

## ROLES AND RESPONSIBILITIES

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### INTRODUCTION

Local (parish and town) councillors and local council officers have different but complementary roles. Councillors, as the democratically-elected representatives of their areas, are there to set the budget and strategic direction of the council and ensure that the community's priorities are identified and delivered. The role of officers is to advise councillors, ensure that the council's strategy is delivered on a day-to-day basis and manage the operational and organisational side of the council.

This document briefly summarises those different roles and responsibilities, it should be read alongside 'The Good Councillors Guide' and the Good Councillors series of publications published by NALC (<https://www.nalc.gov.uk/publications#the-good-councillor-s-guide>) and Model Councillor Officer Protocol

### THE ROLE OF COUNCILLORS

A councillor's primary role is to represent their local area (or ward where the council is warded) and the people who live in it. Councillors provide a bridge between the community and the council. As well as being an advocate for local residents and signposting them to the right people either at the local council or the principal authority, they should ensure that the community is informed about the issues that affect them.

In order to understand and represent local views and priorities, you need to build strong relationships and encourage local people to make their views known and engage with you and the council. Good communication and engagement are central to being an effective councillor.

Local councillors are expected to:

- respond to residents' queries and investigate their concerns (casework);

- communicate council decisions that affect the community;
- know their area and be aware of any problems;
- know and work with representatives of local organisations, interest groups and businesses;
- represent their community's views at council meetings.

Local councillors also collectively set the strategic direction for their council. All local councils need clear strategies and policies to enable them to achieve their vision for the area, make the best use of resources and deliver services that meet the needs of local communities. Individual councillors will contribute to the development of these policies and strategies, bringing their experience and the views and priorities of their area to the debate.

Individual councillors work together to serve the community and to help the council to make decisions on behalf of the local community. Councillors contribute to the work of the council by suggesting ideas, engaging in constructive debate and by responding to the needs and views of the community representing their constituents. Councillors comment on proposals to ensure the best outcome and vote to enable the council to make decisions. Councillors must accept the decisions of the council as a whole even if they do not agree with it.

The formal part of these roles is carried out by attending meetings and working with and listening to advice from the council officers. The local council might have committees and even sub-committees. This is more likely to be the case in larger councils and in those cases how far individual councillors contribute in particular policy areas will depend on which committees they have been appointed to. However 'full council' remains the sovereign body for setting the council's overarching strategy and budget so even where the council has committees which work in greater detail on particular areas, all councillors should contribute to the council's strategic framework.

Individual councillors do not have, and cannot be given, powers to make decisions on behalf of the local council. This applies to the chair as much as to the other councillors, although the chair does have personal responsibilities in connection with the running of formal meetings – see below. That said, local councillors can act as 'champions' on particular issues and it is perfectly acceptable, if a councillor happens to have experience in a particular field, that they take a lead on it, provided that has been agreed by the Full Council.

The less formal part of these roles of listening and talking to people, including the local elected members of the district, county or unitary council, will almost certainly take up more of the councillor's time. However, it is important to remember that "rules of behaviour" apply whenever activities of being a local councillor are being undertaken.

## THE CHAIR

In some authorities the chair is called 'the mayor' but references are made to the chair in this document.

The main rules of law governing the role of the chair of a local council are set out in the Local Government Act 1972 which requires, for example:

- that the chair must preside at a meeting of the local council if they are present and;
- that it is the chair of a meeting who has the responsibility to sign the minutes (presented for approval at that meeting) as a true record.

It is the chair's responsibility:

- a) To determine that the meeting is properly constituted and that a quorum is present;
- b) To inform themselves as to the business and objects of the meeting;
- c) To preserve order in the conduct of those present;
- d) To confine discussion within the scope of the meeting and reasonable limits to time;
- e) To decide whether proposed motions and amendments are in order;
- f) To formulate for discussion and decision questions which have been moved for the consideration of the meeting;
- g) To decide points of order and other incidental questions which require decision at the time;
- h) To ascertain the sense of the meeting by:
  - a. Putting relevant questions to the meeting and taking the vote thereon (and if so minded giving a casting vote);
  - b. Declaring the result; and
  - c. Causing a ballot to be taken if duly demanded;
- i) To approve the draft of the minutes or other record of proceedings presented to a meeting (with the consent of the meeting);
- j) To adjourn the meeting when circumstances justify or require that course; and
- k) To declare the meeting closed when its business has been completed or in the event of the meeting being very seriously disrupted.

The chair's term of office continues until the appointment of a successor, other than where the chair resigns or is disqualified from office. A chair does not however legally have to resign following a vote of no confidence. This continuity also applies when the chair has not been re-elected following local elections. In this case, the chair does not have a vote on the appointment of a successor but does have a casting vote in the event of equal votes.

### Outside of the meeting

The chair:

- is the person to whom notice of resignation is given by other councillors or the clerk;
- may convene extraordinary meetings of the council (on proper notice to the clerk);
- when attending ceremonial events, is the proper person to represent the local council;
- may receive an allowance to meet the expenses of his or her office.

Beyond that, the workings and decisions not taken by the council or, through the delegation scheme, by one of its committees or sub-committees are to be taken by the clerk to the local council. The chair may have an enhanced role, as functions may be delegated to the clerk in consultation with the chair (or the chair of a committee). This means, however, that the decision and the responsibility for it remains with the clerk (not the chair) but that the clerk must first bring the matter to the attention of the chair and take into account the views of the chair in coming to their decision.

It is also likely to be the case that the chair will be the person whom the clerk will approach:

- for information about the council and the parish;
- to seek to informally discuss matters with and;
- to informally consult on decisions that are in the clerk's remit to make or pass back to a formal meeting.

Correspondence to and from the council should normally be dealt with by the clerk, not by the chair, although, where there are no other administrative staff, the chair will be the most appropriate person to deal with correspondence in the absence of the clerk e.g. to sign letters giving effect to a council decision, or to send a 'holding' reply pending consideration of a matter by the council.

### Committee chairs

In Councils which have committees the chair of the committee has similar duties and responsibilities as the chair of the council with regard to their committee and may be consulted by the clerk on relevant matters.

## **THE ROLE OF THE CLERK AND OTHER OFFICERS**

The primary responsibility of officers is to advise the council on whether its decisions are lawful and to recommend ways in which decisions can be implemented. To help with this, officers can be asked to research topics of concern to the council and provide unbiased information to help the council to make appropriate choices.

Officers have a wide range of other responsibilities which should be set out in their job descriptions. Officers must recognise that the council is responsible for all decisions and that they take instructions from the council as a body. Officers are not answerable to any individual councillor – not even the chair.

The council must be confident that officers are, at all times, independent, objective and professional.

'Proper officer' is a title used in statute. It refers to the appropriate officer for the relevant function. In local councils, the proper officer is normally the clerk. In financial matters, the proper officer is known as the 'responsible finance officer'.

The local council clerk is the 'engine' of an effective local council. They are its principal executive and adviser and, for the majority of smaller local councils, the officer responsible for the administration of its financial affairs. The clerk is sometimes a council's only employee. Where a council has more than one employee, the clerk is the ultimate line manager for all other staff.

The clerk is required to give clear guidance to councillors, including the chair, before decisions are reached, even when that guidance may be unpalatable. The clerk has a key role in advising the council, and councillors, on governance, standards of conduct and procedural matters. They would also normally liaise with the monitoring officer at the principal authority on code of conduct issues and the councillors' register of interests.

It is the duty of the clerk as the proper officer to assist councillors on matters of fact and law. Councillors (even where it is contrary to their personal wishes or expectations) should take fully into account the advice and guidance given by the clerk on the existence and applicability of the relevant facts or the law. Councillors should then seek means to make their policy decisions taking into account such guidance. Councillors should also accept as a fact that it is the duty of the clerk to minute any situation in which the advice given has not been heeded. The clerk is, however, an independent and objective officer of the council who takes instructions from the corporate body on policy and must in turn recognise that the council is responsible for all decisions

Some larger councils employ a range of administration and support staff and the clerk is normally responsible for advising the council on staffing provision and managing the recruitment process. In smaller councils, the clerk may also carry out the role of the finance officer. However, it is common, especially in larger councils, for a separate responsible finance officer to be appointed and given specific duties relating to the budget, annual accounts and audit to ensure proper financial management and transparency.

Many local councils encourage their clerks to seek professional recognition for the work that they do. A CiLCA qualified clerk is one of several pre-requisites for a local council achieving recognition through the Local Council Award Scheme (<https://www.nalc.gov.uk/library/our-work/lcas/1855-lcas-guide/file>) and also in becoming a council eligible to exercise the General Power of Competence.

In an emergency (e.g. to cover a temporary vacancy) a councillor may fulfil the role of clerk to the local council (this must be unpaid (see below)). However, it is not good practice for councillors to do this on anything other than a very temporary basis as it confuses officer/councillor roles.

It should be noted that councillors may not be paid employees of their council (as there is an unacceptable conflict of interest) and may not become employees of their former council until at least 12 months after ceasing to be a councillor.

## **MEETINGS**

It is the clerk's responsibility to set the agenda for the meeting. This is often done in consultation with the chair and individual members can request the addition of relevant items but the agenda remains the clerk's responsibility. The clerk must sign the agenda and decide how it will be set out.

The summons to the meeting, agenda and relevant papers must be sent out at least three clear days before the meeting. The 'three clear' days is established in law to allow time for proper consideration of issues to be discussed. Items for decision cannot be added to the agenda after this time but must be taken at a future meeting.

At a meeting all councillors must comply with Standing Orders and the chair must ensure that Standing Orders are enforced.

Any 2 Members of a parish council may submit a written request signed by them to the Chair of the parish council to call an extraordinary meeting. In the event of the Chair not calling an extraordinary meeting within 7 days of receiving the request, the 2 members may call an extraordinary meeting. The chair of the Council or of a Committee may convene an extraordinary meeting at any time.

## **INFORMATION**

Councillors are free to approach officers to provide them with such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Clerk.

As regards the legal rights of councillors to inspect Council documents, these are covered partly by statute and partly by the common law.

The common law right of councillors is based on the principle that any member has a prima facie right to inspect council documents so far as their access to the documents is reasonably necessary to enable the member properly to perform their duties as a member of the council. This principle is commonly referred to as the "need to know" principle.

The exercise of this common law right depends therefore upon the councillor's ability to demonstrate that they have the necessary "need to know". In this respect a member has no right to "a roving commission" to go and examine documents of the council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must be determined by the officer.

In some circumstances (e.g. a committee member wishing to inspect documents relating to the functions of that committee) a councillor's "need to know" will normally be presumed. In other circumstances (e.g. a councillor wishing to inspect documents which contain personal information about third parties) a councillor will normally be expected to justify the request in specific terms. Any council information provided to a councillor must only be used by the councillor for the purpose for which it was provided i.e. in connection with the proper performance of the councillor's duties as a member of the council.

For completeness, councillors do, of course, have the same right as any other member of the public to make requests for information under the Freedom of Information Act 2000.