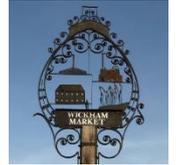


# Wickham Market Parish Council Essentials: Brief 1 – The Role of the Clerk<sup>1</sup>



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

- Responsible Finance Officer
- Proper Officer

These roles are described in summary below

**Responsible Finance Officer (RFO)<sup>2</sup>** There must always be a member of staff to undertake the work of the RFO

## Key Statutory Obligations

Obligations under the Accounting and Audit regulations<sup>3</sup> including signing the annual accounts<sup>4</sup> and ensuring the council meet proper practices<sup>5</sup>.

In addition to this the RFO supports the council in respect of the internal control and audit of its accounts and the preparation of the council's budgets and liaises with the council's internal and external auditors.

## Proper Officer<sup>6</sup>

### Key statutory obligations

- to sign and serve on councillors a summons with an agenda to attend council meetings<sup>7</sup>
- to convene a meeting of the council if a casual vacancy in the office of the Chairman occurs<sup>8</sup> (*normally the Chair would convene the meeting but if the Chair has left for any reason, the Clerk convenes meetings until a new Chair is elected*)
- to receive and hold copies of byelaws made by other local authorities which affect the council's area<sup>9</sup>
- to receive and retain documents or notices<sup>10</sup>

In addition, the Proper Officer may support the Council's day to day administration through

- receiving and sending the council's correspondence.
- handling face to face and email queries about the council.
- updating or managing the content on the council's website.
- issuing public notices for meetings.
- organising, updating, accessing, storing and destroying council records.
- drawing up agendas for meetings.
- taking minutes of meetings.
- assisting with requests for information under the Freedom of Information Act 2000 and the Data Protection Act 1998.
- assisting with the handling of complaints against the council.

The statutory and other responsibilities of the Proper Officer are central to the internal administration of a council. The Proper Officer is thus regarded as 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 is honourable, familiar and short<sup>11</sup>. Every Clerk must have a contract of employment that should include a schedule of duties. This avoids misunderstanding especially as some councillors consider the only duty is minute taking<sup>12</sup>

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<sup>1</sup> Local Councils Explained, Meera Tharmarajah

<sup>2</sup> Local Government Act 1972, s.151

<sup>3</sup> Accounts and Audit (England) Regulations 2011/817

<sup>4</sup> Accounts and Audit (England) Regulations 2011/817, Regulation 13(2)

<sup>5</sup> NALC Joint Panel on Accountability and Governance, Practitioners Guide

<sup>6</sup> Local Government Act 1972, s.270

<sup>7</sup> Local Government Act 1972, schedule 12, paragraph 10(2)(b)

<sup>8</sup> Local Government Act 1972, s.88

<sup>9</sup> Local Government Act 1972, s.236(9)

<sup>10</sup> Local Government Act 1972, s.225

<sup>11</sup> Local Council Administration, Arnold Baker, 9.16

<sup>12</sup> Local Council Administration, Arnold Baker, 9.17

## 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 precept<sup>13</sup>
- borrowing money<sup>14</sup>
- approving the council's annual accounts<sup>15</sup>
- considering an auditor's report made in the public interest<sup>16</sup>
- confirming (by resolution) that it has satisfied the statutory criteria to exercise the power of general competence (England only)<sup>17</sup>
- adopting or revising the council's code of conduct<sup>18</sup>

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-committees<sup>19</sup>. If a council wants to delegate responsibilities to staff members, it must formally decide this at a meeting by resolution.

## Staff Management

The clerk is employed by the council<sup>20</sup>, 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 otherwise<sup>21</sup>. 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 committee<sup>22</sup>.

It is recommended that the standing orders<sup>23</sup> 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 confidential<sup>24</sup>

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<sup>13</sup> Local Government Act 1972, s.101(6)

<sup>14</sup> Local Government Act 2003, schedule 1, paragraph 2(4)

<sup>15</sup> Accounts and Audit (England) Regulations 2011/817, Regulation13(3)(b)

<sup>16</sup> Audit Commission Act 1998, s.11(8)

<sup>17</sup> Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012/965, paragraph 1 of schedule

<sup>18</sup> Localism Act 2011, s.28(13)

<sup>19</sup> Local Government Act 1972, s.101(1)(a)

<sup>20</sup> Local Government Act 1972, s.112 (1)

<sup>21</sup> Local Government Act 1972, s.101(2)

<sup>22</sup> Local Government Act 1972, s.106

<sup>23</sup> Local Government Act 1972, s.106

<sup>24</sup> Local Government Act 1972, s.106