in planning the meeting. The order of business items is important. For example it might be appropriate to include sensitive items, or items where there is likely to public interest and attendance, early in the agenda. Items where the press and public might be excluded could be put at the end.

It is good practice to work out in advance a timetable for the meeting to enable the chair to ensure that sufficient time is allotted for each item.

Minutes

The minutes are a public record of the decisions of the Council and considerable care should be taken in their format and production. The minutes can be produced in court and other judicial processes as evidence of decisions of the Council, and they form part of the archives of the local authority which require to be preserved.

As with agendas, minutes should be produced in a clear house style with a clear heading containing the status of the meeting, the place and date. It is good practice to indicate the time of commencement and conclusion of the meeting and any adjournments.

Minutes should be numbered consecutively for ease of reference. Some local authorities run minutes consecutively through the municipal year.

Each minute should contain a heading clearly indicating what the minute is about, a narrative, where appropriate, that briefly summarises what took place, and the decision. For many routine items, for example, planning applications, a narrative will not be necessary. The narrative should be in the past tense and should include reference to any written reports submitted. The narrative should be in plain English using full sentences and appropriate grammar. It is not necessary to refer to individual speakers unless this is significant. It may be appropriate to record the fact of an applicant and an objector addressing the Council or committee on a planning application or the clerk or other officer, or perhaps an officer of the district or county council reporting on a matter. The narrative might summarise points raised in debate on a sensitive matter. This can be done by bullet points.

Abbreviations should be avoided and acronyms only used after having put the title in full at the first mention.

The decision should be separately highlighted for ease of identification and words used to indicate it as a decision, for example;

Resolved

1 that----

2 that----

The wording of the decision should be included in full. It is not normally necessary to indicate in the minutes the name of the member moving and seconding a motion or the fact of a vote being taken.

The order of minutes will normally follow the order of the agenda.

Declarations of interest must be carefully recorded in the minutes, naming the member, clearly indicating which item the interest referred to, whether the interest is a personal interest or a personal and prejudicial interest, giving the nature of the interest and, in the case of a personal and prejudicial interest, recording that the member left the meeting during discussion and decision of the item.

For example;

'26 DISCLOSURE OF INTEREST

The following disclosures of interest were received:

Planning application for conservatory at 12 Smith Road, Firsttown

Cllr Green disclosed a personal and prejudicial interest as the owner of land adjoining the development site. Cllr Green left the room during the discussion and decision on this matter.'

Where standing orders make provision for the submission by notice of formal written motions to a Council meeting, it is appropriate to record the names of the members proposing and seconding the motion in the minutes.

Where standing orders make provision for a recorded vote to be taken, or for a member to require their vote to be recorded in the minutes, the minutes should record the names of members voting for and against the matter or the individual member's vote accordingly.

Where standing orders provide for a special procedure (other than routine arrangements) to be followed at a meeting it is generally appropriate to include reference in the minutes to the procedure being followed as evidence to that effect. Decisions of local councils can be set aside by a Court for procedural irregularity.

Decisions to exclude the press and public should be fully recorded in the minutes, making it clear which matter or part of it the exclusion applied to.

Minutes production

It may be helpful for the clerk or minute taker to provide a draft of the minutes to the chair of the meeting. This is an opportunity for picking up any mistakes in the content of the minutes and is not to be used by the chair as a means of re-writing the minutes.

It is good practice to produce minutes as quickly as possible after the meeting in order to circulate them to members no later than 10 working days after the meeting. It is acceptable for the minutes to be published (on the website or notice board, or by provision of copies to members of the public), but they do not become valid minutes until their acceptance as a correct record and signing by the chair at the next meeting. Minutes in this form should therefore record on the bottom to the effect,

'Minutes subject to approval at the next meeting'

The signed minutes should be carefully retained by the clerk for the council's archives. It is prudent to retain a separate set of minutes for public inspection and for reference at meetings or other purposes. Published minutes should include at the end the fact of being signed by the chair and date.

If changes are made to the minutes by the Council or committee before acceptance and signing, the wording changes should be recorded in the minutes of the meeting making the changes and the original minutes amended to reflect the changes. The copy signed by the chair will contain the alterations recorded in longhand.

Reports

Decisions of local authorities can be set aside by a court in circumstances where regard has not been had to relevant information or irrelevant considerations have been applied. Some matters may require consideration of a variety of facts or documentation. It is becoming more and more important that such information is provided to members in the form of a report. Reports may be prepared by the clerk or other employee, or occasionally by a member. Reports should be circulated at the same time as the agenda and made available to the public, unless they include confidential matters that would justify the exclusion of the press and public at the meeting.

It can improve the speed of handling business at a meeting if all the relevant information is made available to members in a report that assists members' grasp and deliberation of a matter before the meeting. The vast majority of county and district council business is dealt with in this way.

Website

'E-government' involves every local authority including parish councils considering the benefits of a website site, the use of email for communication and the development of interactive electronic business arrangements. The starting point is the development of a website which can provide a variety of information to the community. Parish Councils should look towards all their agendas, reports and minutes being included on their sites, with appropriate archive facilities. Examination of some of the existing parish council websites will give ideas on what is essential and appropriate material for inclusion.

It is essential that the site is kept up to date on a daily basis (weekly perhaps for small local councils) and older documents archived. The site can be developed as a means of receiving comments and of obtaining local views on topical matters. A good website can say a lot about the efficiency, effectiveness and relevance of a parish council.

Governing Documents for Parish Councils

In order to seek to meet good governance standards ('The Good Governance Standards for Public Services' published January 2005) and to underpin their local leadership and community engagement role (proposed in 'Community Engagement and Local Leadership – The Role for Parish and Town Councils' Countryside Agency 2005) and their effective provision of local services, all Parish Councils should commit some time to producing, and annually reviewing, their governance documents.

These documents will reflect the extent of a Parish Council's activity, and Councils discharging several functions and having a budget of half a million pounds or more are likely to have more complex governance arrangements than those involved in modest activity. Parish Councils subject to the Local Government Act 1999 best value requirements should have most, if not all, this documentation in place.

A Parish Council's governance documents should be readily available for inspection, whether on a website or local notice board, and parish councillors and employees should be able to demonstrate compliance with its governing documents in relation to any activity and decision of the Parish Council.

Governing documents for Parish councils will normally comprise:

- Standing Orders for meetings and the conduct of Council business
- Committee and Delegation arrangements
- Access to information arrangements
- Financial arrangements
- Contract standing orders
- Members code of conduct
- Other codes and protocols which may be adopted by the Council (e.g. relating to Gifts and Hospitality and Member and Officer Relations)

These documents might be prefaced by an introduction and explanation that briefly summarises the governance arrangements detailed in the documents.

Governing documents should not be regarded as 'tablets of stone' but should be altered to reflect changing needs and requirements with a view to improving the Council's means of conducting its business. It is suggested that an annual review be undertaken by an appropriate committee whose remit would be to make any recommendations for change to the Council's annual meeting. Rather than being adopted for each municipal year, it is suggested that resolutions adopting governing documents (or changing them) be phrased in terms of continuing to have effect until superseded by new or amended arrangements. In a year that no changes are made, it would be appropriate to continue to record in the Parish Council's minutes that a review was carried out, in order to demonstrate that the Council was continuing to review its governing arrangements.

Introduction and Explanation

The Introduction and Explanation should provide an outline of how the Parish Council makes decisions and carries out its business.

It might firstly provide a brief history as to when the Parish Council was formed, the communities it serves, boundaries, number of members and wards and approximate number of electors. The introduction might also usefully explain that the Parish Council is a body corporate as a statutory body and is subject to relevant local government legislation, and that its powers and functions are limited to the powers and functions provided by that legislation. All decisions are made in the name of the Council.

Information may be added as to the usual time, date and place of meetings. It can then be explained that the conduct of meetings must be in accordance with the Standing Orders adopted by the Council, which are intended to provide for the effective management of the Council's business.

Where a Parish Council has formed committees (and committees have formed sub-committees), the structure should be explained and the business to be discharged by each committee under the Committee and Delegation Arrangements. Parish Councils can delegate specific functions to committees (and officers) to be discharged on behalf of the Council. Alternatively, the Parish Council can appoint committees as advisory committees to make recommendations to the Parish Council. There can be a mixture of both. (For example, a Parish Council might delegate all the allotment functions of the Council to an Allotments Committee, subject to the Committee not exceeding budget limits and decisions being within Council agreed policies. Any decisions outside these controls would be made as recommendations to a meeting of the Council.) The Introduction and Explanation should be clear as to how the delegations work.

The Introduction and Explanation should briefly explain the purpose of the other governing documents adopted by the Parish Council. The Members' Code of Conduct should specifically be introduced as governing the behaviour and conduct of members of the Parish Council. It would be useful to indicate when the various governing documents were first adopted and explain the parish council's arrangements for reviewing the documents.

Standing Orders

Parish Councils are subject to the basic arrangements for the conduct of meetings and making decisions contained in Schedule 12 of the Local Government Act 1972 (paragraphs 7-13 and 39-45). These provide for:

- Holding an annual meeting
- Holding other meetings
- Location of meeting not to be in licensed premises unless no other suitable room is available
- Notices for meetings
- The person to preside at meetings
- Quorum to be no less than 3
- Voting by show of hands
- Arrangement for recorded vote
- Decisions to be by majority vote
- Provision for casting vote
- Recording attendance
- Provisions for minutes and their validity
- Power to make standing orders subject to these provisions

There is no legal obligation to make standing orders on the part of a Parish Council. However, the basic provisions in Schedule 12 will be insufficient for the needs of most Parish Councils, other than perhaps the smallest Councils having nominal expenditure, minimal delegation arrangements and performing very limited functions.

Where standing orders are adopted, it is preferable that they include the requirements of Schedule 12 in respect of procedures to be followed to avoid the need for separate reference.

A variety of standing orders have been made by parish councils over the years to meet particular needs and to provide certainty in respect of particular circumstances. Examples include:

- Order of business at annual meeting
- Order of business at ordinary meetings
- Public question time arrangements
- Dealing with petitions
- Formulating rules of debate for motions
- Dealing with disorderly conduct
- Appointing employees
- Rules for committees and sub-committees
- Excluding the public and press
- Changing Standing Orders

It will be appreciated that the purpose of the Schedule 12 provisions and standing orders is to provide a system of control in the way Parish Councils conduct their business and make decisions. Such a system of control should provide a balance between the need to ensure an efficient, timely and effective means of decision making that is open and flexible, and the need to prevent the abuse of power and authority. Standing Orders provide, therefore, procedures checks and balances that should ensure coherent and sound governance arrangements.

No single model will suit all parish councils and in adopting standing orders parish councils should carefully balance their needs. The Standing Orders in the appendix following provide some of the more standard procedures and rules together with some options for dealing with the same issues.

It should be appreciated that a failure to comply with its own standing orders may provide a basis for a court to set aside a decision of a Parish Council. For this legal reason as well as the interests of good governance, parish councillors should collectively ensure that they comply with their Council's standing orders.

Committees and Delegations

Unless a Parish Council delegates functions to its committees and officers, all decisions for the discharge of its functions can only be made at meetings of the Council. Decisions cannot be delegated to individual councillors. Decisions can be set aside by a court if made by a body or person not having the power to make them. A general principle can be applied that decision making should be delegated to the lowest level that is consistent with efficiency, timeliness and competence. A system of delegation is again a system of control that identifies where responsibility lies for all decision making. Controls can be designed to enable a spread of decisions to be discharged by committees and/or officers, but for certain decisions to be referred to the parish council itself to make.

A starting point for most parish councils will be the day to day responsibilities involving decisions that should for reasons of efficiency be delegated to the Clerk (and other employees, where appropriate). The barest minimum would probably be the handling of the Council's correspondence.

Other delegations to the Clerk will arise through practical experience. Most clerks should be authorised to purchase, for example, basic office supplies up to a fixed sum that reflects the need for both efficiency and financial control. The fixed sum may vary from a few pounds to several hundred pounds depending on the size and business of the Council. Delegation of functions to the Clerk should of course reflect the contents of the job description and contract of employment.

It is probable that most parish councils will wish to fully delegate some planning functions to a planning committee, particularly the function of making representations to the District Council on planning applications, in view of the short timescale available, which may not fit within the dates of parish council meetings.

A parish Council may wish to appoint committees of its members to deal with, or make recommendations to it on, (or a combination of both) specific functions such as allotments, traffic and parking, tourism, recreation grounds and open spaces and so on. Other committees may be allocated a specific short term single objective (e.g. the drafting of a parish plan) or a thematic issue relevant to the Council's functions (e.g. safety in the community).

Parish Councils which precept annually and have a substantial budget may wish to appoint a finance committee (a variety of names have been given to this corporate responsibility) whose functions are to monitor expenditure in detail, vire money between functions (subject to limits as considered necessary) and to formulate and recommend the following year's budget and precept to the Parish Council.

Parish Councils have a wide flexibility as to what committees they appoint and what committees are to do. It is important that the structure is regularly reviewed to ensure that it meets the needs of the Parish Council in changing circumstances. Delegations should be reviewed to ensure they operate efficiently and effectively and that any constraints on delegations are appropriate.

Again there is no standard formula for the appointment of committees and delegation of functions that will suit all Parish Councils.

The appendix following contains some examples that may provide assistance to parish councils and their clerks on the format that may be followed in preparing delegation arrangements.

Access to Information arrangements

In order to demonstrate its openness, a parish Council should bring together in this document its arrangements on the availability of its documents that are open to public inspection and copying, arrangements for dealing with requests for information under the Freedom of Information Act 2000, including any internal appeal arrangements to the Parish Council (or a committee), and arrangements for dealing with personal data requests under the Data Protection Act 1998.

Financial Arrangements

Financial control arrangements for local authorities are normally given the title 'financial regulations'. Whatever the size of a parish council's budget and annual expenditure, it is essential that financial controls are built in to its governing arrangements. Parish councils should consider the inclusion of the following within their financial control arrangements:

- The formulation of spending plans, budget and precept, and for the approval of them.
- Monitoring expenditure
- Transferring money between budget heads
- Authorising expenditure and payment, and making payment
- Internal and external audit of accounts
- Approving borrowing and for capital expenditure
- Banking
- Payroll and pensions
- Receipt of Income
- Credit facilities
- Reviewing fees and charges
- VAT
- Register or inventory of assets
- Insurance
- Use of IT facilities and records for accounting
- Reviewing and reporting on the integrity of these arrangements

The amount of detail necessary will largely depend on the scale of a parish council's financial turnover.

These financial control arrangements should identify which person or body is responsible for what aspect of them, and what and when the arrangements apply.

In each circumstance of the receipt of income or the incurrance of expenditure, it should be possible to identify a clear audit trail of responsibility and decision making in order to demonstrate the integrity of a Council's financial systems of control.

Annual review is again essential in order to keep abreast of changing needs and developments.

Contract Standing Orders

Local authorities may make standing orders with respect to the making of contracts by them or on their behalf, and must make standing orders about contracts for the supply of goods or materials or for the execution of works. (Local Government Act 1972 S135)

The primary purposes of contract standing orders are to ensure competition for supply and works contracts and to provide procedures to regulate the way tenders are invited. It is usual to have a lower financial limit below which formal tendering arrangements don't apply. In such cases Councils may require a minimum number of written quotations for supplies, services and works.

Parish Councils involved in purchasing goods or materials of a significant amount, or undertaking, through contractors, building or engineering work should have in place contract standing orders in order to provide for proper control systems for selecting and appointing contractors.

Members Code of Conduct

Parish Councils are required to adopt the model code of conduct applicable to Parish Councils issued under the Local Government Act 2000, and this should be seen as the governing document that controls the conduct and behaviour of parish councillors in conducting the business of the Parish Council. The conduct and behaviour controls within the Code complete the system of controls outlined above that are designed to ensure high standards in local governance. It is important for parish councillors to be aware how the controls (procedural, responsibility, financial and behavioural) relate with each other and work together to apply the principles of governance regarded as essential to the public service.

Other Codes and Protocols

It is open to parish Councils to adopt other documents that specify procedures, rules and arrangements that help to complement their performance. Model documents are available elsewhere in this toolkit. (Gifts and Hospitality etc) Where adopted, Parish Councils should recognise these documents as part of their governing documents.

It may be appropriate for Parish Councils to include within their bundle of governing documents the 'code of conduct for employees' which is expected to be issued by the Secretary of State during 2005 (under S.82 Local Government Act 2000), assuming the code extends to Parish Councils.

Parish Councils are being expected to participate in the wider field of local government and another document might include a list of the bodies with which the Parish Council has partnership, partnering or other liaison or working arrangements, together with details of the parish councillors appointed or involved, and the reporting requirements within the Parish Council in relation to the arrangements.

References

The Good Governance Standards for Public Services available at www.cipfa.org.uk
Community Engagement and Local Leadership available at www.countryside.gov.uk
Local government Act 1972 Sections 99, 135 and Schedule 12
Local Government Act 1999
Local Government Act 2000 S.82

Standing Orders for Parish Councils

Note

Standing orders provide procedures and controls for the management of Council business. Basic arrangements are contained in Schedule 12 of the Local Government Act 1972. These may be considered sufficient for small parish councils with modest business and no committees, in which case copies of the relevant paragraphs should be provided to members and be available for reference at meetings.

The following incorporate the procedural requirements in Schedule 12 together with other requirements that may be appropriate for larger more active parish councils. It is a matter for each Parish council to determine what requirements they consider appropriate to include in their own standing orders and what modifications to make to suit their needs.

Standing orders should be seen as an aid to proper and effective governance. Over regulation can be an impediment.

1 COUNCIL MEETINGS

1.1 Chairing meetings

The Chair of the Council or in her /his absence the Deputy Chair shall chair meetings of the Council. In their absence the Council shall select a person to chair the meeting.

Note

This reflects the requirement in Schedule 12. A meeting cannot take place unless a chair is appointed. The clerk should supervise the selection by inviting nominations and putting them to the vote. Where a chair has to be selected, the meeting starts when the selection decision is made. The minutes should record the selection of chair (i.e. 'Cllr X was selected to chair the meeting').

Town Councils can substitute the title of chair with that of Mayor.

If other standing orders are adopted referring to the Chair or Mayor, it would be appropriate to add an additional provision as follows:

References to the Chair/Mayor in these Standing Orders include the Deputy Chair/Deputy Mayor and any other member when acting as Chair/Mayor.

1.2 Quorum

No business shall be dealt with unless there is a quorum of 3 members present. If there is no quorum, the meeting must be adjourned immediately.

Note

This reflects the requirement in Schedule 12.

The inclusion of the figure 3 is the legal minimum for councils of up to 9 members. For Councils having more than 9 members, the figure must be increased to correspond to a figure no less than one third of the membership. (I.e. for councils with 10 to 12 members, the figure is 4, 13 to 15 members, 5, 16 to 18 members, 6 and so on.)

1.3 Holding meetings

1.3.1 An annual meeting of the Council shall be held in every year in the month of May. In the year of ordinary elections of parish councillors the annual meeting shall be held within 14 days after the day on which councillors elected take office.

1.3.2 At least 3 other meetings of the Council shall be held in every year.

- 1.3.3 An extraordinary meeting of the Council may be called at any time by the chair.
- 1.3.4 Any 2 members may submit a written request signed by them to the Chair to call an extraordinary meeting. In the event of the Chair not calling an extraordinary meeting within 7 days of receiving the request, or refusing to call an extraordinary meeting, the 2 members may call an extraordinary meeting.
- 1.3.5 Meetings shall be held at a place, date and time fixed by the Council. Meetings shall not be held in premises being used at the time for the supply of alcohol permitted by the Licensing Act 2003 unless no other suitable room is available.
- 1.3.6 Notice of the time and place of meetings must be fixed in a conspicuous place in the parish at least 3 clear days before the meeting. Where a meeting is called by members of the Council (1.3.4 above), the notice shall be signed by those members and shall specify the business proposed to be transacted at the meeting (the agenda).
- 1.3.7 All members of the Council shall be given (by post or left at their residence) at least 3 clear days written notice of all meetings of the Council from the Proper Officer specifying the business proposed to be transacted (the agenda).

Note

These are the minimum requirements contained in Schedule 12. Parish Councils may apply more detailed arrangements. It is suggested however that the date, time and place for all Council meetings for the year be fixed in advance at the annual meeting rather than being included in standing orders. Agendas for meetings providing clear information of the business to be dealt with should, wherever possible, be published and circulated to members at least 5 clear days before meetings in order to give as much notice as possible to both members and the public.

Parish Councils may adopt more rigid and specific requirements in their standing orders as to the number of meetings and meeting times, but in so doing, they must be mindful that they then must comply with them. Any departure requires the approval of the Council to making an exception to standing orders.

1.4 Order of business for Annual Meetings

- 14.1 At Annual Meetings business will be dealt with in the following order:

Election of Chair (This will be followed immediately by the Chair's declaration of acceptance of office)

Election of Deputy Chair

When the Annual Meeting follows Council elections, to note the receipt of declarations of acceptance of office by members

Disclosures of interest by members (and employees) in items on the agenda

Agreeing the minutes of the last meeting and signing them

Receiving any apologies for absence

Announcements from the Chair

To approve any changes to the Standing Orders proposed following the annual review

To approve any changes to the delegation arrangements proposed following the annual review

To approve any changes to other governing documents

To appoint committees

To make appointments and nominations

Deciding the dates, times and place of meetings of the Council for the year

To receive recommendations from committees
Other business placed on the agenda

Note

The Annual Meeting can be retained as more of a ceremonial meeting or it can deal, in addition to the formal items, with normal business as any ordinary meeting. Items from the list for ordinary meetings can be included as considered appropriate. If ordinary business is conducted it may be sensible to add the facility to change the order of business per 1.5.2 below.

It should be noted that newly elected members cannot act as councillors until they have made their declarations of acceptance of office and undertakings to observe the code of conduct. It is desirable for these to be completed before the commencement of the meeting.

Parish Councils may include other items as they think appropriate. Where a Council produces an annual report, the Annual Meeting might be an appropriate time for its adoption as the annual report of the Council.

1.5 Order of business for ordinary meetings

1.5.1 At ordinary meetings, business will usually be dealt with in the following order:

Disclosures of interest by members (and employees) in items on the agenda
Agreeing the minutes of the last meeting and signing them (SO ---)
Receiving any apologies for absence
Announcements from the Chair
Receiving petitions (SO---)
Public question time (SO---)
Member question time (SO---)
Any business remaining from previous meetings
Any appointments to committees and other bodies
To receive recommendations from committees (SO---)
To receive business motions from members (SO---)
Other business placed on the agenda

1.5.2 The order of business may be changed by the meeting by motion put by the Chair.

Note

It is suggested that the first 3 items are always taken first as matters of procedure. Announcements from the chair should be limited to civic matters rather than agenda business.

It is suggested that items of public interest for which the public are present are dealt with early in the agenda. This might involve the Chair moving items forward with the approval of the meeting.

It is desirable to make provision for members of the public to ask questions (and make representations) to the Council. This can be by advance notice which enables a response to be made. Alternatively it can be spontaneous. The Council is not obliged to respond at the meeting. A more considered reply may be necessary and arrangements will need to be made for this. The Chair will need to effectively control the question time to allow as many persons as possible within the allocated time scale allowed to put questions.

Parish Councils may wish to add other standard items which meet their needs (e.g. authorising orders and payments, financial monitoring report, to note minutes of committees).

1.6 Minutes

- 1.6.1 No discussion shall take place on a motion to agree the minutes other than upon their accuracy.
- 1.6.2 Any corrections shall be made by moving that the minutes are agreed with the corrections stated.
- 1.6.3 The minutes must record the names of members present at the meeting and the declarations of interest of any member.
- 1.6.4 The minutes of a meeting must be circulated to all members as soon as practicable and referred to the next meeting (other than an extraordinary meeting) for agreement and signing by the Chair.

Note

This is a useful provision to prevent discussion going over ground already dealt with. The precise wording of corrections needs to be identified when moving the minutes.

The requirement to record names in the minutes accords with Schedule 12.

The requirement to circulate minutes is included as it should be possible for all parish councils now to produce them in type or electronically.

1.7 Petitions

- 1.7.1 Petitions may be received at (ordinary) meetings of the Council provided that the petition is received by the clerk no later than mid-day three working days before the day of the meeting and is signed by at least 10 electors within the parish.
- 1.7.2 Petitions may only be about a matter for which the Council has a responsibility or which affects the parish.
- 1.7.3 Petitions will not be received by the Council which are in furtherance of a person's individual circumstances or which are about a matter where there is a right of appeal to the courts, a tribunal or government minister.
- 1.7.4 A petition will not be received by the Council where the issue it concerns has been the subject of a petition in the last six months or a decision of the Council in the last six months.
- 1.7.5 One signatory to the petition may speak on the petition for no more than 5 minutes.
- 1.7.6 No discussion shall take place on the petition. A member may move that the petition be referred to the next meeting or to a committee or to another body. Once seconded, the motion will be voted on without discussion.
- 1.7.7 No more than 5 petitions will be received at a meeting.

Note

Optional.

Petitions are a way of persons pursuing a particular concern obtaining support and prompting public debate. For Parish Councils, having a process for receiving petitions demonstrates an interest in community concerns and a readiness to listen. The constraints to petitions are intended to prevent abuse of the process.

1.8 Public Question time

- 1.8.1 Any elector within the parish may put a question to the meeting about a matter for which the Council has a responsibility or which affects the parish.
- 1.8.2 An elector seeking a response to a question at the meeting must give the clerk notice of the question at least 5 clear days before the meeting.
- 1.8.3 Questions will not be received by the Council which are in furtherance of a person's individual circumstances or which are about a matter where there is a right of appeal to the courts, a tribunal or government minister.
- 1.8.4 A question will not be received by the Council where the issue it concerns has been the subject of a decision of the Council in the last 6 months.
- 1.8.5 An elector putting a question may speak for no more than one minute.
- 1.8.6 A maximum of 15 minutes will be allowed for public questions.
- 1.8.7 No discussion shall take place on any question put. Where practical, the Chair may respond to the question or indicate that a written response will be made.
- 1.8.8 Where notice of a question has been given, a reply may be given orally at the meeting by the Chair or person nominated by the Chair, or a written reply given to the elector.

Note

Optional.

Again this device provides an opportunity for electors to raise questions of concern. Questions may of course simply raise issues. 'When are the street lights on Mary Street going to be repaired?' The Chair and members may need to be tolerant with electors approach to questions put as statements. There is no obligation on the Council to respond at the meeting. An indication that the matter will be noted may be sufficient.

It is preferable for parish councils not to make immediate decisions on matters raised (other than to refer them to a committee or the next meeting) as they may not have all the relevant information to make a valid decision.

An alternative is to provide within standing orders an 'open session' for ordinary meetings enabling an elector to raise and comment on a matter. The wording above can be supplemented allowing an elector up to 5 minutes and the session to take place for up to 30 minutes. For example;

Any elector within the parish may put a question to the meeting or comment about a matter for which the Council has a responsibility or which affects the parish.

An elector seeking a response to a question at the meeting must give the clerk notice of the question at least 5 clear days before the meeting.

Questions or comments will not be received by the Council which are in furtherance of a persons individual circumstances or which are about a matter where there is a right of appeal to the courts, a tribunal or government minister.

A question or comment will not be received by the Council where the matter it concerns has been the subject of a decision of the Council in the last 6 months.

An elector putting a question or making a comment may speak for no more than 5 minutes.

A maximum of 30 minutes will be allowed for public questions and comments to be raised.

No discussion shall take place on any question put or comment made. Where practical, the Chair may respond to the question or indicate that a written response will be made.

Where notice of a question has been given, a reply may be given orally at the meeting by the Chair or person nominated by the Chair, or a written reply given to the elector.

1.9 Member question time

- 1.9.1 Any member may put a question to the meeting about a matter for which the Council has a responsibility or which affects the parish.
- 1.9.2 A member seeking a response to a question at the meeting must give the clerk notice of the question at least 5 clear days before the meeting.
- 1.9.3 In putting a question a member may speak for no more than 1 minute.
- 1.9.4 A maximum of 15 minutes will be allowed for members' questions.
- 1.9.5 No discussion will take place on any question put. Where practical, the Chair may respond to the question or indicate that a written response will be made.
- 1.9.6 Where notice of a question has been given, a reply may be given orally at the meeting by the Chair or person nominated by the Chair, or a written reply given to the member.

Note

Optional.

This device allows members to raise matters not otherwise on the agenda. It also allows minority issues to be aired.

1.10 Recommendations of committees

- 1.10.1 The usual order for considering recommendations of committees will be:
(list committees in appropriate order)
- 1.10.2 The order may be changed by the meeting by motion put by the chair where this is conducive to the efficient conduct of business.
- 1.10.3 Recommendations of committees must be included in full on the agenda for the Council meeting. Recommendations of committees meeting after the notice of meeting has been sent to members must be circulated to all members as soon as practical.
- 1.10.4 Recommendations cannot be discussed until they have been moved and seconded. This will normally be done by the chair and deputy chair of the committee.
- 1.10.5 Normally only one recommendation may be discussed at a time, but the Chair may allow 2 or more recommendations to be discussed together where this is conducive to the efficient conduct of business.

Note

Optional.

This is a sensible addition to standing orders where committees have been appointed.

1.11 Business motions

- 1.11.1 Any member may give to the clerk written notice of a motion the member wishes to move at a meeting at least 5 clear days before the meeting (and sufficient to enable the motion to be included on the agenda).
- 1.11.2 Motions must be included in full on the agenda in the order they are received.
- 1.11.3 Motions cannot be discussed until they have been moved and seconded.
- 1.11.4 Normally only one motion may be discussed at a time, but the meeting may agree on motion of the Chair that 2 or more motions relating to the same matter be discussed together where this is conducive to the efficient conduct of business.

Note

Optional.

This is a means for individual members raising formal business on an agenda. Councils should be mindful that decisions should be made having regard to relevant information. Having regard to the short notice members have of motions, members should be cautious voting on motions where insufficient information is available to them.

1.12 Rules of debate for committee recommendations and business motions

- 1.12.1 Any member may propose an amendment to a committee recommendation or business motion by giving notice of it in writing to the clerk at least 5 hours before the starting time of the meeting. The clerk shall provide all members at the meeting with copies of amendments.
- 1.12.2 An amendment must relate directly to the subject matter of the recommendation or motion and may refer the recommendation or motion to a committee for consideration or further consideration, delete words, add words, or delete and add words. An amendment must not have the effect of nullifying the recommendation or motion.
- 1.12.3 An amendment cannot be discussed until it has been moved and seconded.
- 1.12.4 An amendment can be withdrawn at any time by the member moving it.
- 1.12.5 The member moving the recommendation or motion may incorporate an amendment into the recommendation or motion.
- 1.12.6 Amendments will be discussed together unless the meeting agrees to discuss them separately on the motion of any member.
- 1.12.7 Amendments will be put to the vote in the reverse order in which they were moved. An amendment which is carried shall become the substantive recommendation or motion and other amendments will not be put to the vote.
- 1.12.8 The order of speaking shall be
 - mover of the recommendation or motion
 - mover of first amendment
 - mover of second amendment (and so on)
 - any other member wishing to speak
 - right of reply of movers of amendments in reverse order
 - right of reply of mover of recommendation or motion

- 1.12.9 A member may speak only once in a debate except where the member has a right of reply or where the Chair, in her/his discretion permits in the interests of debate.
- 1.12.10 During a debate, but between speakers, any member may move a procedural motion
- That the question be put to the vote immediately
 - That the meeting move to the right of reply of the mover of the recommendation or motion and then to the vote
 - To proceed to the next business
- If seconded, the procedural motion shall be put to the vote immediately without discussion.

Note

Optional.

Councils having a process for debate of recommendations or motions are urged to apply rules of debate within their standing orders in order to provide a reasonable and fair procedure and the means for the chair to maintain some formality.

These rules are intended to apply only to dealing with recommendations and motions. They do not apply to other business. Assuming some form of delegation is in place, most business will come forward as committee recommendations.

1.13 Voting

- 1.13.1 Subject to any legal requirement all questions to be decided by the Council shall be decided by a majority of the members present and voting.
- 1.13.2 Members shall vote by show of hands. A member's vote will only be counted if the member is in the room of the meeting at the time the vote is taken.
- 1.13.3 Immediately after a vote is taken and before the next business is commenced, a member may request that the minutes of the meeting record the way in which the member has voted or that the member abstained from voting. The minutes shall note whether the member voted for or against the question put or whether the member abstained.
- 1.13.4 Immediately before a vote is taken any member may request that a vote is recorded. When a request is made the Chair or person nominated by the Chair shall call the names of all the members and after each name is called the member shall state whether s/he is voting for or against the question put or abstaining. The record of voting shall be recorded in the minutes.
- 1.13.5 In the case of an equality of votes the Chair may give a casting vote whether or not s/he gave a first vote.
- 1.13.6 The Chair must give a casting vote in the event of there being an equality of votes for the election of the Chair of the Council.

Note

These requirements mainly reflect the requirements of schedule 12. The requirement for members to be in the room for a vote to be counted, and the casting vote for election of chair are optional but sensible.

1.14 Procedural motions

1.14.1 Any member at any time may move, between speakers, any of the following motions:

- To proceed to the next business
- To move to the vote
- To refer a matter to a committee
- To adjourn the meeting

If the motion is seconded, it must be put to the vote immediately without discussion.

Note

Optional but useful to aid the flow of business.

1.15 Conduct

1.15.1 A member when speaking must address the Chair.

1.15.2 Members must behave in a way that is conducive to the efficient conduct of business and respect the role of the Chair in the proper management of the meeting.

1.15.3 If a member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructing business, the Chair may move that the member be not further heard. If the motion is seconded, it must be put to the vote immediately without discussion.

1.15.4 If the member continues to behave improperly after a motion that the member be not further heard, the Chair may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If the motion is seconded, it must be put to the vote immediately without discussion.

1.15.5 If there is a general disturbance at the meeting involving any person present, making the orderly conduct of business impractical, the Chair may adjourn the meeting for as long as s/he considers necessary.

Note

Optional but useful as a means of allowing tempers or passion to subside.

2 COMMITTEE MEETINGS

2.1 Chairing meetings

2.1.1 Every committee shall at its first meeting following the Annual Meeting of the Council, before conducting any business, elect a chair for the year. A committee may elect a deputy chair.

2.1.2 The chair of the committee, or in her/his absence the deputy chair, will chair meetings of the committee. In their absence, the committee shall select a person to chair the meeting.

Note

Alternatively, the Council may appoint the chairs and deputy chairs of committees at the time the committees are appointed.

2.2 Quorum

- 2.2.1 No business shall be dealt with unless the committee is quorate.
- 2.2.2 If there is no quorum the meeting must be adjourned immediately.

2.3 Holding meetings

- 2.3.1 The clerk will call the first meeting of the committee following consultation with the chair.
- 2.3.2 Subsequent meetings shall be held at a place, date and time fixed by the committee. Meetings shall not be held in premises being used at the time for the supply of alcohol permitted by the Licensing Act 2003 unless no other suitable room is available.
- 2.3.3 Notice of the time and place of meetings must be fixed in a conspicuous place in the parish at least 3 clear days before the meeting.
- 2.3.4 All members of the Council shall be given (by post or left at their residence) at least 3 clear days written notice of all meetings of a committee from the Clerk specifying the business proposed to be transacted (the agenda).

2.4 Order of business

- 2.4.1 Business will usually be dealt with in the following order:

Disclosures of interest by members (and employees) in items on the agenda
Agreeing the minutes of the last meeting and signing them (SO ---)
Receiving any apologies for absence
Announcements from the Chair
Any business remaining from previous meetings
Other business placed on the agenda

Note

Councils operating extensive delegation arrangements may consider it appropriate to extend the provision for public questions/comments to committee meetings.

2.5 Voting

- 2.5.1 Subject to any legal requirement all questions to be decided by a committee shall be decided by a majority of the members present and voting.
- 2.5.2 Members shall vote by show of hands. A member's vote will only be counted if the member is in the room of the meeting at the time the vote is taken.
- 2.5.3 Immediately after a vote is taken and before the next business is commenced, a member may request that the minutes of the meeting record the way in which the member has voted or that the member abstained from voting. The minutes shall note whether the member voted for or against the question put or whether the member abstained.
- 2.5.4 In the case of an equality of votes the Chair may give a casting vote whether or not s/he gave a first vote.

2.6 Attendance by members

2.6.1 Any member not being a member of a committee may attend any meeting of the committee.

2.6.2 The chair may permit any such member to speak.

3 OTHER PROVISIONS

3.1 Smoking

3.1.1 Smoking is prohibited during any Council and committee meeting.

3.2 Individual members

3.2.1 A member cannot individually exercise any functions of the Council on behalf of the Council. A member must not issue any order relating to work being done for the Council or claim any right to enter any property on behalf of the Council.

Notes

The above standing orders have been drafted to allow space for flexibility and it should not be necessary to include provision for making an exception to or suspending standing orders. The standing orders reflecting Schedule 12 provisions cannot be waived. If a provision to suspend is required, it will require some checks to prevent abuse. e.g.

A standing order (other than – list the SOs that reflect the Schedule 12 requirements) may be suspended by a motion on the agenda or by a motion put to the meeting without notice. Where a motion to suspend a standing order is put to a meeting without notice, at least one half of the members of the Council (or the committee) must be present.

APPOINTMENT OF COMMITTEES AND DELEGATIONS

The Parish Council will appoint the following Committees with composition, quorum and role and functions indicated:

Resources Committee

The Committee will comprise --- members.

The quorum of the Committee shall be --- members.

The Committee shall undertake the following role and functions:

- To determine all the resource requirements of the Council and make recommendations to the Council. Resources include financial, land and property and employees and contractors.
- To recommend to the Council an annual budget and precept.
- To regularly monitor income and expenditure and to make any recommendations to the Council.
- To incur and authorise expenditure not otherwise delegated to another committee or employee.

Planning Committee

The Committee will comprise --- members.

The Quorum of the committee shall be --- members.

The Committee shall undertake the following roles and functions:

To make recommendations to the Council

- In relation to the approval or otherwise of any development plan or strategy proposals under planning legislation affecting the parish.
- In respect of representations to the Local Planning Authority in support of any departure application.
- In relation to any arrangements between the Parish Council and the Local Planning Authority about the involvement of the Parish Council in the discharge of planning functions.

To make representations to the Local Planning Authority

- On any other application referred to the parish council.
- On any other planning matter that affects the parish.

Allotments Committee

The Committee will comprise --- members.

The Quorum of the Committee shall be --- members.

The Committee shall undertake the following roles and functions:

To make recommendations to the Council on the formulation of any policy or strategy in relation to the discharge of the allotments function.

To make recommendations to the Resources Committee on the resources necessary to discharge the allotments function.

To discharge all other aspects of the allotments function in accordance with relevant legislation, any policy or strategy relating to the function approved by the Council, and within the budget provision made by the Council.

Parish Community Safety Committee

The Committee will comprise --- members.

The quorum of the Committee shall be --- members.

The Committee shall undertake the following role and functions:

Keep under review the safety of the community within the parish and make recommendations to the Council on any matters involving community safety.

Liaise with the emergency services in relation to community safety matters.

Liaise with the local planning and highways authorities on community safety matters affecting the parish in relation to their functions.

Liaise with the District Council, County Council, NHS bodies, Environment Agency and other public bodies on community safety matters affecting the parish.

Encourage and support community involvement in community safety initiatives within the parish.

Delegation to employees

The Parish Clerk

1. The Clerk shall be the proper officer for all proper officer functions.
2. The Clerk shall manage all employees of the Council and has the authority to take disciplinary action under agreed procedures.
3. The Clerk shall make arrangements to pay salaries and wages to all employees of the Council.
4. The Clerk shall accept bookings and hirings of premises and facilities operated by the Council.
5. The Clerk shall arrange and call meetings of the Council, its committees and sub-committees in consultation with the relevant chair.
6. The Clerk shall carry out and implement any Council, committee or sub-committee decision.
7. The Clerk may take urgent decisions on behalf of the Council in consultation with the Chair and/or another member(s).

The Allotments Officer

1. The allotments officer shall deal with day to day matters in relation to the allotments function, including the allocation of allotments, in accordance with policies and decisions of the Allotments Committee.

Note

The above are examples of the sort of matters which might be included in delegation arrangements.

The 'Resources Committee' is a form of central corporate committee. The 'Planning Committee' and 'Allotments Committee' are functional committees and the 'Community Safety Committee' is a thematic committee crossing the boundaries of the more traditional functions. Parish Councils may design the terms of reference of committees to suit their individual needs. In drawing up terms of reference, Parish councils should look to include, as appropriate, the formulation of policies or strategies, the discharge of statutory functions and liaison with other bodies involved.

ACCESS TO INFORMATION ARRANGEMENTS

1. Access to meetings

- 1.1 The public and press are entitled to attend any meeting of the Council or any committee unless excluded by formal resolution in relation to any matter of business.
- 1.2 Notice of all meetings and agenda for meetings will be placed at ---- at least 3 clear days before the meeting. Agenda for meetings will also be put on the Parish Council website.
- 1.3 The public may put questions and/or make comments to meetings of the Parish Council in accordance with Standing Orders as follows; ----
- 1.4 Petitions may be presented to meetings of the parish Council in accordance with Standing Orders as follows: ----
- 1.5 The Taking of photographs and video and sound recording by any person at any meeting may only be done with the permission of the Council or committee.

2. Access to documents

- 2.1 A reasonable number of copies of agendas shall be available for the public attending meetings from the Clerk.
- 2.2 Minutes of meetings shall be available free to the public on application to the Clerk. (Bulk and multiple applications may be subject to a copying charge.)
- 2.3 Agreed minutes shall be available at ---- and on the Parish Council's website.
- 2.4 A reasonable number of open reports submitted to meetings of the Council and committees shall be available for the public attending meetings from the Clerk.
- 2.5 Open reports may subsequently be obtained by the public on application to the Clerk. (A copying charge may be applied)
- 2.6 Applications under the Freedom of Information Act should be addressed to the Clerk.
- 2.7 Applications for personal information under the Data Protection Act 1998 should be addressed to the Clerk.

FINANCIAL ARRANGEMENTS

(No model clauses included in this toolkit)

Parish Councils need to be familiar with the Accounts and Audit Regulations 2003 No 533 which apply to them. A 'relevant body' in the regulations includes parish councils. It should be noted that different regulations apply to different levels of expenditure.

CONTRACT STANDING ORDERS

(No model clauses included in this toolkit)

PARISH COUNCIL MEETINGS

FREQUENTLY ASKED QUESTIONS

1. What are Standing Orders for?

To make meetings easier to manage. Some requirements for conducting meetings are statutory but Standing Orders enable clear processes to be applied. Model Standing Orders are included in this Toolkit.

2. How often are meetings required?

The minimum is that four meetings are held in a year, one of which is the Annual Meeting of the Parish Council (note: this is not the same as the Annual Parish Meeting). There is no maximum.

3. When should meetings be held?

The Annual Meeting should be held in May. In an election year, the Annual Meeting should be held within 14 days of the elected councillors taking office (ie on the fourth day after the election or within 14 days after that day).

4. At what time of day can meetings be held?

Any time. If no time is fixed for the Annual Meeting, it must start at 6pm.

5. Where can meetings be held?

Anywhere that is free of charge or subject to a reasonable charge. If the Parish Council does not own premises, it may require free use of a room maintained by the local education authority or any other room maintained out of a "rate". Licensed premises may be used if no suitable room is available free of charge or at reasonable cost.

6. How many councillors must attend for a meeting to have a quorum?

Three or one-third of the total number, whichever is the greater number.

7. Does a majority of the councillors present have to vote for a decision to be made?

No. A majority of those councillors who actually vote is sufficient (this could be a single person voting).

8. Does the way councillors vote have to be recorded in the minutes?

No, unless any councillor asks that the votes cast on a particular item be recorded.

9. Does a meeting have to carry on until the agenda is completed?

No, a meeting may be adjourned (a good example of an aspect that can be dealt with in Standing Orders). The business can be completed on another specified occasion prior to the next scheduled regular meeting.

10. Can an agenda include "Any Other Business"?

This is not good practice and no decision may be made on an item of business raised in this way.

11. What if a matter of genuine urgency arises?

Good practice would be for Standing Orders to provide for decisions to be delegated to the Parish Clerk in consultation with the Chairman and/or another named (or named office holding) Councillor or Councillors.

12. Can the public and press be excluded from a meeting?

Yes, if there is confidential business or if there is some other good reason. The exclusion has to be voted for by a majority of Councillors present and the reason has to be stated in the motion to exclude and then in the minutes of the meeting. It is important to do this even if no member of the public is actually present at the time, in case someone arrives during the discussion of the item. The most likely cases are when employment, contracting or legal matters are to be discussed.

13. Can the public speak at meetings?

Yes, but only if the Parish Council has set aside a specified period for public questions or statements. Commonly, this would be 15 or 30 minutes at the start of the meeting. This is another example of how Standing Orders can be used to define procedures.

The Conduct of the Annual Town or Parish Meeting

The Legal Background

1. Under the Local Government Act 1972, the Parish/Town Annual Meeting must take place between 1 March and 1 June (both inclusive) in each year. It can't start before 6pm. The Annual Parish Meeting is not the Parish Council's AGM.
2. All parish electors are entitled to attend and vote. Under The Public Bodies (Admission to Meetings) Act 1960, the general public and the press may attend as well. To avoid confusion on voting, it is important to separate the sheep from the goats.
3. The Chairman of the Parish or Town Council or the Town Mayor or, in his absence, the Vice-Chairman or Deputy Mayor, must preside if present. If not, the meeting may appoint a chairman for the meeting.
4. At least seven days' public notice must be given. If the agenda includes any of the following items, fourteen days notice must be given:
 - (a) dissolution of the Parish Council
 - (b) grouping the Parish with another Parish.
5. The notice must specify the business to be done. It must be signed by the Chairman, the Town Mayor or any two Parish or Town Councillors or six electors may act as convenors.
6. The expenses are paid by the Parish or Town Council.
7. A few resolutions of a Parish Meeting are necessary to or binding on the Parish Council. These are:-
 - (a) a resolution by a well attended meeting requiring the Council to provide allotments, places an obligation on it to do so.
 - (b) Sometimes a trust instrument requires a resolution of the Parish Meeting for some act of the Council as trustee.
8. Under the Charities Act 1960 the accounts of parochial charities must be laid by the council before the Parish or Town Meeting.
9. No method of voting *at the meeting* is laid down. Any convenient method may be used, but a poll (ie, a vote of the whole body of electors by ballot) may be claimed before the end of the meeting and must be held if demanded by *ten persons present*, or one-third of those present (whichever is the less), or if the Chairman consents. The poll is conducted by a returning officer appointed by the District Council.

Things to Think About

10.
 - (a) It is useless to publicise a meeting with nothing to discuss, or to organise an interesting meeting without proper publicity.
 - (b) The aim should be to make the meeting a social as well as a formal occasion and make people feel that they are important in their village or town.

Agendas

11. It is important to frame the agenda so that everyone who has some public standing in the locality has an appointed time when he/she can tell the meeting what he/she is doing. The County Councillor and District Councillor should be invited to speak; there should be a report on the activities of the Parish or Town Council; the trustees of local charities should be given their opportunity and so can representatives of such bodies as the village hall committee, the Women's Institute or the local sports clubs. This is an excellent opportunity for them to publicise their activities and their friends will be glad to support them. A non-electoral may always speak during a meeting with its consent. This should be treated as having been given if there is no objection.
12. Accounts which are put before the meeting should be topical. It is better to exhibit recent unaudited accounts than to produce audited statements which are nearly always a year old and therefore largely irrelevant.
13. Outside speakers can be invited. These could be local government officials or experts on matters likely to be of local interest.
14. It is useful to include a particular local public issue on the agenda, something important or controversial, eg, a village plan; planting trees on the green; the approach of a motorway; more houses; water or sewerage schemes, the amalgamation of charities; telephone kiosks and post-offices; bus and train services; commons; clearing the churchyard. On the other hand it is sensible to restrict the number of controversial issues to be raised at any one meeting.

Publicity

15. It is useful to issue a preliminary notice about three weeks in advance, inviting the public to send in resolutions or subjects which they wish to discuss.
16. Apart from the statutory publicity, other means include:-
 - (a) *Press publicity.* Ask the local press to use the agenda or an item on it as a new item; advertisements in the official notice columns are largely ignored.
 - (b) *Invitations.* Frame the agenda as part of an invitation and ask the Councillors to deliver it to each household.
 - (c) *Parish magazines.* Articles on local council affairs and notices of meetings can be put in the parish magazine.
 - (d) *Parish Fixture Bulletins.* If there is a parish bulletin of future events, use it.
 - (e) *Notices.* Put up notices in the village shop or pub.
 - (f) Send *special invitations* to village clubs and societies.
 - (g) *Annual Reports.* Produce and circulate a formal annual report to each household.
 - (h) Posters should be large and legible.

On the Night

17. Provide refreshments.
18. Try to arrange chairs in a deep horseshoe or rectangle so that everyone can see the face of at least half the meeting and recognise speakers.
19. Provide an agenda for everyone and a table and agenda for the press.
20. The meeting should be as informal as is consistent with order.

NOTE: the above guidance is based on a note originally produced by NALC

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PROTOCOL ON GIFTS AND HOSPITALITY

1. Introduction

This protocol provides rules (**set out in bold type**) and guidance for members of the Parish Council.

2. General Caution

2.1 Treat with extreme caution any offer or gift, favour or hospitality that is made to you personally which may possibly be perceived to be in connection with your position as a parish councillor.

2.2 Your personal reputation and that of your parish council can be seriously jeopardised by the inappropriate acceptance by you of a gift or hospitality.

2.3 The acceptance of gifts and hospitality is not always unlawful or inappropriate. The decision for you in every case is whether or not it is appropriate to accept any gift or hospitality that might be offered to you, having regard to how it might be perceived.

2.4 No hard and fast rules can be laid down to cover every circumstance as to what is appropriate or inappropriate. This Protocol offers general principles to enable you to make your own decision.

3. Criminal Law

3.1 It is a criminal offence corruptly to solicit or receive any gift, reward or advantage as an inducement to doing or forbearing to do anything in respect of any transaction involving your Parish Council.

3.2 The onus would be on you to disprove corruption in relation to a gift from a person holding or seeking to obtain a contract from your Parish Council.

4. Limits of Guidance

4.1 This Protocol does not apply to:

4.1.1 Gifts and hospitality you may receive from family and friends (as birthday or other festival presents) that are not related to your position as a parish council member. You should however question any such gift or hospitality offered from an unusual source.

4.1.2 The acceptance of facilities or hospitality provided to you by your Parish Council.

4.1.3 Gifts given to your Parish Council that you accept formally on your Parish Council's behalf and are retained by the Parish Council and not by you personally.

5. Meaning of Gifts and Hospitality

- 5.1 The expressions 'gifts' and 'hospitality' have wide meanings and no conclusive definition is possible.
- 5.2 Gifts and hospitality include:
- The free gift of any goods or services.
 - The opportunity to acquire any goods or services at a discount or at terms not available to the general public.
 - The opportunity to obtain goods or services not available to the general public.
 - The offer of food, drink, accommodation or entertainment or the opportunity to attend any cultural or sporting event.
 - The use of a free car.
- 5.3 Common gifts include pens, diaries, calendars and other business stationery, articles of clothing, books, flowers and bouquets. You should however be cautious when purchasing anything, when additional services, privileges or advantages are offered, which might be related to your position as a member of your parish council.

6. Appropriate Gifts and Hospitality

There are some circumstances where you may accept gifts and hospitality as being in the normal course of your duties as a member.

- 6.1 Civic hospitality provided by another public authority.
- 6.2 Normal and modest refreshment in connection with any meeting in the course of your work as a parish council member (e.g. tea, coffee and other normal beverages and biscuits)
- 6.3 Tickets for sporting, cultural and entertainment events which are sponsored or promoted by your parish council or bodies to which you have been appointed by your parish council, and the tickets are offered in relation to that sponsorship or promotion
- 6.4 Small low value gifts (below £25.00 such as pens, calendars, diaries, flowers and other mementos and tokens).
- 6.5 Drinks or other modest refreshment in the normal course of socialising arising consequentially from parish council business (e.g. inclusion in a round of drinks after a meeting).
- 6.6 Modest meals provided as a matter of courtesy in the office or meeting place of a person with whom your parish council has a business connection.
- 6.7 Souvenirs and gifts from other public bodies intended as personal gifts (e.g. arising from twin-town and other civic events).

7. Principles to Apply in Relation to Gifts and Hospitality

In deciding whether it is appropriate to accept any gift or hospitality you must apply the following principles:

- 7.1 Do not accept a gift or hospitality as an inducement or reward for anything you do as a parish council member. If you have any suspicion that the motive behind the gift or hospitality is an inducement or reward you must decline it.**
 - 7.1.1 “Reward” includes remuneration, reimbursement and fee.
- 7.2 Do not accept a gift or hospitality of significant value or whose value is excessive in the circumstances.**
- 7.3 Do not accept a gift or hospitality if acceptance might be open to misinterpretation. Such circumstances will include gifts and hospitality:**
 - 7.3.1 From parties involved with your parish council in a competitive tendering or other procurement process.**
 - 7.3.2 From applicants for planning permission and other applications for licences, consents and approvals in which your parish council has an involvement.**
 - 7.3.3 From applicants for grants, including voluntary bodies and other organisations applying for public funding from your parish council.**
 - 7.3.4 From parties in legal proceedings with your parish council.**
- 7.4 Do not accept a gift or hospitality if you believe it will put you under any obligation to the provider as a consequence.**
- 7.5 Do not solicit any gift or hospitality and avoid giving any perception of so doing.**

8. Gifts Received and Donated to a Town Mayor’s or Chairman’s Appeal

- 8.1 It may be customary for some parish council members on receiving gifts of value not to retain these personally but to pass them to the Town Mayor or Chairman for use in relation to a charity appeal.
- 8.2 Parish council members may continue to do this, but should indicate this intention to the provider and make this clear on the registration form.

9. Registration of Gifts and Hospitality

- 9.1 The Code of Conduct for your parish council provides that:
A member must, within 28 days of receiving any gift or hospitality over the value of £25.00, provide written notification to the Monitoring Officer of the responsible authority of the existence and nature of that gift or hospitality.
- 9.2 Whilst the notification requirement in the code is limited to gifts or hospitality over the value of £25.00, members are encouraged to give notification of any significant gift or hospitality they receive.
- 9.3 **Members must complete the gifts and hospitality registration form for all notifications.**

10. Reporting of Inappropriate Gifts and Hospitality offered

- 10.1 It is a criminal offence for a person corruptly to give or offer any gift, reward or advantage as an inducement or reward to you for doing or forbearing to do anything as a member of your parish council.
- 10.2 **You must immediately report to the Monitoring Officer any circumstances where an inappropriate gift or hospitality has been offered to you.**
- 10.3 You may thereafter be required to assist the Police in providing evidence.

----- PARISH COUNCIL

To: The Monitoring Officer
(EMAIL ADDRESS)

Notification of Receipt of Gifts or Hospitality

What was the gift or hospitality? (Give full description)	
What is your best estimate of its market value or cost?	
Who provided it?	
When and where did you receive it?	
Signed	
Name in Capitals	
Dated	

PROTOCOL ON MEMBER/OFFICER RELATIONS

Introduction

Mutual trust and respect between Members and Officers is essential to ensure good governance. They are essential to the partnership necessary for the effective running of a town/parish council to succeed.

In order to ensure that relationships do not go awry, it is advisable to have a written protocol, which can cover matters, such as:-

- The respective roles and responsibilities of Members and Officers
- Relationships between Members and Officers
- Clarifying where the town/parish clerk should go to if he or she has concerns
- Clarifying who is responsible for making decisions

It should be noted that this protocol has been written in a way that will be particularly relevant to larger councils.

The fundamental principles will remain the same regardless of the nature and size of the council, but smaller councils which do not operate on party political lines may wish to modify some of the detailed provisions.

MODEL PROTOCOL ON MEMBER/OFFICER RELATIONS

1. BACKGROUND

- 1.1 This protocol is intended to assist Councillors and officers in approaching many of the sensitive circumstances which arise in a challenging working environment.
- 1.2 The integrity of the Council is significantly influenced by the effectiveness of Councillors and officers working together to support each other's roles. The pursuit of rapport, trust and collaboration is an elusive and continuing challenge for each Councillor and officer. These conventions are intended to be an important support to that process.
- 1.3 The aim is to produce effective professional working relationships between members and officers. Close personal familiarity between individual members and officers is to be avoided, since this distorts the productive, professional relationship, which is characterised by mutual trust, respect and courtesy.

2. ROLES OF COUNCILLORS AND OFFICERS

- 2.1 The respective roles of Councillors and officers can be summarised as follows:

Councillors and officers are servants of the public and they are indispensable to one and other, but their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to councillors and to the authority, and to carry out the authority's work under the direction and control of the Council and relevant committees.

Mutual respect between Councillors and officers is essential to good local government.

- 2.2 Councillors

Councillors have four main areas of responsibility:

- (a) determining the policy of the authority and giving it political and public leadership,
- (b) monitoring and reviewing the performance of the authority in implementing policies and delivering services,
- (c) representing the authority externally, and
- (d) acting as advocates on behalf of their constituents.

It is not the role of councillors to involve themselves in the day to day management of the authority's services.

2.3 Chairs and Vice Chairs of Committees

Chairs and Vice Chairs of committees have additional responsibilities. Because of those responsibilities, their relationships with employees may differ from, and be more complex than those of Councillors without those responsibilities, and this is recognised in the expectations they are entitled to have. However, such Councillors must still respect the impartiality of officers, must not ask them to undertake work of a party political nature, or to do anything which would put them in difficulty in the event of a change in the composition of the authority.

2.4 Opposition Councillors

As individual Councillors, all Councillors have the same rights and obligations in their relationship with officers and should be treated equally. However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between officers, particularly those at a senior level in the organisation, and the administration will differ from that with opposition groups.

2.5 Officers

The role of officers is to give advice and information to Councillors and to implement the policies determined by the authority.

In giving such advice to Councillors, and in preparing and presenting reports, it is the responsibility of the officer to express his/her own professional views and recommendations. Whilst an officer may report the views of individual Councillors on an issue, if the Councillor wishes to express a contrary view he/she should not seek to pressure the officer to make a recommendation contrary to the officer's professional view, nor victimise an officer for discharging his/her responsibilities.

3. EXPECTATIONS

3.1 Councillors can expect from officers:

- (a) a commitment to the authority as a whole, and not to any individual member or group of members or political group
- (b) a working partnership
- (c) an understanding of and support of respective roles, workloads and pressures
- (d) timely response to enquiries and complaints
- (e) professional advice, not influenced by political views or preference, which does not compromise the political neutrality of officers
- (f) regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold

- (g) awareness of and sensitivity to the public and political environment
- (h) respect and courtesy
- (i) training and development in order to carry out their role effectively
- (j) integrity, mutual support and appropriate confidentiality
- (k) not to have personal issues raised with them by officers outside the agreed procedures
- (l) that officers will not use their contact with Councillors to advance their personal interests or to influence decisions improperly
- (m) that officers will at all times comply with the relevant Code of Conduct
- (n) support for the role of Councillors as the local government representatives of the authority, within any scheme of support for Councillors which may be approved by the authority

3.2 Officers can expect from Councillors:

- (a) a working partnership
- (b) an understanding of and support for respective roles, workloads and pressures
- (c) leadership and direction
- (d) respect and courtesy
- (e) integrity, mutual support and appropriate confidentiality
- (f) not to be subject to bullying or to be put under undue pressure. Councillors should have regard to the seniority of officers in determining what are reasonable requests, having regard to the power relationship between Councillors and officers, and the potential vulnerability of officers, particularly at junior levels.
- (g) that Councillors will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly
- (h) that Councillors will at all times comply with the relevant Code of Conduct

3.3 Limitations upon behaviour

The distinct roles of Councillors and officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- (a) Close personal relationships between Councillors and officers can confuse these separate roles and get in the way of the proper discharge of the authority's functions, not least in creating the perception in others that a particular councillor or officer may secure advantageous treatment.
- (b) The need to maintain the separate roles means that there are limits to the matters on which they may seek the advice of officers, both in relation to personal matters and party political issues.

- (c) Relationships with particular individuals or party groups should not be such as to create public suspicion that an employee favours that Councillor or group above others. The issue of officer attendance and advice to political groups is specifically covered below.

4. POLITICAL GROUPS *

- 4.1 The operation of political groups is increasingly a feature of local government within Parish and Town Councils, and such political groups have an important part to play in the development of policy and the political management of the authority. It is in the interests of the authority to support the effective operation of political groups, but their operation can pose particular dangers in terms of the impartiality of officers.
- 4.2 Reports:
 - (a) Political groups may request the Clerk to prepare written reports on matters relating to the authority for consideration by the group.
 - (b) The Clerk's reports to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Reports will not deal with any political implications of the matter or any option, and the Clerk will not make any recommendation to a political group.
 - (c) Where a report is prepared for a political group, the Clerk will advise all other groups that the report has been prepared.
- 4.3 Officer Attendance
 - (a) Any political group may request the Clerk to attend a meeting of the group to advise on any particular matter relating to the authority.
 - (b) The Clerk may arrange for the attendance of a representative in his/her stead, or may decline to attend or to provide a representative where he/she is of the opinion that the particular issue is of such a political nature that it would be inappropriate to attend.
 - (c) The Clerk's advice to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Advice will not deal with any political implications of the matter or any option, and the Clerk will not make any recommendation to a political group.
 - (e) Where an officer attends a political group, the Clerk will advise all other groups that the officer has attended and the subject upon which he/she has advised.
- 4.4 Where correspondence from an officer to a member is copied to another person, the addressee of the letter will be made aware that a copy is being forwarded to that other person.

5. WHEN THINGS GO WRONG

5.1 Procedure for officers

From time to time the relationship between Councillors and officers may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or Councillors, officers will have recourse to the Grievance Procedure or to the Council's Monitoring Officer, as appropriate to the circumstances. In the event of a grievance or complaint being upheld, the matter will be referred to the Clerk, who, having advised the Chairman of the Council will decide on the course of action to be taken.

NOTE: 1. In politicised Councils it may be appropriate to consult group leaders.
2. The Monitoring Officer may be able to offer a mediation/conciliation role or it may be necessary to seek independent advice. The Society of Local Council Clerks may be able to provide an independent person.

5.2 Procedure for Councillors

In the event that a councillor is dissatisfied with the conduct, behaviour or performance of an officer, the matter should be raised with the Clerk. Where the officer concerned is the Clerk, the matter should still be raised with the Clerk. If the matter cannot be resolve informally, it may be necessary to invoke the Council's disciplinary procedure.

* Note: It is NALC policy that party politics should have no place in parish Councils, the concept being that parish Councillors are there to serve their community as members of the community and should not be sidetracked by party political issues. It does not therefore encourage parish Councils to adopt political groupings.

PROTOCOL ON COMMUNICATIONS

Introduction

One of the issues facing a Parish Council is how it communicates with the wider world and how that communication is received and perceived.

Confusion may arise over who is talking to whom, about what and on whose behalf.

As an aspect of member and officer relations, individual communication back and forth between the Council's members and the staff, if done inappropriately may, potentially, create confusion, misunderstandings and, occasionally, hostility.

As well as reflecting poorly upon the Parish Council, this may often create tensions within the Council. This has led to complaints to the Standards Board for England and also employment disputes, much of which may have been avoidable were a few simple rules in place and agreed.

Set out below is a suggested protocol covering communications within a parish council and between the council and the wider world. It is hoped this will act as a useful guide.

MODEL PROTOCOL ON COMMUNICATIONS

RELATING TO MEMBERS OF THE PUBLIC, OTHER AGENCIES, FELLOW MEMBERS, THE PRESS AND PARISH COUNCIL STAFF

1. Correspondence/Information to the Parish Council

- (i) The point of contact for the Parish Council is the Clerk, and it is to the Clerk that all correspondence for the Parish Council should be addressed.
- (ii) The Clerk should deal with all correspondence following a meeting.
- (iii) No individual Councillor should be the sole custodian of any correspondence or information in the name of the Parish Council, a committee, sub-committee or working party.

2. Agenda Items for Council, Committees, Sub-Committees and Working Parties

Agenda items should be clear and concise. They should contain sufficient information for members to make an informed decision.

Items for information should be kept to a minimum on Council agendas.

Where members wish fellow members to receive matters for “information only”, this information should be circulated via the Parish Clerk.

3. Communications with the Press and Public

Press reports from the Parish Council, Committees, Working Parties etc should be from the Clerk or an officer or via the reporter’s own attendance at a meeting.

Members who are asked for comment by the press or members of the public, should ask that it be clearly reported that it is their personal view. Unless you are absolutely certain that you are reporting the view of the Parish Council, make it clear to the members of the public that it is a personal view.

If Members have a complaint or receive a complaint from a member of the public, this should be presented to the Clerk in written format, to be dealt with under the complaints procedure, or via a Parish Council agenda item. The person’s name and address should be on record.

4. Councillor Correspondence to Other Agencies

- (i) All personal correspondence as a Parish Councillor to other agencies should make it clear that the views are the expression of the personal opinions of the writer and not necessarily those of the Parish/Town Council.
- (ii) A copy of all outgoing correspondence relating to the Parish Council or one’s role within it should be sent to the Clerk, and it be noted on the correspondence, eg “copy to the Clerk” so that the recipient is aware that the Clerk has been advised.

5. Communications with Parish Council Staff

- (i) Councillors must not give instructions to any member of staff, unless authorised to do so (this would be two or more members sitting as a committee or sub-committee with appropriate delegated powers from the council and not an individual, regardless of whether or not they are the Chairman of the Council, committee or other meeting).
- (ii) Telephone calls should be:
- kept to a minimum
 - appropriate to the work of the Parish Council
- (iii) E-mails:-
- e-mails should be kept to a minimum
 - instant replies should not be expected from the Clerk, reasons for urgency should be stated
 - matters for information to the other councillors should normally be directed via the Clerk
 - e-mails to other agencies should be copied to the Clerk
 - Members should acknowledge their e-mails when requested to do so.
- (iv) Meetings with the Clerk or other officers:-
- Where possible an appointment should be made
 - Meeting should be relevant to the work of the Council
 - Members should be clear about the matters they wish to discuss

PROTOCOL ON BULLYING AND HARASSMENT

Introduction

Analysis of complaints lodged to the Standards Board for England indicate that there is a significant problem of bullying and harassment occurring at parish level between members and officers. It may be that this is caused in part because of the lack of clarity between the respective roles of officers and members and of the relatively isolated nature of the position of Parish Clerk.

“Lack of respect for others” is a breach of the Code of Conduct. The Standards Board for England regards complaints of bullying and harassment extremely seriously.

The attached protocol is therefore commended for adoption to ensure that members and officers operate in an environment of mutual trust and respect.

MODEL PROTOCOL ON BULLYING AND HARASSMENT (INCLUDING GRIEVANCE PROCEDURES AND WHISTLE BLOWING)

1. Background

- 1.1 The relationship between Councillors and officers is an essential ingredient that should contribute to the successful working of the organisation. This relationship within the authority should be characterised by mutual respect, informality and trust. Councillors and officers must feel free to speak to one another openly and honestly. Nothing in this Protocol is intended to change this relationship. Objective criticism is usually acceptable but can be unacceptable if the criticism becomes personal. The Protocol gives guidance on what to do on the rare occasions when things go wrong.
- 1.2 Everyone should be treated with dignity and respect at work. Bullying and harassment of any kind are in no-one's interest and should not be tolerated in the workplace.

2. What is bullying and harassment?

- 2.1 Examples and definitions of what may be considered bullying and harassment are provided below for guidance. For practical purposes those making a complaint usually define what they mean by bullying or harassment – something has happened to them that is unwelcome, unwarranted and causes a detrimental effect. If employees complain they are being bullied or harassed, then they have a grievance which must be dealt with regardless of whether or not their complaint accords with a standard definition.

3. How can bullying and harassment be recognised?

- 3.1 There are many definitions of bullying and harassment. Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means to undermine, humiliate, denigrate or injure the recipient.
- 3.2 Harassment, in general terms, is unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.
- 3.3 Behaviour that is considered bullying by one person may be considered firm management by another. Most people will agree on extreme cases of bullying and harassment but it is sometimes the "grey" areas that cause most problems. Examples of what is unacceptable behaviour include:
- "inappropriate behaviour"
 - intimidation/humiliation
 - excessive criticism
 - autocratic/dictatorial behaviour
 - shouting
 - browbeating
 - haranguing
 - swearing
 - ridiculing
 - expressions of intolerance
 - general discourtesy

- 3.4 Bullying and harassment are not necessarily face to face, they may be by written communications, e-mail (so called “flame mail”) and telephone.
4. **Why does the Council need to take action on bullying and harassment?**
- 4.1 There is an implied term of mutual trust and confidence in every contract of employment. Where the Parish Council is aware of a situation of bullying or harassment of an employee by one of its councillors, but fails to act to stop it, it will be in breach of that implied term of employment contract and may be held liable for the constructive dismissal of that employee.
- 4.2 It is in every employer’s interest to promote a safe, healthy and fair environment in which people can work.
- 4.3 A Parish Council’s duty of care to an employee relates to all forms of personal injury, which will include mental as well as physical health. If a risk to health was foreseeable but no action was taken then the Parish Council could be at fault and compensation could be sought.
5. **The Members’ Code of Conduct**
- 5.1 Members are obliged by paragraph 2 of the Code of Conduct to:
- * “promote equality by not discriminating unlawfully against any person”
 - * “treat others with respect” and
 - * “not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority” all of which are relevant to the Clerk and his or her staff.
- 5.2 A proven allegation of bullying or harassment will always be a breach of the Code of Conduct and the Member involved is liable to be reported to the Standards Board for England. The Standards Board for England has indicated that it regards such allegations very seriously and are therefore unlikely to refer the matter for local investigation or determination.
- 5.3 If there are instances of bullying or harassment by Members towards officers or other Members, then it is the duty of those Members who are aware of the incident to report it to the Standards Board for England. It is also open to officers who are either the subject of bullying or harassment or who witness such an incident to similarly report it to the Standards Board for England.
- 5.4 If members or officers do witness incidents of bullying or harassment, they should report the matter to the Standards Board for England, or if unsure what to do or how to report the matter, they should seek the advice of the Monitoring Officer.
6. **Grievance and disciplinary procedures**
- 6.1 Obviously it is best to try to avoid things getting to a state where an employee considers themselves dismissed or issues a personal injury claim against the Council. This can be done through having an accessible and useable grievance procedure.

- 6.2 From October 2004 all employers are required by law to have disciplinary and grievance procedures. These cover disciplinary rules and procedures for handling discipline, grievance and appeals. Details must be included in the employee's written statement of employment particulars or reference made to a separate document which is readily accessible to the employee.
- 6.3 A grievance procedure enables individual employees to raise concerns, problems or complaints with management about their employment. It should allow for both an informal and formal approach.

A grievance procedure provides an open and fair way for employees to make known their concerns, problems or complaints. It enables such grievances to be resolved quickly before they fester and become major problems. An employee who fails to raise a grievance with their employer using the statutory procedure may be prevented from taking a claim relating to that grievance to employment tribunal.

It should allow grievances to be dealt with fairly, consistently, speedily and should include:

- how and with whom to raise the issue
- whom next to appeal to if not satisfied
- time limits for each stage
- the right to be accompanied by a fellow worker or trade union representative
- the statutory grievance procedure

7. **Whistle-blowing**

Protection for employees, contractors or staff is relevant to allow any bullying or harassment to be reported without fear of victimisation or further harassment.

GUIDANCE NOTES ON WHISTLE-BLOWING

Whistle-blowing, or confidential reporting or public interest disclosure as it is sometimes known, provides a link as an issue between employment concerns, such as bullying above, and more general complaints procedures discussed below.

The principles of whistle blowing should apply to members, contractors and partners in any ongoing project, as well as employees. It is to employees, however, that the law in this area is aimed

1. The Public Interest Disclosure Act 1998 (PIDA) encourages people to raise concerns about malpractice in the workplace and will help ensure that organisations respond by
 - addressing the message rather than the messenger; and
 - resisting the temptation to cover up serious malpractice.

Through protecting whistleblowers from dismissal and victimisation in the following circumstances, the Act promotes the public interest.

2. Malpractice

The Act applies to people at work raising genuine concerns about crime, civil offences (including negligence, breach of contract, breach of administrative law), miscarriage of justice, danger to health and safety or the environment and the cover up of any of these. It applies whether or not the information is confidential.

3. Individuals covered

In addition to the Clerk and other employees, it covers trainees, agency staff, contractors, homeworkers, etc. The usual employment law restrictions on minimum length of service and age do not apply. The Act does not presently cover the genuinely self-employed, volunteers, the intelligence services, or the army.

4. Legal Advice

The Act confirms that workers may safely seek legal advice on any concerns they have about malpractice. This includes seeking advice from Public Concern at Work, a charity established to help people with these issues and which is designated a legal advice centre by the Bar Council.

5. Internal disclosures

A disclosure in good faith to a manager or the employer will be protected if the whistleblower has a reasonable suspicion that the malpractice has occurred, is occurring or is likely to occur. Where a third party is responsible for the matter this same test applies to disclosures made to it.

6. Regulatory disclosures

The Act also protects disclosures made in good faith to prescribed bodies where the whistleblower reasonably believes that the information and any allegation in it are substantially true. In respect of Parish Councils the prescribed bodies would include the Health and Safety Executive, the Inland Revenue, the Audit Commission (or appointed external auditors) and the Standards Board for England.

7. Wider disclosures

Wider disclosures (e.g. to the police, the media, MPs, and non-prescribed regulators) are protected if, in addition to the tests for regulatory disclosures, they are reasonable in all the circumstances and they meet one of the three preconditions.

Provided they are not made for personal gain, these preconditions are that the whistleblower:

- reasonably believed he would be victimised if he raised the matter internally or with a prescribed regulator,
- reasonably believed a cover-up was likely and there was no prescribed regulator; or
- had already raised the matter internally or with a prescribed regulator.

In deciding the reasonableness of the disclosure the employment tribunal will consider the identity of the person to whom it was made, the seriousness of the concern, whether the risk or danger remains, and whether it breached a duty of confidence the employer owed a third party. Where the concern had been raised with the employer or a prescribed regulator, the reasonableness of its response will be particularly relevant. Finally, if the concern has first been raised with the employer, it is relevant whether any whistleblowing policy in the organisation was or should have been used.

8. Exceptionally serious matters

Where the concern is exceptionally serious, a disclosure will be protected if it meets the test for regulatory disclosures and is not made for personal gain. The disclosure must also be reasonable, having particular regard to the identity of the person it was made to.

9. Full protection

Where the whistleblower is victimised in breach of the Act he can bring a claim to an employment tribunal for compensation. Awards will be uncapped and based on the losses suffered. Additionally where an employee is sacked, he may apply for an interim order to keep his job.

10. Gagging clauses

Gagging clauses in employment contracts and severance agreements are void insofar as they conflict with the Act's protection.

11. Further Advice

There is specific information about the Public Interest Disclosure Act from the following Organisations:

- **Public Concern at Work**, a charity that provides free, confidential advice on what is protected by the Act and how best to raise a concern, on 0171 404 6609 / www.pcaw.co.uk.

The web-site also includes a section entitled "*Practical hints for small organisations*"

The **Department of Trade and Industry** has also produced a guide to the Act. This is available via the web-site at www.dti.gov.uk. It can also be ordered by calling 0870 1502 500

MODEL COMPLAINTS PROCEDURE

Introduction

Complaint procedures are an integral part of the machinery of nearly every commercial or public service organisation. This is because it is through dealing with and responding to accusations or instances of poor performance or delivery of service that the organisation sees its faults and has the opportunity to address them and improve.

Principal Councils (county, unitary and district) have the added incentive in that there is the local government ombudsman service who have the statutory remit to investigate complaints and the power to issue public reports where it is deemed appropriate. The Ombudsman may recommend the payment of compensation or another remedy if appropriate.

This does not mean that Local Councils may ignore the need to have a robust complaints system, nor that there are not other places that a member of the public, or a member of the council for that matter, cannot go to seek redress for a wrong they consider the Parish Council has committed.

Depending on the nature of the complaint, and to some extent the person who is making it, there will be an occasion in the life of every Parish Council when a complaint cannot be resolved and the complainant wishes to take the matter further.

These will include complaints concerning the following

- Where someone feels very strongly that a decision of the Parish Council was unlawful, they may apply to the courts for a judicial review of the Council's decision.
- An employee complaint, with or without going through the grievance procedure or a whistle-blowing route which goes to an employment tribunal or the courts (such as a personal injury claim)
- An accusation of financial wrongdoing, where a complaint may be made to the council's external auditor. Aside from referring the matter to another body if required, the auditor will have the power to carry out such actions as refusing to sign off the accounts or producing a public interest report.
- Breaches of the Members Code of Conduct for the council may result in an allegation being made to the Standards Board for England. It has been known that all of the members of the Council have been reported to the SBE. This may be in respect of financial wrongdoing, acting on prejudicial interests, not complying with equality legislation and so on.
- Any matter that raises a suspicion of criminal wrongdoing can, of course, be referred to the police.
- Where the Council carries out functions on behalf of another authority, such as litter picking or crime and disorder measures under an agency agreement with the District Council, the complaint can be referred to them. In such a situation, the ombudsman may be involved if the matter is not resolved by the principal authority.
- Finally, complaints under the Freedom of Information legislation, that the council has not released information in the manner that person believes it should have done, can be referred to the Information Commissioner. Here, the legislation **requires the parish council to have a complaints procedure** to be able to deal with these sort of matters.

COMPLAINTS PROCEDURE

The following text is based on guidance provided by the Society of Local Council Clerks and provides a template for a complaints procedure which could be adopted by a Parish or Town Council.

XX TOWN/PARISH COUNCIL – COMPLAINTS PROCEDURE

1. The following procedure will be adopted for dealing with complaints about the Council's administration or its procedures. Complaints about a policy decision made by the Council will be referred back to the Council, or relevant Committee, as appropriate, for consideration.
2. This procedure does not cover complaints about the conduct of a member of the Town/Parish Council. Any complaint that a Councillor may have breached the Council's adopted code of conduct should be referred to the Standards Board for England at 1st Floor, Cottons Centre, Cottons Lane, London, SE1 2QG.
3. If a complaint about procedures, administration or the actions of any of the Council's employees is notified orally to a Councillor, or to the Clerk to the Council, a written record of the complaint will be made, noting the name and contact details of the complainant and the nature of the complaint.
4. The complainant will be asked to put the complaint in writing (letter/e-mail/standard form) to the Clerk to the Council at [add address/contact details]. The complaint will be dealt with within XX days of receipt. (*specify time e.g 14 or 21 days*). Refusal to put the complaint in writing does not necessarily mean that the complaint cannot be investigated, but it is easier to deal with if it is.
5. If the complainant prefers not to put the complaint to the Clerk to the Council (because the matter relates to the Clerk, for example,) he or she should be advised to write to the Chairman (Mayor).
6. (a) On receipt of a written complaint, the Clerk to the Council (except where the complainant is about his or her own actions) or Chairman of Council/Mayor (if the complaint relates to the Clerk), will seek to settle the complaint directly with the complainant. This will not be done without first notifying any person complained about and giving him or her an opportunity to comment. Efforts should be made to resolve the complaint at this stage.

(b) Where the Clerk to the Council or a Councillor receives a written complaint about the Clerk's actions, he or she shall refer the complaint to the Chairman of Council/Mayor. The Clerk to the Council will be formally advised of the matter and given an opportunity to comment.
7. The Clerk to the Council (or Chairman/Mayor) will report any complaint disposed of by direct action with the complainant to the next meeting of the Council.
8. The Clerk to the Council (or Chairman/Mayor) will report any complaint that has not been resolved to the next meeting of the Council. The Clerk will notify the complainant of the date on which the complaint will be considered and the complainant will be offered an opportunity to explain the complaint to the Council orally.
9. Matters relating to Grievance or Disciplinary proceedings that are taking, or are likely to take place, should be dealt with in accordance with the Council's grievance and disciplinary procedures.

10. The Council may consider whether the circumstances of any complaint warrant the matter being discussed in the absence of the press and public, but any decision on the complaint will be announced at the Council meeting in public.
11. The Council may consider in the circumstances of any particular complaint whether to make any without liability payment or provide other reasonable benefit to any person who has suffered loss as a result of the Council's maladministration. Any payment may only be authorised by the Council after obtaining legal advice and advice from the Council's auditor on the propriety of such a payment.
12. As soon as possible after the decision has been made (and in any event not later than 10 days after the meeting) the complainant will be notified in writing of the decision and any action to be taken.
13. The Council may defer dealing with any complaint if it is of the opinion that issues arise on which further advice is necessary. The advice will be considered and the complaint dealt with at the next meeting after the advice has been received.

Local Government Act 2000 S92 (payments in cases of maladministration).

PART FOUR

DANGER ZONES

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Association of **Council
Secretaries and Solicitors**

FREEDOM OF INFORMATION ACT GUIDANCE FOR PARISH COUNCILS

Introduction

1. The Freedom of Information Act 2000 (FOI Act) received Royal Assent on 30 September 2000 but its implementation was phased in, with the duty on public authorities to adopt publication schemes being introduced first, followed by the individual right to access provisions which came into force on 1 January 2005. This note is intended to summarise the main provisions of the Act and to indicate where further guidance may be found.

What does the Act do?

2. Section 1 of the Act gives a general right of access to information held by public authorities. Public authorities include all local authorities, including Parish/Town Councils. The right applies to all information, obtained from any source. The right of access includes both the right to be told whether the information exists, as well as the right to receive it.
3. Since the right of access applies to all information which is “held” by the authority, the Act is effectively retrospective. There is no exemption for old records. However, the Act does not require authorities to hold onto information for longer than is necessary, or is otherwise required by law, simply because it might be the subject of a request some time in the future.
4. A request for information (unless for environmental information – see below) needs to be in writing, although an e-mail request is sufficient. The request must give enough details about the information to enable the authority to identify it and basic contact details must be provided so that a reply can be sent. The Information Commissioner takes the view that this need not be a postal address and that an e-mail address is sufficient. There is a duty on authorities to advise and assist applicants, which would normally require the authority to give some help to an applicant to better identify the information they request.
5. The right of access to information is subject to a range of exemptions and these are listed in Appendix 1. Some of the exemptions are “absolute”. Once an authority decides that an absolute exemption applies to information requested, it does not have to release it under the FOI Act, although discretionary release is still possible. In the case of all other exemptions, once it is decided that one or more of them applies, the authority must still release the information unless it judges that the public interest in withholding the information is greater than the interest in disclosure (the “public interest test”).
6. Two statutory Codes of Practice, one covering aspects of compliance, and the other covering the management of records, have been produced and authorities will have to comply with these Codes.
7. Both of these documents can be downloaded from the Information Commissioner’s web site.
8. The Act includes provisions for enforcement and appeal. The Information Commissioner has a substantial role to promote the Act to the public, to set standards of good practice which authorities must follow; and the power to over-rule an authority’s judgment that the balance of the public interest lies in favour of refusing to disclose information, and to impose his own view. There is also an appeal process for a dissatisfied applicant to the Information Commissioner, and from the Commissioner to a new Information Tribunal.

9. Generally requests must be dealt with within 20 working days from the receipt of the request, but if it is necessary to apply a public interest test, this time limit does not apply and the authority should respond within a reasonable period.
10. If a request is refused, the refusal notice should give the reasons for refusing the request and advise the applicant as to their rights of appeal – both internally by way of a complaint and, following that, by way of an appeal to the Information Commissioner.

Publication schemes

11. Every public authority must prepare and publish a “publication scheme” which sets out the classes of information which the authority publishes or intends to publish, how that information may be obtained, and any charge that is made for it. An authority’s Publication Scheme must be approved by the Information Commissioner. The Commissioner will then approve the Scheme for a specific period.
12. A model scheme for Parish, Town Councils has been approved by the Information Commissioner and this can be downloaded from the Information Commissioner’s web site.
13. The scheme may be amended/updated by the authority from time to time but if any amendments reduce the scope of the scheme, the prior approval of the Information Commissioner must be obtained.

Relationship with other legislation

- 13 (a) Public Bodies (Admission to Meetings) Act 1960

The FOI Act does not amend the provision in the 1960 Act which allows Local Councils to exclude the press and public by resolution if publicity would prejudice the public interest by reason of the confidential nature of the business or for some other reason stated in the resolution.

However, the effect of the FOI Act is that any information held by the Council which relates to matters discussed, either in open or private session (e.g. in a report or minutes), may have to be disclosed unless one of the exemptions under the Act applies.

- (b) Local Government Act 1972

The provisions of the FOI Act effectively supersede the old exemptions in the Local Government Act 1972 in respect of the access to information rights and for this reason the categories of “exempt information” (Schedule 12A of the 1972 Act) are due to be amended to mirror the relevant FOI exemptions. These provisions only apply to principal councils.

- (c) Data Protection Act 1998

The DPA 1998 gives an individual the right to obtain a copy of any personal information held about him/her (subject access), and imposes responsibilities upon those who collect and process personal information. If someone requests information about himself, this should be handled as a subject access request under the DPA. The exemption in the FOI Act, which relates to information requested by the subject, simply means that the decision whether or not to release the information must be decided in accordance with the provisions of the DPA, and not the FOI Act.

If a person requests personal information about a third party, then the matter should be decided under the FOI Act, but in accordance with the data protection principles set out in the DP Act. For example, the authority must consider whether the third party has given consent to release, and if not, whether it would be fair and lawful to release the information.

(d) Environmental information

The rules concerning the disclosure of environmental information are now set out in the Environmental Information Regulations 2004 (EIR) which replace Regulations made in 1992. "Environmental information" is very widely defined in the Regulations which give effect to European Directives. A copy of the full definition is set out in Appendix 2.

The exemptions from disclosure under the EIR are more limited than for other information requests under the FOI Act and all are subject to a public interest test. The Local Government Association has produced an excellent guide to the environmental information regulations and further information may also be obtained from DEFRA's web site.

Fees and charges

14. In respect of requests made under the FOI Act, the only charges which can generally be made are to cover the cost of photocopying, printing, postage, etc., i.e. disbursements rather than the labour costs associated with collating the information.
15. If the request is for environmental information, a "reasonable amount" may be charged for its provision under the EIR.
16. A more detailed note on FOI Act charges is set out in Appendix 3.

Sources of further information

17. This note is only intended to provide a relatively succinct overview of the main provisions of the Freedom of Information legislation. If a request is received, it may well be necessary to seek further guidance and a list of possible sources is set out in Appendix 4.

FOI Act Exemptions

Absolute exemptions:

- information accessible to applicant by other means (s21);
- information supplied by, or relating to, bodies dealing with security matters (s23);
- court records (s32);
- Parliamentary privilege (s34);
- information provided in confidence (s41); and
- prohibitions on disclosure (s44).

Partly absolute:

- prejudice to effective conduct of public affairs (s36); and
- personal information (s40).

Qualified:

- information intended for future publication (s22);
- national security (s24);
- investigations and proceedings conducted by public authorities (s30);
- formulation of Government policy etc. (s35);
- communications with Her Majesty, etc and honours (s37);
- health and safety (s38);
- environmental information (s39);
- legal professional privilege (s42);
- defence (s26);
- international relations (s27);
- relations within the United Kingdom (s28);
- the economy (s29);
- law enforcement (s31);
- audit functions (s33); and
- commercial interests (s43).

Definition of Environmental Information (regulation 2):

“Environmental information” has the same meaning as in Article 2(1) of Directive 2003/4/EC namely any information in written, visual, aural, electronic or any other material form on:

- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;**
- (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);**
- (c) measures (including administrative measures) such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;**
- (d) reports on the implementation of environmental legislation;**
- (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and**
- (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c).**

Freedom of Information Fees Regulations

1. Introduction

The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 came into force with the Freedom of Information Act on 1 January 2005. The purpose of this document is to provide a brief outline as to how a fee is calculated under the Regulations.

2. Fee calculation

Under the Fees Regulations costs are split into two categories, prescribed costs and disbursements. Prescribed costs are mainly concerned with the amount of staff time that is devoted to processing a request whilst the disbursements cover the costs incurred through material costs and some out of pocket expenses. All fees will have to be estimated with the estimate forwarded to the applicant for acceptance, the Regulations state that the final fee can be no higher than the estimate so accurate estimates are of vital importance.

3. Prescribed costs

Prescribed costs can be viewed as the labour costs that would be incurred by the Authority when processing a request. The Regulations have set a ceiling on these costs of £450 above which the Authority is not obliged to provide the information. For the purposes of estimating the prescribed costs the Regulations provide a figure of £25 per hour, this equates to 18 hours of staff time.

Prescribed costs are those costs which the Authority reasonably expects to incur in:

- 1) determining if the information is held,
- 2) locating the information,
- 3) retrieving the information, and
- 4) extracting the information from a document containing it.

The Authority **cannot charge** for time taken by staff to inform the requestor that the information is or is not held or for them to communicate it to them.

4. Disbursements

Disbursements are the costs incurred for materials used or other expenses reasonably incurred when processing a request. All disbursements can be recovered in full.

These costs can include, but are not limited to:

- 1) reproduction costs – paper and toner, not the staff time for copying etc,
- 2) complying with a request for the information to be provided in a specific format, and
- 3) postage or other delivery costs.

5. Calculating the fee

5.1 **The prescribed costs are estimated to be below the £450 appropriate limit**

Where prescribed costs are estimated to be below £450 the fee chargeable to the requestor can consist only of the disbursements. The actual fee charged can be less than the estimate but not greater.

5.2 **The prescribed costs are estimated to be above the £450 appropriate limit**

There is no requirement in the Freedom of Information Act to provide information where the prescribed costs are above the appropriate limit of £450. If the Authority decides to provide the information it can charge for both the disbursements and prescribed costs. The final fee charged to the requestor cannot be higher than the estimate.

Sources of Further Information

- (1) Information Commissioner's website:

www.informationcommissioner.gov.uk

This provides a lot of useful information and advice concerning the FOI Act 2000, the DPA 1998 and the EIR, including a series of detailed awareness guidance notes on a range of FOI topics.

- (2) Local Government Association publication – “A Practical Guide to the FOI Act 2000” (£10). See www.lga.gov.uk

- (3) Local Government Association publication – “Accessing environmental information” (£10).

- (4) Department for Environment, Food and Rural Affairs' website:

www.defra.gov.uk

Contains some useful guidance on the Environmental Information Regulations.

GUIDANCE ON DATA PROTECTION

Introduction

The rules that govern the storage and use of personal data are set out in the Data Protection Act 1998. These rules are intended to protect individuals. Initially, only the processing of electronic personal data was covered by Data Protection legislation but the 1998 Act extended this to include many types of manual records. Manual data was originally defined by reference to a “relevant filing system” (see Glossary at Appendix 1), but for public authorities such as councils the Freedom of Information Act has extended the definition to include most categories of manual records. Consequently, the Data Protection legislation applies to almost all personal information held by councils and it is important therefore to acquire a basic understanding of the rules.

Notification

Data controllers must notify the Information Commissioner of their processing of personal data. The system involves provision of basic details about the data controller, the classes of data held, the purposes for which the data is held or processed and classes of persons to whom the data might be disclosed. Once notification has been made to the Commissioner, it must be renewed annually and there is a standard fee (currently £35) for both the initial registration and renewal. Full details of the notification process are given on the Information Commissioner’s web site (see below). A number of organisations, including councils, have been troubled by bogus data protection notification agencies and further information about this can also be found on the Information Commissioner’s web site.

It is a criminal offence to process personal data without being notified and the fines for breach are unlimited.

The Data Protection Principles

The Act sets out eight data protection principles which are key to achieving compliance with the legislation. They are as follows:

- Personal data shall be processed fairly and lawfully. *Often this will require the consent of the data subject, but there are exceptions to this. In the case of “sensitive personal data”, special rules apply and these are set out in Schedule 3 to the Act.*
- Personal data shall be obtained only for one or more specified and lawful purposes.
- Personal data processed shall be adequate, relevant and not excessive.
- Personal data shall be accurate and, where necessary, up to date.
- Personal data processed shall not be kept for longer than is necessary for the relevant purpose.
- Personal data shall be processed in accordance with the rights of data subjects under the Act.
- Appropriate technical and organisation measures shall be taken against unauthorised or unlawful processing and against accidental loss or destruction of, or damage to, personal data.
- Personal data shall not be transferred to a country outside the European Economic area unless that country ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

Further information

This note only gives very basic guidance and much more detailed advice, on both the legislation and the notification procedures, can be found on the Information Commissioner's web site www.informationcommissioner.gov.uk

The address for the Information Commissioner is:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Telephone (Helpline): 01625 545 745

Notification helpline: 01625 545 740

Glossary

Data

Recorded information whether stored electronically on computer, or in paper-based filing systems.

Personal Data

Means data that relates to a living individual who can be identified from that data or from that data and other data held by the data controller.

Sensitive Personal Data

Includes information about someone's racial or ethnic origin, political opinions, religious or other beliefs, trade union membership, health, sexuality or criminal proceedings or convictions. Sensitive personal data can only be processed under strict conditions. In most cases, this means getting express permission from the person the information is about.

Processing

Is virtually any activity that involves the data. This includes collecting, recording or retrieving the data or doing work on the data such as organizing, adapting, changing, erasing or destroying it.

Relevant Filing System

The DPA definition of this is rather complex. However, the key elements are that there must be a set of paper-based information about an individual and there is a structure to this set; and the structure works so that specific information about a particular individual is readily available.

Data Controller

Is the person or organization who hold and use personal information, e.g. the Council.

Data Processor

May be a separate organization which process information on behalf of a data controller who must also follow the Act to ensure information is handled properly.

Data Users

Include employees whose work involves processing personal information. Data users have a legal duty to protect the information they handle and should follow their employer's data protection and security policies.

Data Subjects

Are the people the information is about. All data subjects have certain legal rights under the Data Protection Act in relation to their personal information.

GUIDANCE ON HEALTH AND SAFETY

Advice is available from the district or unitary authority and from the Health and Safety Executive(HSE). Insurers will also offer advice.

Useful websites are:- www.hse.gov.uk
www.disability.gov.uk
www.dwp.gov.uk

- The Parish Council has a duty to ensure, so far as reasonably practicable, the health, safety and welfare of its employees and visitors to its premises
- This includes maintaining any places of work and the working environment (including equipment) safe and without risks to health
- Employees also have to avoid risks to themselves, colleagues and the public so there can be a shared responsibility. This could be relevant particularly where a Clerk works from home
- A written policy statement is needed if there are more than five employees
- An employer can be liable for stress suffered by employees in certain circumstances, notably if they have failed to respond adequately to known problems
- Risks need to be assessed, eg in children's playgrounds and cemeteries
- The Disability Discrimination Act 1995 imposes obligations on employers of 15 or more people in terms of making adjustments to working conditions
- The Act imposes wider obligations to ensure access to services, including making permanent physical adjustments to premises
- A disabled person is one who has a physical or mental impairment which has substantial and long-term adverse effects on his or her ability to carry out normal day to day activities

DEFAMATION

Statements made in Council and Committee meetings are subject to the general principles of law concerning defamation. Anyone who makes a defamatory statement therefore commits a tort (ie. civil wrong).

What is a defamatory statement ?

A defamatory statement is one which exposes a person to hatred, ridicule or contempt, or which causes them to be shunned or avoided, or which has a tendency to lower them in the estimation of right thinking members of society generally or injure them in their office, profession or trade.

Are there any defences ?

There is a general defence to an action in defamation to show that the statement was made on a "privileged occasion".

Absolute privilege - applies in only very limited circumstances, which will not normally be relevant to Local Councils, e.g. judicial and parliamentary proceedings, between a local authority and the Ombudsman, but not council meetings.

Qualified privilege - attaches on "...any occasion where the person who makes the communication has an interest or duty, legal, social or moral, to make it to the person to whom it is made, and the person to whom it is made has a corresponding duty to receive it". (House of Lord case decided in 1917).

An essential feature of qualified privilege is absence of malice. So long as a person believes in the truth of what they say, malice cannot normally be inferred.

Qualified privilege may well be relevant to statements made in Council or committee.

Other possible defences are justification, i.e. if the words are true. It may also be a good defence to show that it was fair comment on a matter of public interest, honestly believed to be true, relevant and not inspired by malicious motive, and that the statements of fact on which the comment was based were materially true.

Can the Council be defamed ?

The House of Lords has held, in a case involving Derbyshire County Council in 1993, that it is not possible for a Council to be defamed, so it cannot sue to protect its reputation. However, if statements are made *by the Council*, in an official capacity, then the normal rules apply and the Council could be sued, subject to the possible defences.

PART FIVE

AN INTRODUCTION TO THE ROLE AND RESPONSIBILITIES OF PARISH COUNCILLORS

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Association of Council
Secretaries and Solicitors

1. Introduction – What Parish Councillors Do

Parish Councillors have a dual role:-

- They represent the views and concerns of the residents of the Parish to the Parish Council itself and, through it, to the District, County or Unitary authority;
- They report back to residents on issues affecting the Parish.

The formal part of these roles, especially the first one, is carried out by attending meetings and corresponding with the Parish Clerk. The Parish Council might have committees and even sub-committees. This is more likely to be the case in larger councils. Individual Councillors do not have, and cannot be given, powers to make decisions on behalf of the Parish Council. This applies to the Chairman as much as to the other Councillors, although the Chairman does have personal responsibilities in connection with the running of formal meetings.

The less formal part of listening and talking to people, including the local elected members of the District, County or Unitary Council, almost certainly will take up more of the councillor's time. However, it is important to remember that "rules of behaviour" apply whenever activities of being a Parish Councillor are being undertaken.

What follows in this Part is a series of advice notes or briefings intended to assist Councillors to avoid pitfalls which can catch the unwary in the carrying out of what might seem the most straightforward of activities. The briefings also will help Parish clerks to advise their Councillors both inside and outside meetings and to induct newly-elected or co-opted Councillors.

The requirement to complete a register of interests caused some controversy when it was extended to Parish Councillors but it is a crucial element of complying with the Code of Conduct. In rural parishes or those centred on smaller settlements in particular, the risk of Councillors being affected by personal or prejudicial interests can be quite high. Also, it can be difficult to maintain an appropriate distance from local lobby or campaign groups. This is most likely to be the case in planning matters, an issue that should engage particularly those Councillors who are elected members of the local planning authority as well. Advice on these potential problem areas is included in the briefings.

THE ROLE OF THE CHAIRMAN

The main rules of Law

governing the role of the Chairman of a Parish Council are set out in the Local Government Act 1972, principally within Schedule 12, which sets out, for example: that

- the Chairman must preside at a meeting of the Parish Council if he or she is present; and
- it is the person who presided at the meeting who has the responsibility to sign the minutes as a true record.

It is the duty of the Chairman

“to preserve order, and to take care that the proceedings are conducted in a proper manner, and that the sense of the meeting is properly ascertained with regard to any question which is properly before the meeting”

National Dwellings Society v Sykes (1894)

It is the Chairman’s responsibility:

- (a) To determine that the meeting is properly constituted and that a quorum is present;
- (b) To inform himself as to the business and objects of the meeting;
- (c) To preserve order in the conduct of those present;
- (d) To confine discussion within the scope of the meeting and reasonable limits to time;
- (e) To decide whether proposed motions and amendments are in order;
- (f) To formulate for discussion and decision questions which have been moved for the consideration of the meeting;
- (g) To decide points of order and other incidental questions which require decision at the time;
- (h) To ascertain the sense of the meeting by:
 - (i) putting relevant questions to the meeting and taking the vote thereon (and if so minded giving a casting vote);
 - (ii) declaring the result; and
 - (iii) causing a ballot to be taken if duly demanded;
- (i) To approve the draft of the minutes or other record of proceedings (with the consent of the meeting);
- (j) To adjourn the meeting when circumstances justify or require that course; and
- (k) To declare the meeting closed when its business has been completed

“Knowles on Local Authority Meetings” (ICSA Publishing)

Voting

During the meeting, if a vote on a matter is tied, the Chairman, or other person presiding, has a second or casting vote.

Whilst it is a convention in some Councils that the Chairman will not vote when a matter is put before the meeting and will only use his or her casting vote, there is no rule of law on this and is becoming a practice little followed. Some Councils apply a convention, however, that the Chairman will use his or her second or casting vote in a way to support the status quo and keep the question open for reconsideration at a later date, which is generally considered to be best practice.

The Chairman's term of office continues until the appointment of a successor, other than where the Chairman resigns or is disqualified. This continuity also applies when the Chairman has not been re-elected following local elections. In this case, the Chairman does not have a vote on the appointment of a successor but does have a casting vote in the event of an equality of votes.

Outside of the Meeting

The Chairman

- is the person to whom notice of resignation is given by other Councillors or the Clerk
- may convene meetings of the Council (on proper notice to the Clerk)
- when attending ceremonial events, is the proper person to represent the parish
- may receive an allowance to meet the expenses of his or her office.

Beyond that, the workings and decisions not taken by the Council or, through the delegation scheme, by one of its committees or sub-committees are to be taken by the Clerk to the parish/town council.

The Chairman may have an enhanced role, in that functions may be delegated to the Clerk in consultation with the Chairman (or the Chairman of a Committee). This does not mean that the Chairman makes the decision but means that the decision, and the responsibility for it, remains with the Clerk, but that he or she must first bring the matter to the attention of the Chairman and take into account the views of the Chairman in coming to his or her decision.

It is also likely to be the case that the Chairman will be the person whom the Clerk will approach

- for information about the Council and the parish,
- to seek to informally discuss matters with and
- informally consult on decisions that are in the Clerk's remit to make or pass back to a formal meeting.

Correspondence to/from the Parish Council should normally be dealt with by the Clerk, not by the Chairman, although, where there are no other administrative staff, the Chairman will be the most appropriate person to deal with correspondence in the absence of the Clerk eg to sign letters giving effect to a Council decision, or to send a 'holding' reply, pending consideration of a matter by the Council.

BRIEFING NOTES FOR COUNCILLORS

Introduction

The Local Government Act 2000 introduced an “ethical framework” to regulate standards of conduct in local government. It provided that all councils, including town and parish councils must adopt a Code of Conduct, to include mandatory provisions contained in a model code, to regulate the conduct of elected members. If a member breaches the code or is alleged to have breached the code they may find themselves the subject of a complaint to the Standards Board for England, a body established under the Act to oversee the observance of the new ethical framework. The attached guidance notes seek to explain the detailed provisions of the code, including the requirements to complete a register of interests and to explain what happens if a complaint is made that the member has breached the Code.

The 2000 Act also required county, unitary and district councils to establish Standards Committees whose functions are to promote and maintain high standards of conduct by members and co-opted members, assist them in observing the code, advise on the adoption and revision of the code, monitor the operation of the code and train or arrange training on the code. Standards Committees also have a role in the determination of Standards Complaints (see guidance note 5). The remit of the Standards Committee of a district or unitary council also includes parishes within the area of the district of unitary council and the Monitoring Officer appointed by the district or unitary council also acts as Monitoring Officer for Parish and Town Councils within their area.

LIST OF BRIEFING NOTES

1. Guide to Code of Conduct
2. Guide to Completing the Register of Members' Interests
3. Guide to Declaring Personal & Prejudicial Interests and Dispensations
4. Guide to Lobbying & Campaign Groups and Dual-Hatted Members
5. Guide to Complaints and Investigations
6. Guide to Appointments to Outside Bodies
7. Guide to Probity and Planning

NOTE: The Code of Conduct is currently, October 2005, subject to review

GUIDE TO THE CODE OF CONDUCT

1. What is the Code of Conduct?

The Local Code of Conduct has been adopted by your Town Council/Parish Council to regulate your conduct as a Councillor and where you act as a representative of your Authority. The Code replaces the previous legislative provisions relating to pecuniary interests (Local Government Act 1972) and the National Code of Local Government Conduct.

2. Does the Code apply to me when I act in a personal capacity?

Generally the provisions of the code only apply when you are acting in an official capacity as a Member of your Council. However there are two provisions of the code which apply at all times namely that: -

- i) You should not conduct yourself in a manner which might bring your office or Authority into disrepute
- ii) You should not use your position as a Councillor improperly to gain an advantage or disadvantage to yourself or anyone else

3. Are all councils bound by the same code?

All councils had to adopt certain mandatory provisions contained within a model code issued by the Government within their own local Code of Conduct not later than 5th May 2002. There is discretion to adopt additional provisions within a local code which would apply only to the particular Authority. Advice to Town/Parish Councils, endorsed by the Standards Board for England and NALC, has been that they should adopt only the mandatory provisions of the model code.

4. What happens if I breach the provisions in the Code?

If you breach the provisions in the Code, a complaint may be made about your conduct to the Standards Board for England. Other members are required by the Code to let the Standards Board for England know if they think you have breached the Code.

5. I understand that the Code places 'general obligations' on me when I am acting in an official capacity. What are these?

The Code places a number of general obligations on members namely: -

- to promote equality by not discriminating unlawfully against any person
- to treat others with respect
- not to do anything which compromises or is likely to compromise the impartiality of those who work for or on behalf of the Authority
- not to disclose confidential information without consent or unless required to do so by law
- not to prevent anyone else to gain access to any information to which that person is entitled by law.
- to act in accordance with any requirements of the Authority when using or authorising the use of Council resources.
- not to use Council resources for political purposes unless they are directly related to your duties as a Councillor.

6. When do I need to declare interest at meetings?

The Code requires you to declare any personal interests you have in any matter. You must then go on to decide if that personal interest is also a “prejudicial interest”. If it is then, subject to certain exceptions, you should not speak or vote and you should leave the meeting when the matter is discussed.

7. How do I know if I have a personal interest?

You will have a personal interest in a matter where any decision on it would affect you, a relative or a friend, to a greater extent than a member of the public. You will also have a personal interest in anything that is included on the Register of Members’ Interests.

When deciding whether or not you have a personal interest in any matter the factors which you should consider should include any employment or business carried out by you, a relative or friend, matters relating to your or their employer, matters relating to any corporate body in which you, a relative or friend has shares of a nominal value of £5,000 or more and matters relating to specified bodies in which you, a relative or friend holds a position of general control or management.

8. Is there any definition of relatives or friends?

Relatives are defined as a spouse, partner, parent, parent in law, son, daughter, stepson, stepdaughter, child of partner, brother, sister, grand-parent, grand-child, uncle, aunt, nephew, niece or their spouse or partner.. There is no clear definition of friend and ultimately this will be a matter of judgement for the individual member depending on the closeness of the friendship. The Standards Board for England provide the following advice:

“Our view is that ‘friendship’ connotes a relationship going beyond regular contact with colleagues in the course of employment or council duties (we do not consider that Councillors are automatically friends of all the members of their political group). Social contact is likely to be a strong indicator of friendship but not necessarily the only one”.

Members and Monitoring Officers might wish to consider the following questions when considering if a friendship exists.

- How many times do the two people meet?
- Where do they meet?
- Do they regularly attend the same social events?
- Do they know each other’s families?
- Do they visit one another’s homes?
- Are they close or connected in other ways?

These questions should not be taken in isolation, as it is the cumulative evidence of a close relationship that will establish a friendship. A certain amount of caution should also be exercised. Most Members know each other and will often attend the same functions because of their positions in the community. A level of relationship above and beyond that which usually exists between colleagues and political associates will be required to establish the existence of a friendship”.

9. What should I do if I decide that I have a personal interest?

If you decide that you have a personal interest you must declare the existence and nature of the interest at the meeting at which the matter is considered prior to the matter being debated.

10. If I decide that I have a personal interest in a matter, how do I know if I should also treat that interest as a prejudicial interest?

The test for deciding whether you have a prejudicial interest is whether a member of the public with knowledge of the relevant facts would reasonably regard the interest as so significant that it is likely to prejudice your judgement of the public interest.

11. What do I need to do if I decide that I have a prejudicial interest?

If you decide that you have a personal interest which is also a prejudicial interest not only should you disclose the existence and nature of the interest to the meeting but you should also withdraw from the room or chamber where the meeting is being held when the matter is being considered. In addition you should not seek in any way to improperly influence any decision about the matter.

12. Can I stay in the meeting as an ordinary member of the public where I have a prejudicial interest but I am not a Member of the Committee making the decision?

No. The case of R v Richardson ex parte North Yorkshire District Council made it clear that a member of an authority attending a meeting could not, simply by declaring that he was attending in his private capacity, thereby divest himself of his official capacity as a Councillor. He is still to be regarded as conducting the business of his office and only by resigning can he shed that role.

13. Are there any exceptions to the rules about prejudicial interest?

Yes. The code provides that you may regard yourself as not having a prejudicial interest in a matter if it relates to: -

- i) another Local Authority of which you are a member.
- ii) another Public Authority in which you hold a position of general control or management.
- iii) a body to which you have been appointed or nominated by the Authority as its representative.
- iv) statutory sick pay where you are in receipt of or are entitled to such pay from a relevant Authority.
- v) Schemes for basic, attendance and special responsibility allowances for Local Authority Members.

You will still need to exercise a judgement as to whether it would be appropriate for you to participate in any of the above circumstances, given the facts of each case. For example, the Standards Board for England takes the view that where you are both a Parish and District Councillor, it would not be appropriate for you to participate in the determination of a planning application by the District Council where the Parish Council is the applicant.

14. Can I get a dispensation to speak and vote where I have a prejudicial interest?

The District/Unitary Council's Standards Committee has discretion to grant dispensations but can only do so where more than half the members entitled or required to participate in the business of the authority would not otherwise be able to and they are satisfied, given the circumstances of the case, that it is appropriate to grant the dispensation. A request for a dispensation should be submitted in writing.

COMPLETION OF THE REGISTER OF MEMBERS' INTERESTS

1. Do I have to complete the Register of Members Interest?

Yes. It is a legal requirement that members register their financial and other interests.

2. Who keeps the Register?

The Register is kept by the Monitoring Officer at the headquarters of the District or Unitary Council in which the parish is situated.. The Town/Parish Council may also request that a copy of the register be kept locally but are not required to do so. It is good practice for the Town/Parish Clerk to keep a copy of the register and to bring it to parish council meetings.

3. Is the Register public?

Yes, the register must be made available for public inspection.

4. What happens if I refuse to register my interest?

Failure to register is a breach of the Code of Conduct.

5. When do I have to register my interests?

You must register them within 28 days of your election or appointment to office.

6. What if my interests alter?

You should notify the District Council's Monitoring Officer within 28 days of any changes to your interests.

7. How do I know which interests I need to register?

Your Town/Parish Clerk will give you a form which you will need to complete. The form should be signed by you when you have completed it and returned either to the Parish Clerk or, if you prefer, directly to the Monitoring Officer.

The form sets out a number of interests which are categorised into 'financial' and 'other' interests.

Financial interests include: -

- any employment or business you undertake.
- the name of your employer, any firm which you are a partner or a company of which you are a paid director.
- the name of anyone (other than the Parish Council) who has made a payment to you in respect of your election or any expenses you have incurred in carrying out your duties as a councillor.
- any corporate body in which you have a shareholding of more than £25,000 or 1/100th of the total issued share capital of that body. You are only required to record any such interest where the corporate body has a place of business or land in the parish council's area. The financial limit specified relates to the nominal value of the shares and not their current market value.

- any contracts for goods, services or works made between the Town Council/Parish Council and yourself, the firm in which you are a partner, a company of which you are a paid director or a corporate body in which you have a registerable interest as set out above.
- any land holdings in the Town/Parish Council's area.
- any land leased or licensed from the Town/Parish Council.

'Other Interests' include being a member of or holding a position of general control or management in: -

- a body to which you have been appointed or nominated by the Town/Parish Council as its representative.
- any public body.
- a company, industrial and provident society or charitable body.
- a body whose main purpose includes the influencing of public opinion or policy.
- a trade union or professional association

REGISTRATION OF GIFTS AND HOSPITALITY

1. Are there any requirements to register the receipt of gifts and hospitality?

Yes. If you receive any gift or hospitality over the value of £25 in your capacity as a councillor, you should inform the Monitoring Officer at the District/Unitary Council, in writing, of the existence and nature of gift or hospitality within 28 days of its receipt.

2. Do I need to inform the District/Unitary Council's Monitoring Officer of all gifts or hospitality I receive?

No. As set out above, you are only required to inform the Monitoring Officer where the value of the gift or hospitality exceeds £25 and where you receive the gift or hospitality in your capacity as a member of the Town/Parish Council. You do not need to inform the Monitoring Officer of the receipt of any gifts or hospitality received in a private capacity.

3. Is there a specific form I need to complete in respect of the registration of gifts and hospitality?

The only legal requirement is that you inform the Monitoring Officer in writing. However your Parish Clerk may have been given a suggested form for you to use.

GUIDE TO COMPLETING THE REGISTER OF MEMBERS' INTERESTS

Questions and Answers

Q1 Do I need to register my bank or savings account?

A No. there is no requirement for you to register the amount of money or savings you have.

Q2 Do I need to register my building society deposits?

A No. However members holding shares in a demutualised building society with a face value of more than £25,000 will need to register that shareholding if the building society has a branch in the authority's area.

Q3 In some places, the Model Code refers to a £5,000 limit in relation to shareholdings, and in other places it refers to a £25,000 limit, What is the difference?

A You need to register shareholdings in corporate bodies that have land or business in your authority's area worth more than £25,000 (nominal value) or 1% of the issued share capital. However, in meetings you need to declare a personal interest if the matter under discussion affects the financial position of any companies in which you have shareholdings worth more than £5,000 (nominal value).

Q4 What is the "nominal value" of shares – is it different to the market value of shares?

A The nominal value of shares is the face value of those shares (the value recorded on the share certificate).

Q5 Do I need to register land that I own overseas or in other parts of England?

A No. You only need to register land which you own or rent that is within the parish.

Q6 Do I have to say what the value of my shareholdings or land is if I have to register them?

A No. You do not need to give the value of your shareholdings or land.

Q7 Do I need to register my residence?

A Yes, if you own it or rent it and it is in the parish area.

Q8 What is an example of a "professional association"?

A The Law Society or the British Medical Association.

Q9 Part Three of the Model Code of Conduct requires members to register "membership" of, or a position of general control or management in any company, industrial and provident society, charity, or body directed to charitable purposes. Does this mean I have to register any company in which I have at least one share?

A The Department for Transport, Local Government and the Regions responded (in a letter of 8th March 2002 to all Chief Executives of local authorities) to concerns about the scope of the phrase "membership of any company":-

"It is not our intention, by means of this provision, to require the registration of all shareholdings. There is provision in the preceding paragraph (of the Model Code) at (d) to require the registration of shareholdings with a nominal value above £25,000 and in our view; this implies that no further registration is required in respect of shareholdings. Neither is it our intention that Councillors should have to register the name of any building society in which they have investments, or from whom they borrowed money and we do not think that paragraph 15 has this effect".

Q10 Does membership of the Freemasons need to be declared?

A Freemasons who are members of the Grand Charity must, under paragraph 15(c) of the Code of Conduct, register membership of the Grand Charity in their register of members' interests and, where appropriate, declare their membership of the Grand Charity as a personal or prejudicial interest before or during council meetings. If an individual lodge is one which has charitable status or could be described as a body directed towards charitable purposes, then membership of that lodge would also need to be registered.

Membership of charities or bodies directed to charitable purposes must be included in members' register of interests in accordance with paragraph 15(c) of the Code of Conduct.

In addition, if a matter under discussion would affect a member more than other people in the Council's area because the member is a Freemason, the member will need to declare the existence and nature of that interest and consider whether the interest is also prejudicial".

Q11 Do I need to register my interest in a national charity?

A Yes. This would include bodies like the National Trust, English Heritage and RSPB.

Q12 What about local charities?

A Yes. These should also be declared – for example, the parochial church council and the village hall management committee where it has charitable status.

Q13 What does membership of a charity or charitable organisation mean?

A "Membership" is not defined in the Code of Conduct. However, it may include the state of belonging to an organisation, club or group and receiving the advantage and benefit of belonging to that group. Indications of membership may include payment of a membership fee. You may also have voting rights at a meeting of the charity or receive a regular newsletter or other publication.

Q14 What are examples of a "body whose principal purposes include the influence of public opinion or policy"?

A Such bodies include lobby groups and political parties.

Q15 Do I need to put my friends' or relatives' interests on the register of interests?

A No. You only need to register your own interests.

Q16 Do I need to register my membership of private clubs or societies?

A No. However, the provisions of the Code requiring members to declare interests in meetings operate independently of the registration requirements. It is possible that, in certain circumstances, membership of a private club or society could give rise to either a personal interest (which would have to be declared) or a prejudicial interest (which would require you to withdraw from a meeting).

Q17 Do I need to register my membership of a political party?

A Yes. You should register your membership of any political party (see question 14 above).

Q18 Do I cease to be a member if I do not complete my register of interests within 28 days?

A No. However, if you fail to register your interests within 28 days, you are in breach of the Code. A complaint could be made to The Standards Board for England and could result in sanctions being imposed against you which could include suspension or disqualification.

Q19 Who should hold the register of interests for parish councils – the parish clerk or the monitoring officer?

A The Monitoring Officer (based at your district or unitary council) has a legal responsibility for maintaining the register. However, a copy should also be retained by the Parish or Town Clerk.

Q20 Does the public have a right to inspect the Register of Interests?

A Yes.

- **Can councils charge a fee for an inspection of the public register?**

The charging of fees may well be unlawful and is certainly undesirable.

- **Should councils let people take notes and/or a photocopy of the Public Register?**

Yes. A council should allow the taking of notes from a public document by people while on the council's premises. We see no distinction between the taking of notes and photocopying. A council may, though, charge for the use of its photocopier in line with its own internal guidelines.

Q21 If I serve on more than one authority, do I need to register my interests for each authority?

A Yes. If you are a member of more than one authority. You must register your interests for each of those authorities.

Where you act as a representative of your authority on another relevant authority, you must comply with that other authority's Code of Conduct. This extends to completing the Register of Interest for the other authority.

Q22 I am self-employed. Do I need to enter all my clients in the Register of Interests?

A No. There is no requirement for self-employed consultants (or other self-employed people) to list their clients in the register of interests. However, a brief description of the nature of the self-employment will need to be included (as will any contract with the authority).

Q23 Do members of service organisations need to register their membership?

A Members of service organisations, such as Rotary Clubs and Round Table, should register an interest if their organisation is one that is directed towards "charitable activities" or seeks to influence public opinion or policy as its principal purpose.

Q24 Do members need to re-register their interests if they are re-elected?

A Yes. The Code of Conduct requires members to register their interests within 28 days of their election or appointment. Members have an ongoing obligation to keep their Register of Interests up to date. Failure to do so will constitute a breach of the Code of Conduct.

Q25 Do I have to take any action if there is a change to my interests after I have completed the Register?

A Yes. You should notify the monitoring officer of any changes within 28 days.

GUIDE TO DECLARING PERSONAL AND PREJUDICIAL INTERESTS

Introduction

The purpose of this note is to assist you in deciding if you need to declare an interest in any matter. If you have a personal interest you will need to declare the existence and nature of your interest in the matter under consideration and, further, to withdraw from the room where you have a prejudicial interest.

The above requirements apply whether or not you are a member of the Committee that is considering the matter. In other words if you sit in the public gallery you should still declare any personal interest in a matter under consideration and you should leave the meeting where you have a prejudicial interest even where you would otherwise be entitled to remain as a member of the public.

How do I know whether I need to declare a personal interest?

You should declare a personal interest in any matter where:-

- The interest is (or should be!) included in the Register of Interests
- If the issue being discussed affects you more than other people in the area

This applies if the personal interest affects either:-

- You
- Your partner, relative or a friend
- Your employer, or the employer of your partner, relatives or friends
- Any corporate body in which you, your partner, relative or friends, hold shares with a nominal value of more than £5,000 or of which you or they are a director
- Any firm in which you, your relative or friends, are partners

You must also declare a personal interest if the discussion concerns one of the following organisations in which you, your relative or friends hold a position of control or management:-

- A body where you or they are a representative or nominee of the authority
- A body exercising public functions
- A company, industrial and provident society, charity or body directed to charitable purposes
- A body which seeks to influence public opinion or policy
- A trade union or professional association

How do I know whether I need to declare a Prejudicial Interest?

In order to determine whether you have a prejudicial interest in any matter you must first decide that you have a personal interest (see above). If you decide that you do have a personal interest, you will need to decide whether the interest is “one that a member of the public with knowledge of the relevant facts would reasonably regard as to significant that it is likely to prejudice your judgement of the public interest”. In simple terms, can your interest be perceived as such that it is likely to influence your decision?

What do I need to do if I decide that I have a declarable interest in any matter?

If you decide that you have a personal interest in any matter you should declare the existence and nature of the interest at the start of the meeting or as soon as you become aware that you have an interest that needs to be declared. However, you can stay in the meeting and can still speak and vote.

If you decide that you have a prejudicial interest in any matter you should declare the existence and nature of the interest as set out above. However, you must leave the meeting when the matter is under consideration. This requirement applies whether or not you are a member of the committee and even where you would otherwise be permitted to remain in the meeting as a member of the public.

Why do I have to leave the meeting where I have a prejudicial interest when the meeting is open to the public?

The Code of Conduct specifically provides that any Member with a prejudicial interest must withdraw from the room where the matter is under consideration. You cannot even stay in the meeting just to put your case or that of your constituents or explain what the matter is about.

A recent Court of Appeal judgement in Richardson and another – v – North Yorkshire County Council made it quite clear that a Councillor may not remain in a meeting either to represent constituents' views or even in a private capacity (effectively as if he/she were a member of the public).

What shall I do where I have a prejudicial interest in a matter under consideration?

You **MUST** declare your interest and withdraw from the room when the matter comes up whether you are attending the meeting as a voting or non-voting Member or in the public gallery.

You **CANNOT** make a decision on the matter.

You **CANNOT** seek improperly to influence a decision about the matter. This means that you should not seek to lobby colleagues or members of the Committee.

You **CAN** refer constituents to colleague Ward Councillors or other Councillors outside your Ward who will be prepared to take up the representational role.

You **MAY**, depending on the nature of the prejudicial interest, take advice about whether you might seek a dispensation from the Standards Committee of the principal authority (the District or Unitary Council in which the Parish/Town Council is situated).

How do I request a dispensation?

You should raise the issue with your parish/Town Clerk in the first instance and then seek advice from the Monitoring Officer. A request for a dispensation must be made in writing to the relevant Standards Committee (as set out above) and should explain why you think it is desirable that you should be given a dispensation. You may find that the Standards Committee has a standard form for you to complete.

Will my request for a dispensation be granted automatically?

No. The Standards Committee has a discretion to grant a dispensation in certain specified circumstances but is not obliged to do so. It can only exercise its discretion to grant a dispensation where the business of the authority of which you are a member would otherwise be impeded because the number of members of the authority prohibited from participating in the business of the authority would exceed half of the members entitled or required to so participate. The Standards Committee has no discretion to grant a dispensation unless the above applies.

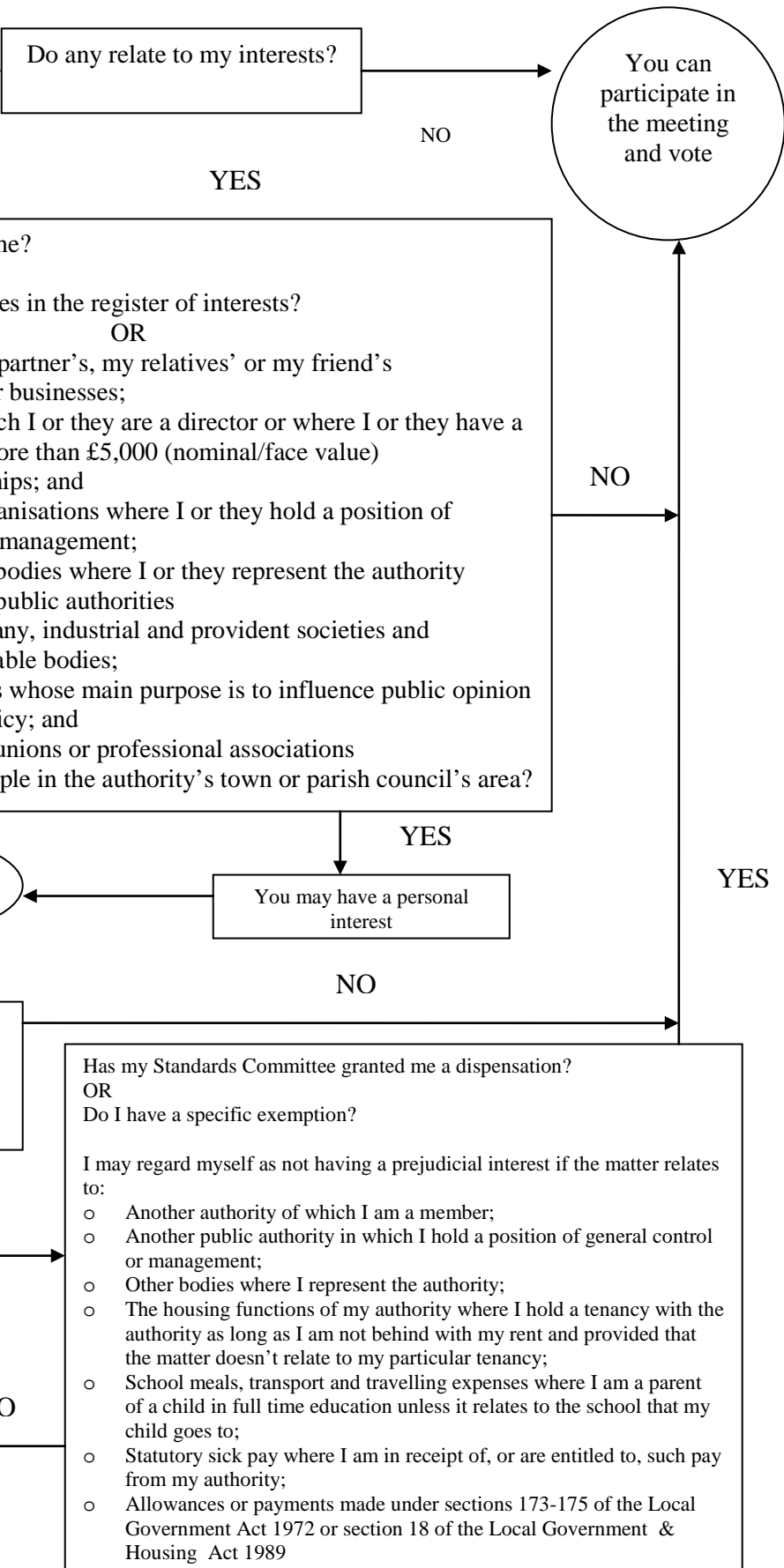
If I am granted a dispensation, how long will it last?

The Standards Committee has a discretion to grant a dispensation for any period up to a maximum of four years.

Is a formal record kept of the dispensation if granted?

Yes. The Standards Committee must ensure that the existence, duration and nature of any dispensation is recorded in writing and a copy kept with the Register of Members' Interests.

**DECLARING INTERESTS FLOWCHART
QUESTIONS TO ASK YOURSELF**



GUIDE TO LOBBY AND CAMPAIGN GROUPS AND DUAL HATTED MEMBERS

Introduction

This guidance summarises the guidance issued by the Standards Board for England on lobby groups, dual-hatted members and the Code of Conduct. A full copy of their guidance can be found on the Standards Board for England's website at www.standardsboard.co.uk.

Membership of Lobby Groups

You should act in accordance with the General Principles which underpin the Code and in particular:

- You should serve the public interest only
- You should not place yourself in a situation where your honesty and integrity may be questioned.
- You should reach your own conclusions on the issues before you
- You should take decisions fairly on the merits
- You may take account of the views of others, including your political group, but should reach your own conclusions on the issues before you and act in accordance with those conclusions

Membership of lobby and campaign groups should be included on the register of interests as bodies "whose principle purpose include the influence of public opinion or policy"

You should declare anything included on register of interests as a personal interest.

You can continue to participate unless your interest is prejudicial.

Tests for determining if your interest is prejudicial

If the matter to be discussed will have a direct impact on a lobby campaign group, e.g. grant of funding, approval of planning application, it is likely to be prejudicial.

Matters which have an indirect impact on a lobby or campaign group may be prejudicial depending on the nature of the matter, the nature of your involvement with the group, the publicly expressed views of the group and what you have said or done in relation to the issue. The more focused your (lobbying) group is on a particular issue, the more involved and active you have been and the more committed you appear to a particular outcome, the more likely it is that your interest will be prejudicial.

TEST: Whether an informed member of the public would think that there is a real possibility that you could be biased.

NOTE: Regulatory matters such as planning and licensing are particularly sensitive.

Have I made up my mind about the issue?

You should not make your mind up about an issue before you come to take a decision on it.

You can still form a provisional view but you must be willing to consider all arguments presented at the meeting and you must be genuinely open to persuasion on the merits of the case.

If you do not have a genuinely open mind about a matter, this will leave the decision potentially susceptible to legal challenge because of the common law concept of predetermination. This is a legal concept that predates the Code of Conduct.

Dual hatted members and paragraph 9 (2) of the Code

Where you have interests arising from service on other authorities and public bodies e.g., as governor or school board or as trustee of a village hall, you need to balance three principles:

1. You should withdraw from consideration of issues where these interests conflict with your public duties.
2. The rules on interests should not obstruct Members who are involved in other forms of public service, such as another tier of Local Government.
3. The rules of interests are not intended to interfere with the proper conduct of Council business.

The Standards Board for England guidance gives examples of where it would be appropriate to participate.

PRIMARY TEST: would a reasonable member of the public who knew all the relevant facts think that your interest was so strong that your judgement would be prejudiced?

You can participate on the same issue at more than one tier of Local Government e.g. Parish or District/Unitary but you should:-

- At Parish level, make it clear that you will reconsider the matter at District level taking into account all relevant evidence and representations at the District/Unitary tier
 - At District/Unitary level declare a personal (not prejudicial) interest arising from membership of the Parish Council which has already expressed a view on the matter, but make it clear you are considering the matter afresh
- But:
- You should not make decisions on planning and licensing relating to an authority on which you also serve or participate in direct negotiations between two authorities
 - There is more likelihood of being able to participate if you are acting in an advisory rather than a decision making capacity

If you have a prejudicial interest?

You can still:

- Make written representations to officers in a private capacity provided you disclose the existence and nature of your interest and don't seek preferential consideration
- Use a professional representative (e.g. for the submission of a planning application)
- Arrange for another Member to represent the view of constituents

You cannot:

- Be present in the public gallery or speak as a member of the public
- Make written representations to Members of the relevant Committee
- Discuss the matter with other Members (even to ask the Ward Councillor to represent your views – as opposed to the views of constituents)
- Lobby Committee Members or try to get officers to change their decisions or recommendation.

GUIDE TO CODE OF CONDUCT, COMPLAINTS AND INVESTIGATIONS

Introduction

The purpose of this guide is to give a basic outline of what happens when a complaint is made against an elected member that they have breached the Code of Conduct.

1. What happens when someone complains that I have breached the Code of Conduct?

The complaint must be made to the Standards Board for England who will decide whether or not the matter should be investigated.

2. Who can complain about me?

Any one can make a complaint to the Standards Board for England, including members of the public, officers (such as the town or parish clerk) or fellow members.

3. Is there any scope for local mediation?

There may be scope for local mediation prior to a complaint being formally lodged with the Standards Board for England. Indeed such an approach is being actively encouraged by the Standards Board for England. However, once a complaint has been submitted to the Standards Board for England the Monitoring Officer is no longer able to deal with the matter informally.

4. What happens if the Standards Board for England decide that the matter should be investigated?

On receipt of a complaint the Referrals Unit will assess it against its referral criteria. For example, it will initially assess whether or not the complaint falls within the Board's remit. If the decision is not to investigate then that is the end of the matter. The Standards Board for England will give written reasons for its decision not to investigate. If the decision is to investigate, the Standards Board for England will then refer the matter to an Ethical Standards Officer.

5. What are the referral criteria?

The Standards Board for England will refer a matter for investigation if they believe it meets one of the following criteria:-

- It is serious enough, if proven, to justify the range of sanctions available to the Adjudication Panel for England or local Standards Committee
- It is part of a continuing pattern of less serious misconduct which is unreasonably disrupting the business of the authority and there is no other avenue left to deal with it short of investigation

A complaint is unlikely to be referred for investigation if it falls into any of the following categories:-

- It is believed to be malicious, relatively minor, or tit-for-tat
- The same, or substantially similar, complaint has already been the subject of an investigation or inquiry and there is nothing further to be gained by seeking the sanctions available to The Adjudication Panel for England or the local Standards Committee
- The complaint concerns acts carried out in the member's private life which are unlikely to affect his or her fitness for public office

- It appears that the grievance is really about dissatisfaction with a council decision
- There is insufficient information currently available to justify a decision to refer the matter for investigation

6. What is an Ethical Standards Officer?

Ethical Standards Officers are appointed to investigate complaints relating to the Code of Conduct. They are independent of the Standards Board for England. Each Ethical Standards Officer has a team of investigators to assist them.

7. What happens then?

The Ethical Standards Officer will decide if he/she is going to investigate the matter or whether it can be sent to the Monitoring Officer for investigation at a local level.

8. How does the Ethical Standards Officer decide who is going to carry out the investigation?

Ethical Standards Officers have developed criteria for assessing whether an allegation referred to them for investigation is suitable for referral to a Monitoring Officer for local investigation. An allegation will be referred back for local investigation unless:-

- The status of the subject member and complainant – for example, are they a Group Leader or Cabinet Member?
- The allegation, if proven, would require the sanctions of The Adjudication Panel for England
- The allegation raises issues of principle where guidance at a national level is required
- The allegation raises issues that may require the Ethical Standards Officer to use their powers under section 62 of the Local Government Act 2000

In addition, Ethical Standards Officers will look at any local factors that might prejudice the fairness or perceived fairness of the investigation. These factors could include:-

- A potential conflict of interests for the Monitoring Officer – the Ethical Standards Officer would consider whether there were any arrangements in place to address such a conflict
- Any exceptional local resource implications

9. Does the Ethical Standards Officer have power to direct the Monitoring Officer to deal with the matter other than by way of formal investigation?

Yes. The Ethical Standards Officer can issue what are called “directions”. This could include matters relating to the governance of an authority or mediation.

10. What happens where a matter is referred for local investigation?

The Monitoring Officer must inform all the relevant parties, including the Member subject to the complaint, the complainant and the relevant parish council. The Monitoring Officer must then arrange for an investigation to be carried out.

11. Who will actually carry out the investigation?

This could be the Monitoring Officer, his or her deputy or anyone appointed by him/her as Investigation Officer. It could be someone external to the council.

12. Who meets the cost of investigations?

The costs are borne by the principal authority (the district or unitary council in which your parish/town council is situated).

13. What powers does the Investigating Officer have?

The Investigating Officer can require your town/parish council to provide advice, assistance and access to documents. However, he/she has no power to compel anyone to assist in the investigation. This is different from the powers of an Ethical Standards Officer:-

In the event that the Ethical Standards Officer conducts an investigation rather than remitting it for local investigation, criminal sanctions may be imposed for non-co-operation.

14. Will I get the chance to have my say?

Yes, In the event of a local investigation, the relevant regulations require the Monitoring Officer to give the Member against whom a complaint is made the opportunity to comment on the allegations. This could be by way of a face to face interview or an interview over the telephone. In the event of an investigation by the Ethical Standards Officer a taped telephone interview is quite a common means of taking statements from witnesses and the Member against whom the allegation is made.

15. What if the matter turns out to be more serious or complex than it was thought when the matter was referred for local investigation?

The Monitoring Officer may, at any stage prior to the completion of the investigation, ask the Ethical Standards Officer to take the matter back for investigation. Evidence of further breaches that relate directly to the investigation may prompt a referral back to the Ethical Standards Officer. Unlike the Ethical Standards Officer, the Monitoring Officer can only investigate the matter which has been referred to him/her. A referral back might also be requested where the investigation is being obstructed. The Ethical Standards Officer doesn't have to agree to the request.

16. What happens when the investigation is completed?

If the Ethical Standards Officer has conducted the investigation he/she can come to one of four findings:-

- That there is no evidence that the Member has failed to follow any part of the Code of Conduct
- No action needs to be taken in relation to the matters investigated
- That the matter should be referred to the Monitoring Officer of the relevant authority for local determination
- That the matter should be referred to the Adjudication Panel for England

It is likely that the matter will be referred to the Adjudication Panel where it appears to warrant more serious sanctions (see question 20).

In the event of a local investigation the Investigating Officer may either find:-

- That there has been a finding of failure to comply with the Code
- There has not been a failure to comply with the Code.

In either of the above events the matter will then be referred to the Standards Committee.

17. Will a formal report be prepared?

Yes. Whether the investigation has been conducted by an Ethical Standards Officer or a Local Investigator a report will be prepared setting out their findings of fact and their conclusions. You will usually be given the opportunity to comment on the draft report before it is finalised.

18. What happens if the local investigator concludes that there has been no breach?

The Standards Committee will still meet to decide if they agree with this conclusion. If they do not, a date will be fixed for a hearing. If they accept the conclusions a notice will be published giving the Standards Committee's conclusions and its reasons but you can request that the notice not be passed to the local press.

19. What happens if the local investigator decides that there has been a breach?

A formal hearing will be held by the Standards Committee and it will decide, after hearing evidence, if it agrees with the Local Investigator's conclusions. If it finds that there has been a breach it will then decide what sanctions (if any) should be imposed. There may be a formal process prior to the hearing which is known as the pre-hearing procedure. For example, it is likely that you will be asked to provide information and documents in advance of the hearing.

20. Is the hearing conducted like a criminal court?

No. The Standards Committee will be applying the civil not the criminal test in deciding whether or not there has been a breach of the Code ie the balance of probabilities. It is likely to be inquisitorial ie concentrating on establishing the relevant facts rather than adversarial.

21. What happens if the Standards Committee can't make their minds up?

The Standards Committee has to come to a decision. It can adjourn, on one occasion only, to request more information and it can request the Ethical Standards Officer to take the matter back – but he/she doesn't have to agree to the request. This is most likely to occur if the Standards Committee decide that the matter requires more serious sanctions than they have a power to impose.

22. What are the sanctions available to the Standards Committee?

These range from censure to suspension for a maximum period of three months. By comparison the Adjudication Panel can disqualify a Member from holding office for up to five years.

23. Can the Standards Committee also make broader recommendations?

Yes. It could for example make wider recommendations relating to the governance of the authority or recommendations that training be undertaken if there are aspects of the Code that Members don't understand.

24. Is the hearing before the Standards Committee any different where they are considering a report from an Ethical Standards Officer rather than from a local Investigation Officer?

The main difference is that there will always be a formal pre-hearing procedure where the Standards Committee is considering a report from an Ethical Standards Officer. In the case of a local investigation this is likely to vary depending on the complexity of the case. The sanctions available to the Standards Committee are exactly the same in both cases.

25. What happens after the hearing?

The decision will be announced at the hearing and you will receive written notification of the decision within the next two weeks. A notice setting out the findings will also be published (but, if you are the member subject to the allegation, you can request that a notice doesn't appear in the local press where the committee find that there has been no breach).

26. If the Standards Committee conclude that I have breached the Code do I have a right of appeal?

Yes. You can request permission to appeal by writing, within twenty-one days of receiving formal notice of the decision, to the President of the Adjudication Panel. An appeal will only be granted if he/she decides that the appeal has a reasonable prospect of success, in which event the appeal will be heard by an appeal panel of three or more members of the Adjudication Panel.

27. Who will pay my costs if I decide to have legal representation?

You will! There is no provision for the award of costs even if you are found not to have breached the Code. Local authorities have a discretion to give indemnities to their members "in proceedings" and you will need to check if your authority has resolved to give such an indemnity. However, even where an indemnity is given, you must reimburse the authority where you are found to have breached the Code or admit to having failed to comply.

GUIDANCE ON APPOINTMENTS TO OUTSIDE BODIES

Introduction

There are a number of outside bodies with which Members may become involved such as sports clubs, village hall management committees and other community organisations, trusts, volunteer groups and companies.

In some cases the Council may have appointed the Member to serve as its representative on the outside body. In other cases the Member may have been appointed independently of the Council.

Where the Member is acting as representative of the Council on an outside body he or she should make this known to the body concerned. Notwithstanding this there may be circumstances where the duty of the Member to the outside body overrides his or her duty to the Council.

The purpose of this guidance note is to give a brief summary of the different types of organisation to which a Member might be appointed and the duties and responsibilities which attach to the appointment. However, it is no more than a summary and is not intended to be a definitive statement of the legal position. In cases of uncertainty, further advice should be sought from the Town or Parish Clerk or from the Monitoring Officer.

Types of Outside Body

This guidance note will give a brief overview of the duties and responsibilities attaching to appointments to the following types of outside bodies:-

- Appointment as director of a company
- Appointment as trustee
- Appointment to an unincorporated association

If there is any conflict between the Council and your appointment as a director or trustee your overriding duty is to the company or charity. In the case of an unincorporated association, the best advice is to err on the side of caution in the event of possible conflict and not to participate in decision-making at the Parish Council level.

Relationship of Code of Conduct to Appointments to Outside Bodies

The Code requires Members acting as the authority's representative on another body to comply with the authority's Code of Conduct unless it conflicts with any legal requirements arising as a consequence of service on that body. This note will explore some of the obligations that will arise as a result of the outside appointment.

Bias

The Code permits a Member to participate in decision-making at the Council even though it involves the outside body of which they are a member, if they were appointed to that body by the Council. However, the Member should consider very carefully whether participation would be appropriate.

In addition to the provisions of the Code Members also need to consider what is called "bias". There are a number of decided cases, which deal with the issue of bias. It is a common law rule of administrative law and in very simple terms it means that if a Member can be shown to have had a closed mind when they made a decision either by already having made their mind up or being prejudiced towards a particular view, then the decision can be set aside. It is easy to see how, if a Member sits on an outside body, then a member of the public might reasonably think that they had made their mind up in favour of the outside body when any decisions impacting on it are made by the Council. In such circumstances the safest course would be to decide not to participate in the decision-making by the Council, particularly if the decision is a significant one (eg planning or licensing) or would affect the finances of the organisation.

Appointment as a Director of a Company

A company is a legal entity, which can hold property in its own right, enter into contracts and sue and be sued in its own name. The company is distinct from its shareholders and members. In the case of a limited liability company, the liability of members of the company is limited to the amount they paid or agreed to pay when they joined the company. This can be as little as £1.

Companies limited by shares are those which have a share capital (eg 1000 shares of £1 each). Each member holds shares and receives a share in the profits made by the company according to the value of the shares held. Shares can be sold.

Companies limited by guarantee are those where there is no shareholding. Instead each member agrees that in the event of the company being wound up they will agree to pay a certain amount which could be as little as £1. This form of company is the most usual in the public and voluntary sector, particularly where charitable status is sought.

The management of a company is generally the responsibility of the board of directors. The powers of the directors and of the board are set out in the Company's Articles of Association (which are, broadly, the Company's rules for governing its internal management).

Sometimes, even though a company has been incorporated, its directors may be referred to as members of the management committee, governors or even trustees. Conversely sometimes officers of the company are called directors but are not members of the board.

Notwithstanding the terminology used the directors, for legal purposes, are those who are appointed by the company to act in that capacity.

The Duties of a Director

The prime duties of a director are:-

1. A fiduciary duty to the company, not to the individual shareholders, to act honestly and in good faith and in the best interests of the company as a whole. Directors are, therefore, in the position of quasi trustees who must take proper care of the assets of the company.
2. A general duty of care and skill to the company. However, a director requires no greater skill than might reasonably be expected of someone of that individual's knowledge and experience. A director is not deemed to be an expert but is expected to use due diligence and to obtain expert advice if necessary.
3. A duty to exercise independent judgement – though it is permissible to take into account the interests of the third party that they represent. In such a case, the director must disclose that position and tread a fine line between the interests of the company and the party represented. The director cannot vote simply in accordance with the Council mandate. To do so would be a breach of duty.
4. No conflict – there may be actual or potential conflicts between the interests of the Council and the interests of the company. In such circumstances, the only proper way for the conflict to be resolved would be for the councillor to resign either from the company or from the Council.
5. Directors are not allowed to make a private profit from their position. They must therefore disclose any interests they or their family may have in relation to the company's contracts. Whether they are then allowed to vote will depend on the Articles of Association.
6. Directors must ensure compliance with the Companies Act in relation to the keeping of accounts and ensure that the relevant returns are made to the Registrar of Companies. Failure to do so incurs fines and persistent default can lead to disqualification as a director.
7. If the company employs staff or contractors, directors should ensure compliance with relevant legislation such as health and safety legislation.

Directors' Liabilities

1. The company's identity must clearly be shown on its stationery. The company number, place of registration, registered office address must be shown and, if any of the director's names are shown then they must all appear. Non-compliance is an offence and the directors and company officers can be fined.
2. A company can only act within the scope set out in its Memorandum of Association. The Memorandum of Association broadly sets out the objects and the powers of the company. Those directors knowingly causing the company to act beyond the activities set out in the Memorandum will be personally liable. In very limited circumstances, it is possible for the actions of the directors to be ratified by members of the company.
3. A director may be liable for breach of trust if he/she misapplies the money or property of the company. Directors may also be liable if they fail to take action to prevent the breach of a co-director of which they are aware.
4. In the event of failure to act in accordance with the best interests of the company, or if a director uses their power improperly or makes a personal profit from their position as a director, then the director may be personally liable for loss to the company and may be required to give to the company the personal profit made.
5. If the level of skill and care shown by a director falls below that which could reasonably be expected and fails to seek appropriate advice and the company suffers loss, the director will be liable for the loss incurred. However, if it believes the director acted reasonably and honestly, a court may excuse the director the liability.

6. If a director knows or ought to know that there is no reasonable prospect of a company avoiding liquidation, the court may require that director to contribute to the company's assets on liquidation if the company continues to trade. This is known as wrongful trading. No such order will be made if the court is satisfied that the director took all reasonable steps to minimise the loss to the creditors. If a director has concerns about the company's financial position, he or she could be well advised to inform the other directors and seek advice from the company's auditors. They should try to ensure that further debts are not incurred.
7. A director will be liable if, to his/her knowledge, the company carries on business with intent to defraud creditors or any other person, or for any other fraudulent purpose. Fraudulent trading can also lead to disqualification from acting as a director.
8. All cheques and similar documents which purport to be signed on behalf of the company must bear the company's name. Where they do not, the director signing on behalf of the company may be liable to a fine and may also be liable to the payee if the company fails to honour the cheque. It is therefore wise for directors to make sure that all documents they sign on behalf of the company state very clearly that they act as agent for the company (ie director, for and on behalf of ...).
9. A third party who enters into a contract on the assumption that a director has power to bind the company may be able to claim damages against the director if it subsequently transpires that the director had no such power. Directors would be well advised to ensure that contracts are approved by the board and that the authority to enter into any contract has been properly delegated before signing it.
10. Though company liability ceases on dissolution, the liability of the directors (if any) may still be enforced after dissolution.

Indemnities

1. Councillors who are directors cannot be indemnified by the company against liability arising out of negligence, default or breach of duty or trust. However, the company's Articles of Association may allow for directors to be indemnified by the company in respect of the cost of defending such proceedings if the director is granted relief by the court or acquitted. Equally, in making the appointment, the Council may offer an indemnity against losses which the councillor may suffer through acting conscientiously as a director. Companies may purchase insurance to protect directors against claims of negligence, breach of trust, breach of duty and default. Directors would be well advised to ensure that such a policy of insurance is maintained at all times.
2. Under the Local Authorities (Indemnities for Members and Officers) Order 2004 the Council may provide indemnities for Councillors or officers when appointing them to act as directors and may secure insurance to cover any losses which they may suffer through acting conscientiously as a director. The Regulations also give a power to the Council to provide indemnities for Councillors and officers when appointed to charities and to unincorporated associations.

Appointment as a Trustee to a Charity

To be a charity an organisation must operate for charitable purposes. There are four such charitable purposes:-

- The relief of poverty and human suffering
- The advancement of education
- The advancement of religion
- Another purpose for the benefit of the community

The organisation must operate for public benefit and have exclusive charitable purposes. An organisation which operates for political purposes does not qualify for charitable status.

To register as a charity an organisation must submit its governing instrument (ie the Trust Deed in the case of a Trust, the Memorandum and Articles of Association in the case of a company limited by guarantee or the constitution in the case of an unincorporated association) to the Charity Commissioners for approval. If they are satisfied that the organisation is charitable it will be registered as such. The Charity Commissioners oversee the operation of all charities and grant consent to various transactions involving charities where the law requires this. Advantages of a body having charitable status include:-

- Certain tax advantages
- Public image
- Donations can be more forthcoming

A charity may take the form of a company (normally a company limited by guarantee) or an unincorporated association. What is meant by the term “unincorporated association” is explained later in this guidance note. Because of the nature of sharing profits with shareholders, a company limited by shares cannot be a charity.

Those who are responsible for the control and administration of a charity are referred to as its trustees, even where the organisation is a company limited by guarantee, even though they are not strictly trustees. Trustees of a charity retain personal liability and can only delegate to the extent that the constitution authorises them so to do.

Trustees' Duties

Trustees have the following duties:-

1. Trustees must take care to act in accordance with the Trust Deed and to protect the charity's assets. They are also responsible for compliance with the Charities Acts and should note the particular requirements of the Acts in relation to land transactions.
2. Trustees must not make a private profit from their position. They cannot receive remuneration without the sanction of the Charity Commission. They must also perform their duties with the standard of care which an ordinary, prudent business person would show. Higher standards are required of professionals and in relation to investment matters.
3. Charitable trustees must ensure that the information relating to the charity and trustees is registered with the Charity Commissioners and that annual accounts, reports and returns are completed and sent.
4. If charitable income exceeds £10,000 the letters, adverts, cheques etc must bear a statement that the organisation is a registered charity.
5. Trustees are under a duty to ensure compliance with all relevant legislation (eg in relation to tax and land matters).

Trustees' Personal Liabilities

1. If in doubt always consult the Charity Commissioners. A trustee who does so can avoid personal liability for breach of trust if he/she acts in accordance with the advice given.
2. Generally, a trustee incurs personal liability if he/she:-
 - Acts outside the scope of the Trust Deed
 - Falls below the required standard of care
 - Acts otherwise than in the best interests of the charity, in a way that causes loss to the charity's funds
 - Makes a personal profit from the trust assets
3. Trustees of a trust can be liable personally to third parties because, unlike a company, a trust has no separate identify from the trustees. The constitution will normally provide for trustees to be given an indemnity from the trust assets, provided they act properly in incurring the liability.
4. Trustees remain personally liable for their own acts and defaults once they have retired. If they have entered into any ongoing contracts on behalf of the trust they should see an indemnity from their successors.
5. If the charity is a company, the trustees will be protected from liabilities incurred in the day to day running of the charity in the normal course (the trustees for the time being will be responsible) but will be personally liable if they commit a breach of trust (see 2 above).
6. Trustees may be liable to fines if they do not comply with the duty to make returns etc.

Indemnities

An indemnity can be given from the trust fund provided the trustee has acted properly and within his/her powers. Trustees may take out insurance to protect themselves against personal liability but not for criminal acts, fraud etc. There will be no problem if the trustees themselves pay the premiums but if they are paid out of the charitable funds trustees will need the consent of the Charity Commissioners first, unless the trust deed allows it.

Appointment to an Unincorporated Association

Groups which are not charitable trusts or limited companies are “unincorporated associations” and have no separate legal identity from their members. They consist of a group of people who have come together for a common purpose – for example for social reasons, the promotion of politics, sports, art, science or literature or for any other lawful purpose and who have agreed to work together under a common set of rules.

The rules governing the members’ duties and liabilities will normally be set out in a constitution, which is simply an agreement between the members as to how the organisation will operate. In joining the group, each member agrees to abide by the constitution. Usually the constitution will provide for a management committee to be responsible for the everyday running of the organisation. The Constitution may also provide for members to have annual general meetings to deal with business such as the accounts, appointment of the management committee etc. An unincorporated association may be charitable and may register as a charity.

Because the association is not a separate legal entity, it cannot hold property in its own name. Any property which the club controls will therefore have to be vested in an individual or individuals who are usually called the trustees of the association. They will hold the asset subject to the direction of the members or, more usually, the management committee.

Duties

Members of the Management Committee and the trustees appointed to hold any assets of the association must act within the constitution and must take reasonable care in exercising their powers.

Liabilities

1. Generally, the Management Committee members are liable for the acts of the organisation, but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the committee members are personally liable for the shortfall.
2. If one person is appointed by the constitution to act as the agent of the organisation for a certain purpose, then that person acts as the agent for all the members who have joint liability for the agent’s actions.
3. Members of the committee of management will have personal liability to the members and to any third party affected by their actions if they act outside the authority given to them or if they do not comply with statute eg the payment of employees tax etc.

Indemnities

Members will be entitled to an indemnity if they act in accordance with the constitution and are not at fault. It is possible to obtain insurance but if the organisation is to pay the premium it must be permitted by the constitution. Councillors who are trustees or management committee members should satisfy themselves that the trust has adequate insurance cover in this respect.

General Advice When Appointed to an Outside Body

Listed below are some good practice guidelines if you are elected to serve on an outside body:-

- Ensure that you know the legal status of the organisation – read the constitution (the rules or the Memorandum and Articles of Association in the case of a company) and understand your duties and responsibilities
- Ensure that if you are represented on the board of a company, the relevant forms are filed on your appointment and resignation (unless the relevant forms are registered at Companies House the appointment or resignation will not be effective)
- Make any general declarations of interest at the first board meeting
- Ask if there is any insurance or indemnity in place
- Clarify whether the organisation will pay allowances or expenses
- Ensure that the board or management committee has regular financial and other reports which detail the current financial situation of the organisation and any liabilities – take an interest in the business plan
- Ensure that the organisation has sound financial practices and procedures
- Exercise independent judgement in making decisions
- Act with integrity
- Discuss any new activities with relevant officers and ensure that risks are properly identified in reports (consistent with local authority decision-making, ensure that all relevant information is presented)
- Ask questions and make reasonable enquiries
- Observe duties of confidentiality (in both directions)
- Carefully consider any conflicts of interest, declare interests and, if appropriate, leave the room for consideration of the business
- Question responsibility and accountability
- If in doubt take advice. Occasionally that involves seeking external advice on your position, especially if there is a conflict between the organisation and the Council
- Manage conflict – usually issues can be balanced but ensure that, in meetings of the body, you act in the body's best interests, which may not necessarily be the Council's – if all else fails, resign. In the case of a company, do not just remain a director and fail to attend meetings or you may find that you are in breach of your duty to act in the best interests of that organisation

GUIDE TO PROBITY AND PLANNING

PROBITY AND PLANNING – GUIDANCE FOR PARISH COUNCILS

Under the relevant planning legislation, Parish Councils are entitled to be notified of every planning application unless they have waived the requirement. The District/Unitary Council has to inform the Parish Council in writing of the application, indicating the nature of the development and identifying the land to which it relates. If the Parish Council wishes to make any representations it must do so within 14 days of the notification to them. However, local protocols may exist and it is always advisable to check with the relevant District Council what arrangements have been put in place.

Many of the complaints considered by the Standards Board for England relate to members' involvement in planning applications and it is very important, therefore, that members are scrupulous in their adherence to the Code of Conduct, for example in declaring personal interests (paragraphs 7 and 8 of the Parish Council model code); leaving the room if the interest is prejudicial (paragraph 9) and not using their position as a member to improperly confer on themselves or any other person, an advantage or disadvantage (paragraph 5). Further general guidance on the code of conduct is contained in Part 5 (3) (I-III) of the Toolkit

If a member of the Parish Council is also a member of the District Council which is considering a planning application, the member will need to be careful if serving on the District Council's planning committee, that they have not pre-judged an application as a result of any prior involvement of the Parish Council. If in doubt, the Councillor should consult their Monitoring Officer. The Standards Board for England has issued detailed guidance on this situation in a booklet entitled "Lobby groups, dual-hatted members and the Code of Conduct". This is available on the Standards Board for England's web site or copies may be obtained by telephoning the Standards Board for England. Further guidance on this issue is again to be found in Part 5 (3) (IV) of the Toolkit.

WHAT IS A MATERIAL PLANNING CONSIDERATION?

The Key Purpose of Planning

This is to control development in the public interest. Your District/Unitary Council, as your local planning authority, must take decisions on behalf of the whole community.

Decision Making

The local planning authority must make decisions openly, fairly, with sound judgement and for justifiable planning reasons. It can consider applications on planning grounds only. The Adopted Local Plan is an important consideration and, in addition to the Local Plan, the local planning authority must consider what are known as material planning considerations. Examples of these are the number, size and layout of a development, siting, design, external appearance, access, infrastructure, landscaping and impact on the neighbourhood.

Views of local residents are always considered, but local opposition or support on its own is not a reason for refusing or granting planning permission. Opposition or support must be backed up by valid planning reasons.

The Government regularly issues Statements of Planning Policy and these are known as Planning Policy Statements (PPSs). These are also material planning considerations and the local planning authority must take them into account when reaching planning decisions.

In addition to the PPSs, Government policies and advice are also provided in circulars, technical documents and ministerial statements. The local planning authority must also consider these.

Many planning applications become the subject of court proceedings. The local planning authority must take the courts' decisions into account as they are also material planning considerations.

Listed below are examples of other issues that the local planning authority can and cannot consider. This list does not show everything; it is meant as a guide to help the Parish/Town Council when preparing its statement. If you are unsure as to whether or not your objection might be a material planning consideration, call the case officer who is dealing with the matter (you will usually find details on your notification letter) or your District/Unitary Council planning helpline.

Issues the local planning authority can normally consider

- Overshadowing
- Overlooking and loss of privacy
- Adequate parking and servicing
- Overbearing nature of proposal
- Loss of trees
- Loss of ecological habitats
- Design and appearance
- Layout and density of buildings
- Effect on listed building(s) and conservation areas
- Access and highways safety
- Traffic generation
- Noise and disturbance from the scheme
- Disturbance from smells
- Public visual amenity (not loss of private individual's view)
- Flood risk

Issues the local planning authority cannot normally consider

- Loss of value to private individual property
- Loss of view
- Boundary disputes including encroachment of foundations or gutters
- Private covenants or agreements
- The applicant's personal conduct or history
- The applicant's motives
- Potential profit for the applicant or from the application
- Private rights to light
- Private rights of way
- Damage to property
- Disruption during any construction phase
- Loss of trade and competitors
- Age, health, status, background and work patterns of objector
- Time taken to do the work
- Capacity of private drains
- Building and structural techniques
- Alcohol or gaming licences

PART SIX
ELECTIONS

Guide to Filling a Casual Vacancy in the Office of Parish Councillor

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Association of **Council Secretaries** and **Solicitors**

GUIDE TO FILLING A CASUAL VACANCY IN THE OFFICE OF PARISH COUNCILLOR

1 PROCEDURE

In the event of a casual vacancy occurring in the office of parish councillor, public notice must be given by the Parish Council in accordance with Section 87(2) of the Local Government Act 1972.

In a case where the Parish Council declare the office to be vacant in accordance with Section 86 of the 1972 Act (i.e. through the disqualification or non-attendance of a member) the vacancy must be publicly advertised *immediately*.

In all other cases, public notice of the vacancy must be given as soon as practical after the vacancy has occurred.

NOTE: It is possible that the district or unitary council has local arrangements with parish councils to advertise vacancies. It is therefore sensible to contact them first normally through their elections unit.

2 NOTICE OF VACANCY

Section 232 of the Local Government Act 1972 requires that a public notice required to be given by a local authority shall be given by posting the notice in some conspicuous place or places within the area of the local authority and in such other manner, if any, as appears to the local authority to be desirable for giving publicity to the notice.

A template form of notice to be used when a casual vacancy occurs is attached to these notes.

The date on which the notice is posted should be inserted at the bottom of the notice and a copy of the notice should be forwarded to the elections officer at the local District or Unitary Council immediately

3 CLAIMING A POLL

Proper notification of the vacancy is essential because, on such vacancy occurring in the office of Parish Councillor, an election to fill the vacancy shall be held if, within fourteen days* after public notice of the vacancy has been given, notice in writing of a request for such an election has been given to the returning officer by ten electors for the area.

If no such request is received within the time stipulated, the Parish Council must fill the vacancy within sixty days* and this may be done by co-option (see 4 below).

Once an election has been requested, however, the vacancy must be filled by election and the Council cannot fill it by co-option, even if there are insufficient candidates.

Where a casual vacancy occurs within six months before the day on which the councillor whose office is vacant would normally have retired, an election to fill the vacancy shall not be held.

4 VOTING BY COUNCIL ON CASUAL VACANCY ("CO-OPTION")

In the case of co-option the following procedure should be followed:-

- (a) Notice of the election should be given in the agenda for the meeting of the Parish/Town Council
- (b) When the item is reached, the Chairman should call for nominations, which should be duly proposed and seconded
- (c) When all the nominations have been received a vote should be taken. It is usual for the candidate's names to be put in alphabetical order.
- (d) After the vote has been taken, the Chairman should declare the candidate who received the highest number of votes duly elected.
- (e) The person elected must make a declaration of acceptance of office before, or at, the first meeting of the Parish Council following his election in the presence of a member of the Parish Council or the Proper Officer of the Parish Council. The declaration is then retained in the parish records

NOTE: There is nothing preventing Councillors from approaching persons to offer themselves for co-option or even advertising for co-optee applicants. Applications might also be invited to provide a written "application" or invited to speak to the council prior to any voting. If such arrangements are to be applied, they should be carefully drafted and provided to applicants. It is imperative that all applicants are treated alike in order that the arrangements are seen as fair. Applicants under such arrangements should be discouraged from any personal lobbying.

*computed in accordance with Rule 2 of Schedule 2 of the Local Elections (Parishes and Communities) Rules 1986

(..... WARD of the)

PARISH of

**NOTICE OF VACANCY
IN THE OFFICE OF PARISH COUNCILLOR**

NOTICE IS HEREBY GIVEN pursuant to Section 87(2) of the Local Government Act 1972 that

formerly a member of the above Parish Council has ceased to be a member and that a casual vacancy exists in the office of Councillor for the said Parish.

On receipt of a request in writing from any ten local government electors for the said Parish, an election to fill the vacancy will be held within sixty days. If no such request is made the vacancy will be filled by the Parish Council.

Requests for such an election should be addressed to **The Returning Officer, at the office of the local District or Unitary Council** to arrive not later than fourteen days from the date of this notice (computed in accordance with Rule 2 of Schedule 2 of the Local Elections (Parishes and Communities) Rules 1986).

DATE

SIGNED

DESIGNATION
(Clerk to the Council, the Proper Officer for this purpose)

PART SEVEN

**Part
Seven** **Formation Of New Parish And Town Councils**



Association of **Council
Secretaries** and **Solicitors**

FORMATION OF NEW PARISH AND TOWN COUNCILS

Formation

District Councils have specific powers for reviewing the structure of parish councils within their districts and responsibilities in relation to the formation of new parish councils.

The Local Government and Rating Act 1997 provided simpler arrangements for the formation of new parish councils and the restructure of existing parish councils.

A District Council must establish a parish council in circumstances where a parish having no parish council exceeds 200 electors, or where there are more than 150 electors and a parish meeting resolves that there should be a parish council. (S.16). The Act prescribes two main processes that could lead to formation of a parish and parish council:

- The District Council may itself conduct a review of the whole or any part of its area. (S.9). A review can consider extending existing parishes or splitting existing parishes as well as considering new parishes and abolishing parishes.
- Alternatively, a petition from electors within a proposed parish can be addressed to the Secretary of State and first submitted to the District Council for its views. (S.11)

In both cases the District Council may make recommendations to the Secretary of State as to the proposed parish, and to the Electoral Commission as to the proposed electoral arrangements for a parish council. There are requirements as to the contents of a petition, including the need for a map of the proposed parish boundaries, and the number of signatures required, and District Councils should be prepared to offer guidance to electors looking to follow the petition option.

Guidance on the Act is contained in DETR Circular 11/97. The Circular describes the considerations as to what might comprise a parish. Some parts of the Circular are now out of date following changes to the 1997 Act in relation to the Electoral Commission.

The District Council, in considering what recommendations it makes to the Secretary of State, must itself assess the support and local need for a parish council. There are no prescribed ways of doing this and a variety of options can be used, including a local poll or postal vote.

The Secretary of State may by order give effect to the recommendations of District Councils and likewise the Electoral Commission to the electoral arrangements. The Secretary of State's order will direct the District Council to establish a parish council and to conduct elections. The new parish council is formally constituted by a sealed order of the District Council.

The effective date for formation of new parish councils is 1 April. Elections for the new parish councillors will normally coincide with district council elections in May. There is therefore a short period where a parish council may exist without councillors. Elections can be held prior to 1 April in the event of there being no district or county elections in May. There may be other circumstances where it may be appropriate to hold specific elections for a new parish council although it will be appreciated the cost falls on the District Council.

Supplementary provisions

The Local Government (Parishes and Parish Councils) Regulations 1999 No 545 make incidental, transitional and supplementary provisions dealing primarily with the transfer of rights and liabilities between abolished authorities or as a consequence of boundary changes, but also deal with formation consequences. For example, allotments within the boundary of a new parish transfer from the district council to the parish council. It will therefore be necessary to agree at an early stage practical arrangements for handing over allotments.

Financial arrangements

Under the Local Government Finance (New parishes) Regulations 1998 No 119 (as amended –SI 1998 No 3270), the district council can anticipate the precept of a new parish council. If there is a ‘shadow’ council, i.e. a body of members involved in furthering the formation of the parish council and likely to be elected as its first members, it would be appropriate for the district council to discuss with this body the likely expenses of the new parish council in its first year in order to fix a precept for the council.

An alternative means of financing the parish council in its first year would be for the district council to provide a grant. It would presumably take some time for the new council to start incurring expenses so the first year’s expenditure may be fairly modest.

First meeting

The District Council is responsible for arranging the first meeting of a new parish council which must be within 14 days of the elections. It is suggested that an informal meeting of the new councillors be arranged at which they can be provided with useful information and guidance (e.g. the NALC website, the local association of local councils, Code of Conduct etc). The officers of the district council (Monitoring Officer, Planning Officer, Finance Officer, etc) having involvement with the parish council can be introduced and explain any liaison arrangements. The agenda for the first meeting can be explained. The members will need to consider who they wish to appoint as chair and vice chair of the Parish Council.

The appropriate officer of the District Council (normally the secretariat) will need to prepare and despatch an agenda having arranged a time and venue for the meeting. A form of agenda is contained below (based on an agenda used by Bradford MDC on the formation of four new parish councils in 1974). It is suggested that key issues such as the Code of Conduct are dealt with at the outset. Other agenda items will depend on local circumstances. If allotments transfer, it may be appropriate to provide a report about them and include an item on the agenda.

It is probable that new parish council members will be tentative about making decisions at first and it should be accepted that some agenda items may be deferred. A detailed first agenda does have the benefit of indicating the matters that do need to be dealt with early in the life of a new parish council.

In the event of there being vacancies on the Parish Council by reason of insufficient election candidates, the Parish Council can co-opt persons to become councillors. It is preferable that there is some formality to a selection process. All applicants will be treated in the same way and the decision made by formal vote.

In the event of there being insufficient councillors for the Parish Council to be able to act (i.e. is inquorate having less than 3 elected members), the District Council has power under S 91 Local Government Act 1972 to appoint temporary councillors. The first meeting may have to be delayed until an appointment is made. (Monitoring Officers might wish to take the precaution of obtaining authority to appoint in anticipation.) One option would be to appoint district councillors for the ward in which the Parish Council is situated, who would have local knowledge and experience to move the Parish Council forward and eventually to co-opt councillors for the expiration of the term of office.

The District Council is responsible for producing the minutes of the first meeting. It would be helpful to the new Parish Council to produce them in a style, format and standard that can be followed by the clerk subsequently.

Developing the relationship

Some District Councils may be prepared to offer support beyond the first meeting, for example in producing agendas and minutes until a clerk is appointed. The Monitoring Officer will presumably want to arrange training for the new councillors on the Code of Conduct. Planning Officers may want to provide advice on the consideration of planning applications. Finance Officers may provide guidance on the operation of a bank account and keeping proper accounts. Human Resource Officers may provide assistance in the appointment of a clerk. IT officers may assist the Parish Council in forming a website.

It is desirable that a positive relationship is developed at the earliest opportunity between the District Council and the new Parish Council. Formal arrangements can be developed subsequently, if required, where services are undertaken by the District Council for the Parish Council.

Annual meeting

Strictly speaking, the first meeting of a new parish council is also the annual meeting and the District Council should also make arrangements to call a parish meeting.

References

Local Government Act 1972 S9 et seq
Local Government and Rating Act 1997
DETR Circular 11/97
The Local Government (Parishes and Parish Councils) Regulations 1999 No 545
The Local Government Finance (New parishes) Regulations 1998 No 119 (as amended –SI 1998 No 3270),

FIRST (ANNUAL) MEETING OF ----- PARISH COUNCIL TO BE HELD ON ----- -
----- AT -----pm AT -----

AGENDA

1. ELECTION OF CHAIR FOR 200-/200-

(The newly-elected Chair will make a declaration of acceptance of office in the prescribed form and will assume the Chair)

2. APPOINTMENT OF VICE CHAIR FOR 200-/200-

3. APOLOGIES FOR ABSENCE

4. ACCEPTANCE OF OFFICE

To note the completion of the declaration of acceptance of office forms by the parish councillors.

**5. LOCAL GOVERNMENT ACT 2000
ETHICAL FRAMEWORK ARRANGEMENTS AND
MEMBERS' CODE OF CONDUCT**

The attached report of the Monitoring Officer (**Document "A"**) deals with the new ethical framework for local government, including parish and town councils, established under the Local Government Act 2000.

Appendix 1 to the report sets out the principles which govern the conduct of members and co-opted members of local authorities. Appendix 2 is a draft Code of Conduct, based on these principles, which contains the requirements of a Model Code of Conduct issued by the Secretary of State for parish councils.

All parish councils are under a duty to pass a resolution adopting a Code of Conduct for Members containing the requirements of the Model Code.

Recommended –

That In accordance with the requirements of the Local Government Act 2000, the Parish Council adopts as its Members Code of Conduct, the code of conduct set out as Appendix 2 to Document "A".

6. CO-OPTION OF MEMBERS

Section 21 of the Representation of the People Act 1985 gives the Parish Council the power of co-option to fill vacancies remaining unfilled following an ordinary election.

There are ----- vacancies –

----- Ward – -- vacancies

----- Ward – -- vacancies

Recommended –

- (1) That the Council believes that it is in the interests of the parish that the vacancies on the Council are filled, and that this be achieved by co-option.**
- (2) That persons eligible to become co-opted be encouraged to put their names forward to the Chair.**
- (3) That consideration be given to a process of selection at the next meeting.**

Note:

Eligibility for co-option, is as follows:

*(a) 21 years of age, **and***

*(b) **either:***

- Be a local government elector for the parish, or*
- Be an occupier (owner or tenant) of land or premises in the parish for the previous 12 months, or*
- Have their place of work in the parish for the previous 12 months, or*
- Have resided in the parish for the previous 12 months, or*
- Have resided within three miles of the parish boundary for the previous 12 months.*

7. POWERS, DUTIES AND RESPONSIBILITIES

The principal powers and duties of parish and town councils are set out in the previously circulated Good Councillor Guide published by the National Association of Local Councils.

Recommended –

That the powers, duties and responsibilities of parish and town councils be noted.

8. CONSIDERATION OF PLANNING APPLICATIONS

One of the main areas of activity that the Parish Council will wish to become involved in is the planning function. The Council has the right to be consulted in respect of all planning applications within its area.

To facilitate this arrangement a Model Protocol between parish councils and the local planning authority has been introduced. The parish council is recommended to adopt the Model Protocol which is attached (**Document "B"**).

Recommended –

- (1) That the ----- District Council be advised that this Parish Council wishes to be consulted on all planning applications affecting its area.
- (2) That the Model Planning Protocol set out as Document "B" be adopted for this purpose.
- (3) That a Planning Committee be appointed to discharge the planning functions of the Parish Council within the Protocol comprising the following members:

(to be determined at the meeting)
- (4) That the Chair of the Planning Committee be the nominated lead contact with the District Council for all planning matters.

9. FINANCIAL ARRANGEMENTS

The Finance Director, -----District Council will present two reports –

Document "C" – **setting out the funding arrangements for the new Parish Councils for 2004/05.**

Document "D" – **detailing a financial support scheme between -----District Council and Parish Councils**

10. APPOINTMENT OF BANK

To appoint a Bank to be Bankers for the Parish Council.

11. APPOINTMENT OF SIGNATORIES

To appoint signatories to sign cheques on behalf of the Parish Council (*minimum of two*).

12. APPOINTMENT OF CLERK TO THE PARISH COUNCIL

- (1) To consider arrangements for the appointment of a Clerk to the Parish Council.

Attached as **Document "E"** are the roles and responsibilities normally applied to the Clerk. These have been supplied by the ----- Local Councils' Association.

- (2) To consider interim arrangements until a permanent appointment is made.

13. PARISH COUNCIL CONSULTATION MEETINGS

To consider the appointment of a representative to attend the parish councils consultation meetings with -----District Council.

A copy of the notes from the last meeting held on is attached for information.

Recommended –

That Councillor *(to be determined at the meeting)* be appointed to represent the Parish Council at the parish councils consultation meetings.

14. QUALITY PARISH COUNCILS

The Government's Rural White Paper 2000 proposed a number of initiatives to enhance the role of parish and town councils, including the Quality Parish Council scheme. The attached report of ----- (**Document "F"**) provides details of this initiative.

Recommended –

That the report be noted and that the issue of seeking accreditation be explored wider once the parish council is further developed.

15. ----- LOCAL COUNCILS' ASSOCIATION

To consider subscribing as a member of the Association.

16. MEETINGS OF THE PARISH COUNCIL

To fix the dates, and times of meetings of the Parish Council for 200-/200-.

Recommended –

(1) That the next meeting of the Parish Council be held on.....at.....hrs.

(2) That meetings for the municipal year 200-/0- be held on the following dates:

(to be determined)

(3) That pending the appointment of a clerk to the Parish Council, the Chair be the proper officer for the time being for the purposes of signing the summons to attend meetings.

Acting Proper Officer, ----- District Council
Tel: -----
Email:

PART EIGHT

USEFUL SOURCE MATERIAL

Part
Eight

Useful Source Material

125-126



Association of **Council**
Secretaries and **Solicitors**

Essential Source Material for Town/Parish Council Clerks

1. **Local Council Administration** by Charles Arnold-Baker
ISBN: 0-406-952981
Price: £50.00
Published by: Butterworths Law (www.butterworths.co.uk)

The Clerk's "Bible". If your Council only has one reference book, make sure it's this one!
2. A copy of your Council's **Standing Orders**.
3. Your **Job Description**.
4. Your **Contract of Employment**.
5. **Accounting, for the Large Local Council – a Short Guide – July 2004** (published by the National Association of Local Councils)
6. **The Good Councillor's Guide** (published by the National Association of Local Councils national training strategy for Town & Parish Councils).
7. A copy of your Council's adopted **Code of Conduct**.
8. Guidance for your Councillors on the Code of Conduct (contained in Toolkit)
9. Guidance Notes on the Powers and Functions of Parish and Town Councils and a Rough Guide to Who Does What (contained in Toolkit).
10. Guidance for consultees on planning applications – **What are "material planning considerations?"** (contained in Toolkit).
11. **Guidance on the Freedom of Information Act** (contained in Toolkit).
12. **A model Fol Publications Scheme** (downloadable from the Information Commissioners website at www.informationcommissioner.gov.uk)
13. Guidance on holding the **Annual Parish Meeting (contained within the Toolkit)**
14. Your Council's Auditor – find out who it is!
15. Your Council's Monitoring Officer – find out who it is! (Contact your District/Unitary Council).
16. Useful contact numbers – your District, Unitary and/or County Council may publish an A – Z Guide.
17. E-mail and Internet access.
18. Useful websites:

National Association of Local Councils (NALC) – www.nalc.gov.uk

Association of Larger Local Councils (ALLC) – www.allc.gov.uk

Society of Local Council Clerks (SLCC) – www.slcc.co.uk

The Standards Board for England (SBE) – www.standardsboard.co.uk

19. The NALC Direct Information Service (contact NALC for details).
20. A Guide to Becoming a Quality Parish Council – ODPM/DEFRA joint publication.
21. Danger Zones for Councillors and Officers – LGC information. ISBN 1904009085
22. Local Council Finance – Shaw & Sons – ISBN 07219 1580 9
23. The Local Council Clerk's Guide – Paul Clayden –Shaw & Sons–ISBN 07219 1601 5
24. The Parish Councillor's Guide – Paul Clayden – Shaw & Sons ISBN 07219 0516 1
25. This Parish Council Toolkit.