

Roles and Responsibilities of Council, Councillors and Chairman

This guidance sheet explains both the roles and responsibilities of the council as a corporate body, of individual members of the council and of the chairman of the council based on legal obligations and best practice.

A Parish or Town (Local) Council is a body corporate. It exists in perpetuity, whether or not there are members. It is distinct from, although composed of, its members.

The Council

A local council is not a voluntary organisation or a community group and it has no reference to the Church or any religious purposes. It is a local authority spending public money through funds raised from the council tax (known as the “**precept**”) and its members are elected to office.

Local councils are created by law and can only do those things which the law permits them to do which are known as **powers**. In addition, there are things stated in the law which local councils must do, known as **duties**.

Local Councils vary vastly in size, from representing tens of thousands of people down to less than 100 people but the laws which govern them are the same.

Until recently, local councils were found in the more rural areas of England but in recent years more urban areas are embracing the concept of parish and town councils. Recent legislation enabling councils to be named other than “parish” or “town” (or “community” in Wales) has seen the appearance of neighbourhood and community councils in less rural areas.

Local councils work on behalf of residents of an area to enhance well being and improve quality of life by the provision and maintenance of and contribution to facilities and services.

Duties

Duties placed upon the council are limited. Many of these duties are procedural and include that a chairman must be elected, that all meetings must be given public notice of at least three clear days, and not less than three meetings plus one annual meeting of the council must be held during a year.

Looking Further

Guidance sheet number 3 on Powers and Duties and number 4 on Meetings and Procedures give more detailed information on these subjects.

There are some duties relating to functions and these include the fact that councils must consider the impact of crime and disorder on their decisions.

Powers

Powers a local council has are wide and varied. These are functions laid down in various acts of **Parliament** which local councils are permitted to carry out if they so wish. Some of the things a local council may do include the provision of (or contribution to) a wide range of recreational facilities, tourism schemes, festivals, fetes and the arts, bus shelters, litter bins, meeting and conference rooms and facilities, footpaths and street cleaning – to name but a few!

The Precept

The precept is the amount of money collected by local councils via the council tax. In areas where people contribute to a local council through the council tax, they are contributing to the local authority at their most local level. This ensures that residents know that the money is being spent for them and their neighbours in their immediate area, for services and facilities to develop and enhance their quality of life. It can sometimes require some understanding from the community that in order to see things happen, there will be a need to raise the precept. This should never be done without proper budgeting processes but services and facilities cost money!

Role of the Local Council

A local council represents the views, needs and wants of the community, acting as the collective voice. Councillors have a collective responsibility to listen and respond to constituents.

A council as a whole has a role as employer. Some councils have one employee – the proper officer of the council (or clerk) whilst others employ many people, depending on the services it provides. This means that councils are subject to all employment laws and equality laws.

In addition the council may have a role as landowner, landlord or tenant. It can enter into contracts or be subject to court proceedings. Whilst councillors have individual responsibility for the decision making process, decisions are those of the council as a whole. It is responsible, as a body for the decisions made and any services provided.

If, as a body, the council acts beyond its powers it is said to act ***ultra vires*** (Latin for “Beyond the Powers”). The council is also subject to regular audit and has a duty to appoint an Internal Auditor. There is also an obligation for the council to act with openness and transparency as well to abide by both the Freedom of Information Act 2000 and the Data Protection Act 1998.

Looking Further

Guidance sheet 7 on the council as employer gives more information on responsibilities of the council in this area. Guidance sheet 11 on local council finance explains the audit process.

The role and responsibilities of a local council are often far above the impressions that members of the public have.

There are many very effective, pro-active councils across the country with a trained, professional clerk and enthusiastic, skilled councillors. There is a need to be well-informed of many laws and responsibilities. There are sources of knowledge out there (it would not be possible or necessary to know everything there is to know), but the provision of a training budget and the commitment to training for clerks, other employees and members is vital to an efficient and effective council.

Councillors

In order to be elected to a local council, an individual must qualify. These qualifications are set out in s. 79 of the Local Government Act (LGA) 1972.

The law says that in order to qualify, the individual must be:

A Commonwealth citizen or a citizen of the Republic of Ireland or a relevant citizen of the Union, and have reached the age of eighteen by the time they take office.

If the above is achieved, then they must:

Be a local government elector for the area of the authority; or

Have occupied land (as either owner or tenant) any land or premises in the area for the preceding twelve months; or

Had their principal or only place of work there for the preceding twelve months; or

Have resided in the parish, or within three miles of it, for the whole of the preceding 12 months.

Main ways in which a councillor attains office are by election, bye-election and co-option.

A councillor must sign a formal declaration of acceptance of office, agree to abide by the council's Code of Conduct and register his or her interests

Councillors (whilst many give their time without payment) are not volunteers. They are elected members governed by a set of rules laid out in an Act of Parliament.

Under schedule 12 of the LGA 1972, councillors are summoned to meetings.

Whilst there may be occasions when a councillor is ill or on holiday, it is generally a member's duty to attend a council meeting.

If a council member does not attend for a period of six consecutive months, without either a statutory excuse* or apologies having been accepted by the council, they are disqualified. Under the same statute, the summons received by council members is received at least three clear days before the meeting is due to take place.

This summons must also specify the "business to be transacted" at that meeting. This is so that a member may, prior to the meeting, consider each agenda item, do any necessary research and read any supporting papers. The council member has a responsibility to be prepared for meetings and to understand on what issues they will be expected to make decisions. This process can be aided by focused agenda items.

The council member has been chosen to represent the residents of the area. It is important that this is done over and above personal opinion and advantage. Councillors should be open to all opinions and be ready to consider others' views.

Whilst the clerk is responsible for implementing decisions and correct procedures, the councillor should be alert to the effect of council decisions and of the procedures followed to reach those decisions. Councillors should be aware of the council's **Standing Orders** and **Financial Regulations**. It is important that members consider the relevance and benefit of local training courses to verse them in good governance and the more technical aspects of the work of the council. The council is the clerk's employer; the members should understand the role of and be able to act as support for, the clerk.

The council member is a channel of communication. They represent the council to the residents and the residents to the council. They deal with residents' views and enquiries without prejudice and work to identify the needs of harder to reach groups within the area.

They are familiar with relevant outside bodies and organisations which both influence and can be influenced by the council, such as local groups and businesses and other local authorities.

In addition, they are acquainted with representatives from these organisations, such as principal authority members, community group representatives, neighbouring council members and local individuals of influence.

Looking Further

There is more information about attendance and agendas in guidance sheet 4 on Meetings and Procedures. Number 2 gives a detailed description of the role of the Clerk.

*"Statutory Excuse" in this instance is (LGA 1972, s85, p3), a member of HM services when employed during war or any emergency and whose employment in these circumstances would, in the opinion of the Secretary of State, entitle him/her to relief from disqualification on account of absence.

Councillors should be encouraging local democracy and community involvement in the work of the council. This may involve being active in any methods of consultation the council may use, garnering views and opinions and encouraging people to both stand at and vote in elections.

Whilst all of the above is both necessary and important, a vital role of the councillor is their involvement in the decision making process. The council is a decision making body and members make up this body.

The member should feel encouraged by the person chairing the meeting to put forward views and be involved in the discussion. Diversity of views should be encouraged by all.

A main role of the councillor is to listen; to listen to residents, to listen to other council members and to give informed views leading to informed decisions. The decision may be something which a member voted against but once ratified this is the decision (or resolution) of the council. Whether or not individual councillors agree with the majority decision, it should not appear on an agenda again for six months – unless new or altering information comes to the fore.

The council member, like the council as a whole, is both influencer and *influencee*! S/he provides both a voice for and an ear to residents of the parish or town.

A council member is not permitted to make any council decisions alone*. Councillors will be expected to represent the council at outside meetings but they should be putting forward a view of the council if they are acting on behalf of the council. If council members are corresponding about certain issues they should ensure that if they are doing so as a member of the council, it is the council's view they are imparting and not their own.

This is the case for all members of the council, including the chairman.

Chairman

“Chairman” is a term defined in law and is used rather than “chair” or “chairperson” when referring to the person elected annually (under s14 of the LGA 1972) to preside over the council. Where the locality is a town, the chairman is entitled to be called “mayor”.

Election of chairman is the first business of the annual (or *first* in an election year) meeting of the council. It comes before any other agenda item because until a chairman is elected, the council is not properly constituted.

Looking Further

*11 LGA 1972, s 101.

Although all councillors should be well-versed in the agenda prior to the meeting, it is extra-vital for the chairman. This is often done with the clerk so that the chairman is familiar with the background of the agenda items and the law behind any potential decisions.

The chairman of the council has a responsibility to lead the council's meetings and to ensure smooth running and full consideration of each agenda item, usually with reference to the clerk. This is aided by full and focused agenda items, helping the chairman to keep discussion purposeful, relevant and directed only to the particular agenda item. The chairman is sometimes in the awkward position of having to remind members of this.

It is not the role of the chairman to either suppress or impose his or her own view. The chairman has a responsibility to ensure fair hearing of all views, including his/her own with his/her own usually being given after all others have had an opportunity to speak.

S/he will often sum up discussion and resolution at the end of each agenda item to support the clerk with his/her minutes and to ensure that everyone has the same understanding.

They must be in control of any comments or speeches from the public and whilst ensuring the members have an opportunity to speak at an allotted time, there may be a need to remind visitors that it is a meeting of the council and they are not permitted to join in throughout.

The chairman of the council has no greater power than the individual councillor except the fact that s/he can make use of a casting vote. Under paragraph 39 of schedule 12 of the LGA 1972:

“Subject to the provisions of any enactment... all questions coming or arising before a local authority shall be decided by a majority of the members of the authority present and voting...”

“Subject to those provisions in the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.”

The outgoing chairman who has not been re-elected as a councillor but is presiding over the election of a new chairman does not have an original vote but has a casting vote to use to break an equality of votes.

The chairman has a duty, if present, to preside over the meetings of the council.

In addition s/he presides over the **Annual Parish (or Town) Meeting*** and is often involved in civic, local and community events.

Looking Further

*Under Schedule 12, paragraph 14, LGA 1972 A parish meeting of a parish shall assemble annually.

The council may provide a chairman's allowance to support the public role of the chairman and meet the expenses of his/her office as the council deems reasonable (LGA 1972 s15.5).

Other than the above, no powers, functions or decisions may be conferred upon the chairman of the council. S/he is NOT permitted to carry out any decisions by him/herself.

Any correspondence entered into in the name of the "chairman of the council", must impart the view of the whole council. It is not appropriate or legal for a chairman to pass off his/her own views as those of the council.

The LGA 1972, s 101 enables council functions to be delegated to:

A committee, sub-committee, an officer of the authority or any other local authority ONLY.

The chairman is often the outward face of the council; s/he champions the council, encourages fair hearing, is open and impartial, considers all views and opinions, and provides support and leadership to council members and employees.