

WICKHAM MARKET PARISH COUNCIL ESSENTIALS

No. 3: The Role of the Clerk



1. Wickham Market Parish Council employ one person to fulfil two statutory roles:

- 1.1. Responsible Finance Officer
- 1.2. Proper Officer
- 1.3. These roles are described in summary below:

2. Responsible Finance Officer (RFO)¹ There must always be an officer to undertake the work of the RFO

2.1. Key Statutory Obligations

- Obligations under the Accounting and Audit regulations² including signing the annual accounts³ and ensuring the council meet proper practices⁴.
- In addition, the RFO supports the council in respect of the internal control, audit of its accounts, the preparation of the council's budgets and liaises with the s internal and external auditors.

3. Proper Officer⁵

3.1. Key statutory obligations

- To sign and serve on councillors a summons with an agenda to attend council meetings⁶
- To convene a meeting of the council if a casual vacancy in the office of the Chair occurs⁷ (*The Chair normally convenes meetings but if the Chair has left, the Clerk convenes meetings until a new Chair is elected*)
- To receive and hold copies of byelaws made by local authorities which affect the council's area⁸
- To receive and retain documents or notices⁹
- In addition, the Proper Officer may support the Council's day to day administration through
- Managing governance documentation to ensure the council is aware of legislation and responsibilities.
- Ensuring the Council is aware of Health and Safety considerations and appropriate policies.¹⁰
- Arranging risk assessments.
- Checking insurance provision.
- Ensuring safety certificates are in place and displayed.
- Updating or managing the content on the council's website.
- Issuing public notices for meetings.
- Assisting with requests under: Freedom of Information Act 2000 and Data Protection Act 1998.
- Assisting with the handling of complaints against the council.
- Receiving and sending the council's correspondence.
- Handling face to face and email queries about the council.
- Organising, updating, accessing, storing and destroying council records.
- Preparing motions (proposals) for agendas¹¹ and deciding which motions will be included.¹²
- Taking minutes of meetings.
- The statutory and other responsibilities of the Proper Officer are central to the internal administration of a council. The Proper Officer is the most senior member of staff and commonly known as "the Clerk" to the council. The title of "Clerk" for a local council's chief executive officer familiar and short¹³. The Clerk's contract of employment includes a schedule of duties which avoids misunderstanding as some councillors consider the only duty is minute taking!¹⁴

¹ Local Government Act 1972, s.151

² Accounts and Audit (England) Regulations 2011/817

³ Accounts and Audit (England) Regulations 2011/817, Regulation 13(2)

⁴ NALC Joint Panel on Accountability and Governance, Practitioners Guide

⁵ Local Government Act 1972, s.270

⁶ Local Government Act 1972, schedule 12, paragraph 10(2)(b)

⁷ Local Government Act 1972, s.88

⁸ Local Government Act 1972, s.236(9)

⁹ Local Government Act 1972, s.225

¹⁰ Health and Safety at Work Act 1974

¹¹ WMPC Standing Orders 9

¹² WMPC Standing Orders 9 f

¹³ Local Council Administration, Arnold Baker, 9.16

¹⁴ Local Council Administration, Arnold Baker, 9.17

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3.2. Staff delegations

- Legislation requires certain statutory functions of a local council to be discharged by the council itself. This means, for example, that a local council cannot delegate to staff responsibility for:
- Levying or issuing a precept¹⁵
- Borrowing money¹⁶
- Approving the council's annual accounts¹⁷
- Considering an auditor's report made in the public interest¹⁸
- Confirming (by resolution) that it has satisfied the statutory criteria to exercise the power of general competence (England only)¹⁹
- Adopting or revising the council's code of conduct²⁰

3.3. However, where no statutory prohibition applies, responsibility for the performance of the statutory functions and powers of a local council may be delegated to its staff or to its committees or sub-committees²¹. If a council wants to delegate responsibilities to staff members, it must formally decide this at a meeting by resolution.

3.4. Staff Management

- The clerk is employed by the council²², not by individual members of the council. It is recommended that responsibility for the general management of staff rests with a committee of the council. Unless a council decides otherwise²³. It is recommended that responsibility for the management of a council's most senior member of staff (the Proper Officer or Clerk) is delegated to a staffing committee.
- The other responsibilities suited to a staffing committee include the management of the Proper Officer/Clerk. It will be necessary for the staffing committee to appoint one of its councillors as the day to day contact to support, supervise and appraise the work of the Proper Officer/Clerk, handle leave requests, absences from work, informal grievances and disciplinary matters etc. The standing orders of a council may be used to confirm the responsibilities of individual members of the staffing committee²⁴.
- It is recommended that the standing orders²⁵ of a local council confirm that the public has no advance notification or right to attend a meeting of a staffing sub-committee whose decisions, under delegated responsibilities, will always concern individual staff members, disclosure of which would breach the obligations of a council under the Data Protection Act 1998 or be confidential²⁶

3.5. Restrictions on councillor activities²⁷

- Unless duly authorised no councillor shall:
- inspect any land and/or premises which the Council has a right or duty to inspect; or
- issue orders, instructions or directions.

¹⁵ Local Government Act 1972, s.101(6)

¹⁶ Local Government Act 2003, schedule 1, paragraph 2(4)

¹⁷ Accounts and Audit (England) Regulations 2011/817, Regulation13(3)(b)

¹⁸ Audit Commission Act 1998, s.11(8)

¹⁹ Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012/965, paragraph 1 of schedule

²⁰ Localism Act 2011, s.28(13)

²¹ Local Government Act 1972, s.101(1)(a)

²² Local Government Act 1972, s.112 (1)

²³ Local Government Act 1972, s.101(2)

²⁴ Local Government Act 1972, s.106

²⁵ Local Government Act 1972, s.106

²⁶ Local Government Act 1972, s.106

²⁷ WMPC Standing Orders 25 a)