

Frequently Asked Questions and Glossary of Terms

There can often be questions about how a parish or town (local) council works; what they can do; how they do it, how people can become involved and what they do if they believe things are not as they should be.

Below are some of the more common questions asked about local councils:

How the council works

What is a local council?

A local council is a parish, town or city council. These councils can also be called community or neighbourhood councils. Local councils are the first tier of local government. They spend public money and members are democratically elected. A local council is a stand-alone body with **powers** and **duties** granted to it by the law.

Where does a local council get its money?

A local council raises what is known as a **precept**. The precept is a tax charged on each property in the parish. It forms part of the council tax and will be detailed as a separate element of the council tax bill. It will be collected all together by the principal council in the area when they collect the rest of your council tax.

A council gets most of its funds through the precept but may also raise funds through things like the lease of allotments or other land or property. A local council may take out a loan for certain projects but this process requires approval by the **Department of Communities and Local Government**.

How is a local council made up?

A local council is made up of elected councillors. The number of councillors on a council is set by the principal council. A new council is elected every four years but if vacancies occur within the four years, replacement councillors are either elected (if called for) or **co-opted** onto the council.

An independent officer is employed by the council. This officer is known as the clerk. There is a responsibility for the council to appoint someone to be responsible for accounts. This person is known as the Responsible Financial Officer (RFO) and is often the clerk.

When does a local council meet and where?

A local council must, by law, meet at least four times a year (including an annual meeting). A local council will set its own calendar of meetings and an agreed time-table will usually be followed (i.e. monthly, bi-monthly, etc). Councils will usually publish their meeting schedules so that residents know in

advance when they will take place. A local council may fix its own time and day for its meeting.

Meetings are usually held at a public place (such as a community hall), in the locality. Local councils may meet outside the area if nowhere at reasonable cost is available in the parish. Local councils may not meet somewhere which at the time is licensed for the sale of alcohol unless no other room is available.

Is the local council answerable to anyone?

A local council is answerable to its **electors**. Members of a local council are elected every four years and by voting in these elections, residents decide who is going to represent them.

A local council is a stand-alone corporate body. Its activities are not checked or followed up by principal authorities (district, borough, county or unitary councils).

Local Councils' accounts are audited yearly by an **external auditor**.

What a local council does

What can a local council do?

A local council can do anything which the law enables it to do. These things are known as **powers**.

The law also includes things which a local must do. These are known as **duties**.

Does a local council have to follow certain laws?

Yes. A local council may only do things which they have been permitted (or instructed) to do in law. In addition, many of the ways in which local councils carry out their business and procedures for meetings are included in the law.

What does a local council discuss at its meetings?

A local council may discuss anything which affects the area or part of it, or all or some of its residents.

A local council may only make decisions on things for which it has the power.

It may discuss influence, representation or response to outside bodies such as principal councils, central government and agencies which have proposals for activity within the parish.

How a local council carries out its business

Who carries out functions of the council?

The council as a whole (or sometimes a designated committee), makes decisions. Decisions may not be made by individual council members.

The clerk produces agendas, minutes and other paperwork, deals with correspondence and carries out actions from council meetings.

Why is a parish clerk paid?

The clerk to the council is the Proper Officer of the council. This is an "office" defined by the law. It is a professional, independent role, separate from members of the council. The clerk's role is not one of influence. The clerk is the adviser and administrator to the council, s/he ensures the council is working to the law and writes agendas and minutes which are impartial and void of his or her own opinion. The role is distinct from that of members who are there to represent the views and make decisions on behalf of the community.

Under HMRC definitions, the clerk is an employee of the council. There are recommended salary scales for the clerks and model contracts and job descriptions.

Who attends meetings of a local council?

Members of the council and the clerk attend council meetings. In larger councils there may be other relevant members of staff who also attend. Very often a local district, county or unitary councillor will also attend to represent or to feedback to their authority. Meetings are also often attended by police representatives for the area.

Members of the public should be encouraged to attend council meetings and there should be an allotted session at the meeting for the public to put questions or comments to the council.

Can a local council decide something at a meeting which is not on the agenda?

No. By law, any business due to be transacted at a council meeting should be notified (three clear days), in advance.

Can I see the minutes of a local council meeting?

Yes. Under the Local Government Act (LGA) 1972, section 228, the minutes of proceedings of a parish council must be open to the inspection of any local government elector for the area of the council and any such elector may make a copy of or extract from the minutes.

What is the difference between an Annual Parish Meeting and the Annual Meeting of the Council?

The Annual Parish Meeting is a meeting for electors of the area and is usually chaired by the chairman of the local council (where there is a local council in the area). It is a meeting where the public may hear a report from the council and from other groups within the community and where members of the public may share views and opinions about the area. It is held, by law, between 01 March and 01 June each year.

The Annual Meeting of the Council must be held in May. In a year which is an election year, it is held within 14 days of the councillors taking office. In other years it is held on any day in May. It is the first meeting of the council year and it is the meeting at which the election of chairman is the first business on the agenda.

Can a local council give a grant to a local group?

Yes. A local council may spend money on something for which it has the power to spend money on. In many cases the law allows for a council to "support" or "contribute to" something which means they do not have to carry out all functions themselves.

A local council has powers to support and contribute to, among many other things, community buildings, recreation facilities, sports facilities, tourism and community transport. This means that they can give grants to groups providing these services and facilities.

Where there is no specific power, a local council may consider the use of Section 137 of the Local Government Act 1972 which enables them to spend up to a certain amount per head, per annum, on things for which there is no other power and which is of benefit to all or some of the community. Caveats do apply. For instance, under this act a local council cannot contribute to the activities of an individual and whatever money is spent, the amount must be in line with the benefit.

Where community groups ask for grants they should be prepared to fall in with a council's grant giving policy and supply certain information on the intended use of the grant. They may also be asked by the council to report back on how the funds were spent at the end of the year.

Becoming involved

How can I contact my local council?

Contact details for your local council should be well publicised. If the council has a website it should make it clear how the council can be contacted. In addition the contact details should be available on notice boards, correspondence and in local newsletters.

A local council may have an office or the "office" may be the clerk's home. Whilst contact details should be publicly available, if the office is the clerk's home, care should be taken to keep direct contact at reasonable and appropriate times.

How can I become a councillor?

You can stand for election. Local council elections take place every four years. If you are interested in becoming a councillor you should find out when the next one is taking place in your area. There are criteria which need to be

met should you wish to be a councillor. These criteria can be found on the Electoral Commission website at <http://www.electoralcommission.org.uk>

Vacancies on local councils sometimes arise during the four years between elections. If this happens the local council will advertise the vacancy and ask electors if they wish a by-election to take place.

If 10 or more electors express that they wish an election to take place, it must. Otherwise the vacancy is filled by **co-option**. To be co-opted onto a local council an individual must meet the same criteria as for election.

Can I go to a meeting and have my say?

Local councils should provide a time slot at their full council meetings, during which members of the public may ask questions or put forward a view. These sessions will often be limited to an overall length or a length of time each person has to speak.

The meeting is a "meeting of the council". It is not appropriate for members of the public to join in throughout normal business, unless expressly invited to do so by the chairman for a particular reason.

There may be occasions where the council is discussing something confidential. For example, something to do with the clerk's employment. On such occasions the council may resolve to exclude the public and press for individual agenda items and people will be asked to leave the room.

When things are not as they should be

I do not agree with the decisions of the council. What can I do about it?

A local council is democratically elected to represent the views and make decisions pertinent to the parish on behalf of residents. It is inevitable there will be occasions when some of the decisions or views are not those of *all* residents.

It is important for local councils that members of the public stand for election, vote at the election, respond to consultations and attend meetings where possible. Council members need to know what people's views are so that they can represent them.

It is hoped that if an issue is large scale or particularly controversial, public opinion will be sought. If electors do not agree with a decision that has been made within the law, the way they respond through the ballot box at the next elections.

I believe that the local council is not acting correctly. Is there an ombudsman?

The Local Government Ombudsman is generally not responsible for local councils. There may be occasions where it can be involved if the local council

is carrying out a function on behalf of a principal council but in broad terms, it has no say.

If you believe a council has acted incorrectly you should follow the council's complaints' procedure.

How do I make a complaint about the council?

A local council should have a complaints procedure which is easily accessible. If it is not available on the council's website, you could ask for a copy.

If you have a complaint about the activities of the council, normal procedure would be to put the complaint in writing to the clerk. The clerk would then deal with this complaint in accordance with the council's procedure. If your complaint is about the clerk, correspondence should be directed to the chairman.

If you have a complaint about the behaviour of an individual council member, complaints should be directed to the standards committee at the principal council.

I believe a councillor is not following the Code of Conduct. What do I do about it?

Complaints regarding suspected breaches of the code of conduct are directed to the Standards Committee at principal authority. Forms are usually available from the authority's website to make this easier. Complaints need to meet certain specific criteria and be in line with the individual local council's adopted Code of Conduct. You can ask a council for a copy of its code of conduct or contact your principal authority's monitoring officer or a member of their team for advice.

Glossary of Terms

Some of the words which may be used in reference to the laws, procedures and responsibilities of local councils.

Agenda

A numbered list of the business to be transacted by at a meeting of the council. The agenda contains enough information for members to know what they are expected to discuss and decide upon.

Co-opted

A co-opted councillor is appointed to a vacancy in the council by the rest of the council members rather than elected at a local council election or by-election.

Department of Communities & Local Government (DCLG)

DGLG is a ministerial department of Central Government supporting local government and communities

Duty

Something which, according to the law, a local council must do.

Elector

A person who is registered on the electoral roll and therefore eligible to vote in an election.

External Auditor

A company appointed by the Audit Commission to review the council's annual return in conjunction with the previous year's return and to raise and queries or anomalies.

Internal Auditor

An individual appointed by the council to review the internal financial controls and carry out an audit. The individual is independent from but responds to the appointing council.

Localism

A shift in power away from central government, meaning that more decisions and actions may be taken locally. The Localism Act 2011 gives some new local powers and rights to local councils and local communities.

Minutes

The record of the decisions and actions arising from a council meeting. The minutes are written by the clerk as an independent officer. The minutes, once signed as a true record of the meeting, are a legal record of the meeting.

Power

Something which, in accordance with the law, a local council may do.

Precept

A tax charged on each property in the parish, collected by the local council to form all or part of its funds. It forms part of the council tax.

Principal Authority

The main council in an area. This could be the district, borough, county or unitary council, or a combination of these; depending on the governance structure in the area.

Quorum

The number of council members which must be present at a local council meeting in order for it to take place and for decisions to be made.

In accordance with the law, a quorum is a third of the council's number or three; whichever is greater.

Pecuniary Interest

A member's interest in something which could have a positive or adverse effect on his/her financial situation.

Resolution

The decision at a council meeting to carry out a certain action. If the council resolves to do something, it has agreed it as a whole.

Section 106 Agreement

An agreement between a developer and a local authority to divert some of the "planning gain" to the local authority to provide facilities and/or services which may be required as a result of increased development. Refers to s106 of the Town and Country Planning Act 1990.

Standing Orders

The terms of reference for a local council and the procedures which it follows for carrying out its activities.

Ultra Vires

Latin for "beyond the powers". If a council is acting outside of the law or makes an unlawful decision, the action or decision is said to be *Ultra Vires*.