



# **NORFOLK PARISH** TRAINING & SUPPORT

## Training for Trunch Parish Council

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Norfolk Parish Training & Support

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## Training the Whole Council

### The background of local councils

Parish, town, community, neighbourhood and village councils are often referred to as local councils. Local councils are involved in the delivery of services and facilities for the public. Local councils were formed in 1894 and today there are over 9,000 and 80,000 local councillors in England. Local councils are corporate bodies: legal entities separate from that of their members. Their decisions are the responsibility of the whole body.

Councils need active, interested and committed people to become councillors and get involved in their work and engage proactive staff to assist the council in this task.

Transparency and openness should be the fundamental principle behind everything they do.

### Roles within the council

#### The role of councillors

Councillors represent the whole of their parish or ward, not just those who voted for them. They should not act on their own or make decisions outside meetings. All matters should be discussed and agreed at council level. Councillors should seek to play a full part in the work of their council by actively and constructively contributing to meetings. Councillors should effectively represent and be a channel of communications for the parish. As such many councillors represent the council on outside bodies.

#### The role of the chairman/mayor

A council has a duty to elect a chairman/mayor at the Annual Parish/Town Council Meeting held in May. They will remain as chairman/mayor until they resign or a new chairman is appointed at the next Annual Meeting. Their role is to:

- plan meetings with the clerk
- conduct meetings
- guide meetings and ensure meetings run smoothly and make sure all follow the rules of debate – participates but does not dominate
- encourage all to contribute
- represent the council (for instance talking to the press on behalf of the council)

The chairman/mayor has few special powers. **It is unlawful for a council to delegate decision making to any individual councillor and the chairman is no different.** However, when a vote is tied, the chairman may use a second, or casting vote. The chairman often enjoys a special relationship with the public, especially in a town where the chairman is also the mayor. It is the chairman who leads the Annual Town or Parish Meeting (remember, this is not a council meeting) and opens the fete, or welcomes official visitors from abroad.

#### The role of the clerk and the Responsible Financial Officer (RFO)

The clerk is the Proper Officer of the Council in law and is also often the Responsible Financial Officer (more likely in smaller councils).

The clerk assists the council with the discharge of its statutory functions or duties and the exercise of its statutory powers. The clerk plays an essential role in helping councillors implement their decisions. Their role is to advise and help ensure councils do not make decisions outside the law or their remit. The clerk is not a secretary and is not at the beck and call of the chairman or other councillors; the

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clerk is answerable only to the council as a whole. Legally, councils can delegate decisions to clerks because they are trusted professional officers whose objectivity allows them to act for the council.

The council must also appoint an RFO, and very often this will be the clerk. The RFO is responsible for ensuring that all financial aspects of the council's work are undertaken according to "proper practices".

## The council as an employer

Don't forget, the council employs staff (in some cases just one) but nevertheless it still needs to adhere to employment law legislation, offer a pension, and provide an employment contract within 8 weeks of joining. It is good practice to conduct regular appraisals with each staff member and offer appropriate training to keep skills up-to-date. The clerk is employed by the council and answers to the council as a whole. All other staff, although employed by the council, answer directly to the clerk who is their manager and responsible for their performance. Council staff are the most important resource that a council is responsible for and must be treated with respect and valued.

### What does a good council look like?

Where councillors, clerk and chairman/mayor work together as a team they:

- combine knowledge and skills to deliver real benefits to the community they serve
- undertake new and previously unknown challenges
- demonstrate good working relationships, mutual respect and an understanding of their different roles. If it does not already know, a council may identify the needs of its local residents by listening and consultation. It will be up to the council to decide the priorities for action.

## Governance and finance

### How are local councils funded?

A council must carefully budget for the expenditure it will incur in the next financial year, and also set aside reserve funds for future projects. The main source of income for a local council derives from the precept levied on the residents in its area. The precept is incorporated into a local resident's council tax bill.

### Sound financial governance

Good governance, accountability and transparency are essential to local councils and a cornerstone of the government's approach to improving public services. Those who are responsible for the conduct of public business and for spending public money are accountable for ensuring that public business is conducted in accordance with the law and applicable proper practices. They must also ensure that public money is safeguarded, properly accounted for and used economically, efficiently and effectively. It is the responsibility of all councillors to ensure that every aspect of the governance of the council is carried out correctly.

### What exactly do we mean by sound financial governance?

- **The Annual Return** – This is the key document, and includes the Annual Governance and Accounting Statements, assisting councils in achieving good governance, complying with proper practices and statutory requirements, transparency, accountability and risk management. **To meet the transparency and accountability requirements this document must be approved by full council in open session and must be advertised.**
- **Audits** – A council must have an Internal Auditor who is appointed each year and who is independent and competent. Their role is to check the robustness of the financial systems in place. This include such things as the financial regulations of a council. A full external audit is carried out for councils, although smaller councils who have under £25,000 turnover can opt to be known as 'Exempt' (from 2017/18 onwards) in which case they do not generally have to have an external audit. However they have additional requirements in terms of transparency. If the council has acted properly leading up to the external audit then it will receive the external auditor's certificate and an unqualified opinion on the annual return known as limited assurance. This means that nothing has come to the external auditor's attention that gives cause for concern. Conclusion of the audit must be advertised. Electors also have an opportunity to inspect accounts prior to External Audit.
- **Budgeting** – A budget is drawn up annually for full council approval. This task begins in the autumn. Agreeing the budget and precept must be done by full council at an open meeting.
- **Finance as a meeting item** – A financial statement is prepared by the RFO and includes a bank reconciliation, details of all payments and receipts and a report against budget.
- **Risk management** – This requires all activities of the council to be risk assessed. Risk is minimised, partly through insurance and by other means such as inspections.
- **Internal Controls** – The internal controls a local council must have in place and which are managed by the council include Financial Regulations & Standing Orders; Risk management policy/Risk assessments; Insurance policy; regular financial statements with monitoring against budgets.

### Powers and duties – councils are 'creatures of statute'

Unlike other types of local authorities, a local council has statutory functions or duties, for example, they must hold at least four meetings a year one of which one must be the Annual Parish/Town council meeting. A council has the discretion to exercise a range of statutory powers related to the provision or support of certain services or facilities which benefit its area, and/or the residents that live there.

In most cases if a local council does not have a power it cannot spend. However, there is **Section 137 of the Local Government Act 1972**. This enables local councils to spend a limited amount (£7.42 per elector for 2016-17) on anything which in their opinion is in the interests of, or will bring direct benefit to their area or any part of it, or all or some of its inhabitants. Benefits must be commensurate with the expenditure and this power is the 'power of last resort'. The council needs to recognise in advance that it is using the authority of this section rather than a statutory power, minute the fact at the time the expenditure is agreed, and keep a separate column in the accounts to record such expenditure, keeping a running total to ensure that it does not exceed its limit. A typical use of Section 137 is giving a grant to a local organisation/charity.

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three clear days before the meeting. No decision can lawfully be taken on any matter not specified in the summons. Agendas can be sent electronically. It is a good idea to have the approval of councillors and to have a standing order which covers this matter.

Topics requiring a decision cannot be added to the agenda after the deadline has passed; they must wait for another meeting. Each agenda item should make it very clear what topics is under discussion. For example, an agenda item saying "Play area" gives no idea what to expect, it should read, *To receive a report from the Clerk on the condition of the play area equipment and to agree action in response to proposals for repairs.* It is unlawful to make a decision, especially a decision to spend money, without sufficient (three clear days) warning. Vague agenda items that don't specify exact business (such as Matters Arising, Correspondence and Any Other Business) are dangerous and should be avoided, because the council cannot make unexpected decisions.

The agenda is compiled by the clerk with input from the chairman. Requests to put an item on the agenda from councillors must be through the clerk.

### The council meeting

Councillors have a duty to attend but if a councillor is unable to make a meeting, they must contact the clerk with their apology and explanation. Councillors who fail to attend any meetings over a six month period will automatically cease to be a councillor unless the council approved the reason for absence before the end of the six month period.

### Contributing to an effective meeting – checklist:

- attend all meetings regularly
- brief yourself
- participate, listen to others and respect all views
- clarify issues and offer specialist knowledge
- support the chairman and other members
- learn the rules of procedure and respect decisions made

It is the chairman/mayor's role to manage the meeting by introducing agenda items, inviting members to speak, focusing discussion and clarifying matters for decision. Councillors, having engaged in discussion, vote for or against the proposal by a show of hands. Matters to be decided are called proposals or motions. Decisions, are called resolutions, and will be recorded in the minutes as resolutions. A councillor with no view/cannot decide on a proposal can abstain. Normally voters' names are not minuted but if necessary, a councillor can ask for names to be recorded prior to, or directly after, the vote taking place.

Councillors need to keep contributions short and to the point. They should work through the chairman and not engage in personal attacks on others. The length of meetings will be defined in Standing Orders (usually 2 hours), any longer and concentration begins to lapse. A good chairman/mayor and well-constructed agenda will keep to this.

Members of the public are usually able to speak and ask questions in a short, defined period, normally early in the meeting.

### What happens if a decision needs to be taken between meetings?

Where the matter needs full discussion, the chairman/mayor might call an **extraordinary meeting**, but delegation is a useful tool. Section 101 (of the Local Government Act 1972) allows a council to delegate the power to make decisions to an officer, a committee, a sub-committee or another council.

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It is good practice to specify in standing orders the kind of decisions that the clerk can make such as routine decisions, dealing with emergencies or spending small sums of money. Standing Orders may require decisions to be taken after consultation with two councillors (including the chairman) but the decision remains with the officer. Most importantly, the council must not allow delegation to a single councillor – not even to the chairman. Councillors can pursue topics in readiness for an item of business at the next meeting – this is not delegation. All official approaches and action on behalf of the council should go through the clerk.

### Minutes

Minutes are a formal record of the decisions made NOT the discussion that took place. There is no need or reason for verbatim and lengthy 'he said, she said' minutes. There is no such thing as confidential minutes, all decisions should be recorded for publication, but you can have confidential reports that the minutes refer to. The clerk or minute secretary writes the minutes as a legal record of what was decided at the meeting. They will be confirmed and signed at the start of the next meeting.

***Remember, the local council is a tax raising local authority. All decisions of a local council must be made at meetings. If this does not happen then the council is acting 'Ultra vires'.***

## Code of Conduct

A new code of conduct came into force in July 2012 due to changes enforced by the Localism Act 2011, and require a local council to adopt a code of conduct for its members and to have a register of members' interests. The code must comply with the seven Nolan principles of Public Life – **selflessness, objectivity, accountability, openness, honest and integrity, leadership**. Councillors have to disclose and register pecuniary and other interests within 28 days of becoming a councillor. Within these rules it is for each council to decide what its code of conduct says. The district/borough council's monitoring officer must establish and maintain the council's register of members' interests. Within the requirements of the national rules it is for the district council to determine what is to be entered in its register of members' interests.

### **What interests should be entered in a council's or authority's register of members' interests?**

Disclosable pecuniary interests, and any other of a councillor's personal interests which a council or authority, in particular through its code of conduct, has determined should be registered.

### **What are disclosable pecuniary interests (DPIs)?**

A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments in local companies, and assets including land and property). Interests of a councillor's spouse or civil partner are included. Interests are on the district/borough councils' websites.

### **What happens if a councillor does not follow the rules on disclosable pecuniary interests?**

It is a criminal offence if, without a reasonable excuse, a councillor fails to tell the monitoring officer about his/her disclosable pecuniary interests, either for inclusion on the register if a councillor is newly elected, co-opted or appointed member, or to update the register if you are re-elected or re-appointed, or when he/she becomes aware of a disclosable pecuniary interest which is not recorded in the register but which relates to any matter. If a councillor is found guilty of such a criminal offence, he/she can be fined up to £5,000 and disqualified from holding office as a councillor for up to five years.

## Planning

### **What part does your local council play in the planning system?**

Local councils have the right to make comments on planning applications affecting their area.

The planning authority allows a local council 21 days to respond to a planning application. Many local councils have a permanent planning committee allowing them to comment on planning applications as required without convening a full council meeting. Whilst the overall decision is the district/borough or county council's, the local council's local knowledge, combined with a sound understanding of the planning process, means that its views are more likely to be heard by the planning authority.

Local council recommendations on a planning application should fit with statutory local development plans, otherwise they may be ignored. These include the local plan and, if available, the neighbourhood plan. The local council needs to understand the procedures by which the planning authority makes decisions. Some decisions are made by the authority's planning committee, while many are delegated to officers. Central to the decision making process are material considerations – issues that are, in law, *material* or relevant to a planning application. Such matters must be taken into account when making a recommendation on a planning application. Material considerations include: a site's planning history (including earlier applications); roads, parking and traffic; a community plan or design statement (if adopted by the Planning Authority); development plan (including a neighbourhood or local plan); archaeology. A councillor's personal feelings about an application, or the applicant, are not relevant. It is the wider public interest in respect of the planning application that is important.

### **Neighbourhood plans and the community right to build**

Through the Localism Act 2011, the Government introduced two new ways in which local councils can influence planning in their area: the neighbourhood plan and the neighbourhood (or community) development order. If approved, a neighbourhood plan becomes the development plan for the area, superseding the local plan (although it must be aligned with it). The neighbourhood plan can give a local community more say about where new homes are built and what they should look like. It can, for example, allocate land for industry and leisure or set retail and infrastructure policies. Neighbourhood (or community) development orders arise from the community right to build set out in the Localism Act 2011. Local councils and community groups have the right to propose small-scale, site-specific community-led developments. This right allows communities to build new homes, shops, businesses or facilities where they want them, without going through the normal planning application route. Any project built under the community right to build is managed by the local council or community group.

To get approval for a neighbourhood plan or development order the council must:

- work with the local planning authority
- take expert advice to ensure that the plan or order complies with
- adhere to national planning policies and strategic elements of the local plan
- engage fully with all parts of the local community
- seek approval from an independent inspector

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- gain support from at least 50% of local people voting in a referendum

Once in place, a neighbourhood plan gives a community more control over the way in which an area develops; a neighbourhood plan becomes part of the development plan which will be used by the local planning authority when determining planning applications.

Planning can get people very agitated and the council has a responsibility to represent the whole community – not just people with the loudest voices. The council must ensure that proper procedures are in place. You must have lawful, well-managed meetings and councillors must make sure that in planning matters they act in accordance with their council's code of conduct. A more detailed guide on planning can be found at: [planningforcouncillors.org](http://planningforcouncillors.org).

## Sources of information

The Parish Councillors' Guide and Local Council Administration by Paul Clayden - available from SLCC

Governance and Accountability 2016: [www.nalc.gov.uk/publications](http://www.nalc.gov.uk/publications)

Planning: Lots of information online, try searching for the Planning Advisory Service

Other smaller publications include The Good Councillor's Guide and Being a Good Employer  
[www.nalc.gov.uk/publications](http://www.nalc.gov.uk/publications)

Society of Local Council Clerks (SLCC) – The Norfolk branch is very supportive to clerks.  
[www.slcc.co.uk](http://www.slcc.co.uk) and [www.slccnorfolk.co.uk](http://www.slccnorfolk.co.uk)

And finally, Norfolk Parishes Training and Support for training of Norfolk's clerks and councillors:  
[www.norfolkpts.com](http://www.norfolkpts.com), email: [norfolkpts@gmail.com](mailto:norfolkpts@gmail.com)



