



## GOVERNING DOCUMENTS – TERM OF REFERENCE

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### 1. Introduction

Decisions made by any local authority must be made in accordance with procedures laid down in statute. The most important piece of legislation for parish council law and procedure is the **Local Government Act 1972** (“the Act”).

All local authorities are required to conduct their business in an open and transparent way and must comply with statutory requirements in relation to decision making and activities undertaken.

Effective governance checks are in place to ensure that the decisions and actions of a local authority are lawful and transparent to the public at large and local council taxpayers who have a vested interest in the activities of their parish council.

One of the legal requirements includes the opportunity to delegate functions or powers of a parish council to a committee or sub-committee (with clear and unambiguous terms of reference) or an employee of the council or to another local authority. Arrangements and activities undertaken must be formally reviewed, evidenced and approved by a parish council.

Business items on the agenda will be determined by the activities of the council or the terms of reference of a committee and its functions.

All vacancies will be advertised on the parish council noticeboard and website.

### 2. Governing Documents

Core governing documents for parish councils comprise;

- **Standing Orders** for the conduct and transaction of business at meetings of the council (and any of its committees and sub committees).
- Clear written **terms of reference** for committees and sub committees and working groups which evidence the nature and extent of the duties or powers which have been delegated.
- Arrangements for inspection of **minutes and accounts** by local residents. (incl. public rights)
- Arrangements for the proper administration of its **financial affairs** (incl. budget, AGAR etc.)
- Standing orders for entering into **contracts**.
- **The Code of Conduct** adopted by the council which Councillors must observe.
- Arrangements for access to information held by the council under the **Freedom of Information Act 2000**.
- Arrangements for handling **complaints**.

Governing documents may be amended with a view to improving the council's method and efficiency in conducting its business.

It is suggested that the full council carries out an annual review of its governing documents. It is also suggested that resolutions adopting governing documents (or amending 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 record in the minutes that a review was carried out, in order to demonstrate that the council was continuing to review its governing arrangements.

In order to give effect to good governance a parish council should commit time to producing and annually reviewing, their governance documents.

These documents set the environment in which a parish council is expected to discharge its duties and powers. They constitute the internal rules, practical arrangements and processes which are essential to those who form and work for the council.

In order to give effect to good governance a parish council should commit time to producing and annually reviewing, their governance documents.

### **3. Terms of Reference for Committees and Delegations**

Unless a parish council delegates functions to a committee, sub-committee, officer or another local authority, decisions for the discharge of 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.

Any delegation to a committee, sub-committee or officer should identify the nature and extent of responsibility or decision making. Delegations should be evidenced. A parish council can arrange for the discharge of part or all of their functions (except in respect of levying the precept) by committees (and sub-committees) and/or officers. Such arrangements can provide for certain decisions to be referred to or made by full council.

The 1972 Act gives the parish council's Proper Officer (who is commonly the Clerk) certain responsibilities. As the Council's Proper Officer, the Clerk is regarded as a parish council's most senior member of staff. A parish council needs to decide who will be responsible for day-to-day routine tasks involving decisions that should, for reasons of efficiency, be delegated to the Clerk (and other employees, where appropriate). Examples include:

- receiving and sending council correspondence
- handling face to face, telephone and email queries relating to the council's powers and activities
- updating the council's website
- taking minutes of meetings
- keeping the Council's minute book up to date and available for inspection
- the initial handling of requests for information under Freedom of Information Act 2000
- the initial handling of complaints (except when the complaint relates to the Clerk).

Delegations to officers must also reflect statutory duties conferred on particular individuals. For example, the 1972 Act requires a parish council's Proper Officer to sign the summons to members to attend meetings and to convene a meeting of the council if a casual vacancy of the chair's office occurs. The 1972 Act also requires a parish council to employ a person who is responsible for the proper administration of the council's financial affairs. This is a consuming and responsible role. It is the parish council's Proper Officer (i.e. Clerk) to have this responsibility.

Other delegations to the Clerk may be appropriate. This will depend on the size and activities of the council, the Clerk's level of experience and qualifications and the number of other staff employed by the council. Most clerks should be authorised to purchase, for example, basic office equipment or supplies or to arrange emergency repairs to the council office/premises and equipment up to a fixed sum which is subject to arrangements which control the council's finances. Delegation of functions to the Clerk should be reflected in his/ her contract of employment and job description.

Many parish councils appoint a committee to make representations to the planning authority in respect of planning applications affecting the parish. This is sometimes because the short timeframes associated with submitting such written submissions may not fit within the dates of parish council meetings.

A parish council may wish to appoint committees and/or working groups to fully deal with, or only make recommendations to it (or a combination of both), in respect of powers to provide and manage allotments, parking, recreational facilities, open spaces and events for the community. Other committees may be appointed by the council to be responsible for a specific short-term project (e.g. the drafting of a neighbourhood parish plan) or a thematic issue relevant to specific functions (e.g. safety in the community).

Parish councils normally appoint a finance committee whose functions are to monitor the Council's income and expenditure in detail, allocate funds to particular functions of the council (and the responsible committee) and to formulate and recommend the following year's budget and precept. Any decision relating to the precept levied by the parish council must be taken by a meeting of full council.

Parish councils have a wide flexibility as to the number of committees (and sub committees) and working groups appointed and their associated terms of reference. Clear and certain written terms of reference confirm the nature, extent and limitations of the duties or powers which have been delegated. It is important that any delegation arrangements are regularly reviewed to ensure that they meet the needs of the parish council in changing circumstances. The scope of any delegation, including any limitation, should be reviewed annually to ensure the arrangements are efficient.

There is no standard model in respect of the appointment of committees (and sub committees) and other delegation arrangements that will suit all parish councils.