



HOW COUNCILS WORK - AN INTRODUCTION

April 2015

This general guidance note touches upon the issues most commonly raised. In the Worcs CALC office we have various publications which may help you. In addition, we have a regularly updated website www.worcscalc.org.uk.

1. Parish and Town Councils

Parish and town councils (local councils) are statutory bodies governed by law and are responsible for spending public money. Certain laws govern the conduct of local council business; the clerk, as proper officer, should be aware of these, but both the clerk and the chairman can seek further advice from the Worcestershire County Association of Local Councils (Worcs CALC) and, through us, from the National Association of Local Councils (NALC), which has lawyers on its staff who specialise in local council law.

2. Acceptance of Office

You may not act as a councillor until you have signed your declaration of acceptance of office. This declaration must be made in the presence of a member or the council's proper officer and delivered to the council. Where an election has taken place it is suggested the declaration is made in front of the proper officer as all members, apart from the chairman, will cease membership of the council after the fourth day following the election. This declaration must be made at or before the first meeting after your election. If you cannot do so, you should tell the clerk, as the council can then agree at this meeting that you can sign it at or before a subsequent meeting. Re-elected councillors have to sign again, as their term of office ends four days after the elections. The chairman has to sign a declaration of acceptance of office every year after the annual election of chairman.

3. Code of Conduct

All councils must adopt a code of conduct which applies to councillors and you should have a copy of this. It gives guidance on when you should declare any Disclosable Pecuniary Interests or Other Disclosable Interests. Councillors who have declared a Disclosable Pecuniary Interest, or an Other Disclosable Interest, which falls within the terms of paragraph 12(4) (b) of the code of conduct, must leave the room for the relevant items. Councillors are also required to complete a register of interests form within 28 days of taking office. Failure to register or declare a disclosable pecuniary interest may result in the commission of a criminal offence.

You should read the code carefully. A local district council committee exists to promote and maintain high standards of conduct by district, town and parish councillors. It oversees the operation of the code of conduct and protocols, and assists compliance through the provision of training. It also deals with complaints about the conduct of councillors.



Councillors may seek advice on the code from the clerk and/or the monitoring officer of your city/borough/district (2nd tier) council.

4. Powers

- a) A parish council is a local authority subject to statutory controls over what it can and cannot do. Parish councils have many statutory powers to spend money. They have, for instance, the power to provide a community meeting place, so they therefore have the power to help the village hall committee do this on their behalf. They also have the power to provide a burial ground, so they can assist the parochial church council in doing this. There are many other general statutes of which the following are well noted:
- b) LGA 1972 Section 111
This power enables a parish council to do anything which is calculated to facilitate or is conducive or incidental to the discharge of any of its functions, such as transacting the business of a parish meeting or funding professional representation at planning inquiries.
- c) LGA 1972 Section 137
If a parish council wishes to do something that is of benefit to the community or part of it, and does not have a statutory power to do so, it has the power to spend up to £7.36 per elector to do this. This is the index linked figure for 2015/16. The decision to spend money under section 137 of the Local Government Act 1972 must be resolved by the council and the expense should either be noted in a separate account or at least marked in the normal accounts. This power can be used to give a grant to a local group, for instance. A prudent council will include a small amount in the precept which can be spent under section 137. If you have a specific power to spend money you should not use section 137. A leaflet giving more detail of section 137 powers is available from Worcs CALC.

5. Finance

a) Precept

Your council raises the finance it needs to operate from the council tax payers in the parish through the precept. Unlike other tiers of local authorities, it gets no help from central government, though equally it is not rate capped at the moment, so can raise whatever amount it believes is necessary. The 2nd tier council, as the tax collecting authority, will ask your council how much it requires in its precept every year, and then add it to the council tax bill. Your council should therefore draw up a budget in the autumn, listing both essential expenditure such as insurance, training for clerk and councillors, and the clerk's salary, general reserve and any projects which the council wishes to undertake in the new financial year. Some councils have special meetings to draw up a forward plan which will help to meet needs identified in the parish over a period of years, perhaps through the development of a community plan. They can then



gradually build up funds to support these projects. Also, all councils should have a small amount in their general reserve against unexpected expenditure, such as parish council bye-elections. Note that the precept setting meeting should be held in public, as with most council meetings. CALC GPG proper precepting will provide useful guidance.

b) Capital Spending

A parish council has the power to borrow money for capital expenditure but, because it is a statutory body, such borrowing is controlled by government. Whoever a council borrows from, even if it is an interest free loan from a parishioner, it must apply through Worcs CALC for permission unless it is to be paid off within the same financial year.

6. Annual Parish Council Meeting

Every year the parish council has to hold an annual parish council meeting (sometimes wrongly called the annual general meeting) on any day in May, except in election years when the meeting must take place within 14 days of the election. At this meeting, the first business is to elect a chairman and receive his/her declaration of acceptance of office, and elect a vice-chairman, if the council so agrees. The council must meet at least three other times during the year.

7. Annual Parish Meeting

In parishes with a parish council, there must be an annual parish meeting for the local government electors of the area. This meeting, must be held between 1st March and 1st June, and is chaired by the chairman of the council or the vice-chairman if they are present. It is not a parish council meeting and all electors are allowed to speak. Decisions taken by this meeting, unless it is a demand for allotments or a resolution made binding on the council by a trust deed (for example the dissolution of a village hall trust), are persuasive only. The parish council can ignore them and the electors have no redress except to change councillors at the next election. In parishes where there is no council, the parish meeting must meet at least twice a year.

8. Admission of the public to meetings

Members of the press and public have the right to attend parish council and parish meetings. They do not have the right to speak at parish council meetings. However, we recommend that, after you open your council meeting you allow a public question time. If the council is discussing confidential business, it is possible to resolve to exclude the public, but this power should be seldom used, as it can create suspicion in the minds of the electorate. Decisions taken at closed meetings still have to be minuted and the minutes are open to the public. The type of business where the press and public might be excluded could relate to details of contracts, employment issues or litigation.



9. Non attendance at meetings

A councillor who fails to attend any council, committee, sub committee or working party, for a period of six consecutive months ceases to be a councillor unless the councillor has a statutory excuse (principally serving in the armed forces) or the reason for absence has been approved by the council. It is therefore good practice not only to present apologies but to say why you will be unable to attend; the acceptance by the council should be minuted.

10. Quorum

The quorum of a council is three or one-third (rounded up) of the total membership whichever is the greater. A meeting may not continue if numbers fall below the quorum.

11. Meeting Procedures

a) Notice of a Parish Council Meeting

Notice has to be given at least three clear days before the meeting. Three clear days does not include the day of the meeting or the day when the summons is sent out, nor does it include Sundays and Bank Holidays. NALC advice, based on a legal case, advises that the cautious approach would be for local councils to also not include both Saturdays and Sundays when computing three clear days.

A summons of this meeting and the matters to be discussed must be sent to all councillors three clear days before the meeting. It is unacceptable to have "any other business" on the agenda. We recommend that a copy of the agenda is posted on the parish notice board with the public notice of meeting. A council may make standing orders to regulate its business and may vary or revoke them (LGA 72 Sch 12 para 42). However standing orders must not conflict with the law. Model standing orders are available from Worcs CALC. A local council may consider any matter in which it has statutory power to act, including the power to spend money, which in the council's opinion is for the benefit of its area or inhabitants (LGA 72, s 137). A council may by standing order require that a resolution shall be seconded as well as moved, but a seconder is not required by any rule of law. A resolution should be specific and not deal with more than one subject. It is common in larger authorities to limit the length of speeches and not permit members other than the mover to speak more than once on any one resolution.

b) Voting

Every decision must be made by a majority of the members present and voting. There is no proxy voting. The chairman has a casting vote which he may use in the event of an even vote. Members vote by show of hands unless decided otherwise and this should be stated in standing orders. A member may request a recorded vote to show how each member voted. He/she may also ask for his/her own vote to be recorded.



c) Minutes

They should be as short as is consistent with clarity and accuracy. They are intended to be formal records of official acts and decisions, not reports of the speeches made by councillors. They must be signed at the same or next meeting by the chairman. There should be no discussion of the words used in the minutes – only on the accuracy.

12. Delegation

By virtue of S 101 of LGA 1972 a council may delegate its functions to a committee, a sub-committee or an officer of the council. However this does not mean delegation of power to the chairman. An officer of the council is the clerk. A committee or sub committee (which answers to a parent committee) must consist of at least three councillors and must meet in public.

13. Working Parties

A parish council may arrange for several councillors to form an ad hoc working party without delegating powers, to investigate a particular matter and make recommendations upon it. Such a working party may meet in private, reporting its recommendations to the parish council in public where any decision must be made.

14. Role of the Clerk

The clerk is the proper officer of the council and should be adequately recompensed for the work done for the council. Recommended pay scales and model contract of employment are issued from the Worcs CALC office. The clerk to the council is more than just a minute-taker; he/she is usually the responsible finance officer and also expected to understand the legal duties of the council so that he/she can advise the council of its legal obligations. Training is available to ensure that clerks are able to comply with these requirements and to attain the recognised qualification, the Certificate in Local Council Administration (CiLCA).

If you require any further information please do not hesitate to contact us at

Worcestershire CALC,
Malvern View,
Willow End Park,
Blackmore Park Road,
Malvern,
WR13 6NN

Tel - 01684 311554

info@worcscal.org.uk