

Wickham Market Parish Council Essentials

No. 3: The Role of the Clerk¹



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)¹ There must always be a member of staff to undertake the work of the RFO

Key Statutory Obligations

Obligations under the Accounting and Audit regulations² including signing the annual accounts³ and ensuring the council meet proper practices⁴.

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 Officer⁵

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 other 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 including 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 the Freedom of Information Act 2000 and the 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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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

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.

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

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)