Best Practice for Parish/Town Councils

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Karen White
Director – Safety (Deputy Monitoring Officer)
Newark and Sherwood District Council
Activities/Duties

- The Law gives Parish Councillors a choice in the activities it undertakes.
- Surprisingly few duties or activities it must carry out.
  
  But must:
  
  • Promote and maintain high standards of conduct by elected and co-opted members.
  • Comply with employment law.
  • Consider the impact of their decisions on reducing crime and disorder in their area.
  • Consider the provision of allotments if there is a demand for them from local residents and it is reasonable to do so.
  • Decide whether to adopt a churchyard when it is closed, if asked to do so by the Parochial Church Council.
Must ensure that all rules for the administration of the Council are followed:

- Appoint a Chairman of the Council.
- Appoint a Responsible Financial Officer (RFO) to manage the Council’s affairs (the RFO is often the Clerk, especially in smaller Councils).
- Appoint an independent and competent internal auditor.
- Adopt a code of conduct.
- Hold a minimum of four meetings per year, one of which must be the Annual Meeting of the Council.
- Appoint officers as appropriate for carrying out its functions.

Council’s own standing orders.
Code of Conduct

Council’s have some discretion in determining their code of conduct, but it must reflect the following principles:

• Selflessness
• Honesty
• Integrity
• Objectivity
• Accountability
• Openness
• Leadership

NB. Only applies when members are acting in an official capacity.
Council Meetings

• Annual meeting of the Council held in May – elect Chairman and Vice Chairman, appoint Committees.
• In Public – must be advertised, press and public have a right to observe.
• Can agree to exclude press and public for confidential items (e.g., legal, contractual or staffing matters).
• Quorum.
• Annual Parish or Town meeting – not a Council meeting, but meeting of the Parish or Town electors that must take place between 1 March and 1 June [no prescribed format, but usually business is to celebrate local activities and debate current issues in the community].
Council Meetings (Cont…)

• Best practice to hold the Annual Meeting of the Council and the Annual Parish Meeting on different occasions to avoid confusion.
• Public participation is encouraged as best practice – specified slot during meetings so that members of the public can express views or ask questions.
• Equalities legislation – Council must make its meetings accessible to anyone who wishes to attend.

“Council may resolve to exclude the press and public from a meeting whenever publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for such other special reasons stated in the resolution and arising from the nature of that business or of the proceedings . . .”

Public Bodies (Admission to meetings) Act 1960
Role of Chairman

- Chairs the Council meetings (including the Annual Parish/Town meetings).
- Elected at Annual Meeting of Council for one year.
- Duty to ensure Council meetings run smoothly, that all business is properly considered and all Councillors who wish to speak can do so.
- Has few special powers – Council cannot delegate decision making to any individual Councillor and the Chairman is no different.
- In event of vote being tied has a second or casting vote.
Role of Clerk

- Employed by Council – answers to and serves Council as whole.
- Protected by employment legislation – in terms of pay, annual leave, sick leave, maternity pay and paternity leave and pay.
- No ‘one’ Councillor can act as line manager of the Clerk (or other employee).
- RFO then administers finances of Council (but Councillors share collective responsibility for financial management of the Council. Council’s role to ensure that the RFO acts properly so Council avoids risk of loss, fraud or bad debt).
- Advises Council on “procedure” at meetings.
- Put agendas and summons for meetings together, sign summons and ensure sent out in proper time (3 clear days) to Councillors and publicised.
- Prepare minutes as a legal record of what was decided at the meeting.
- Good working relationships and mutual respect between Councillors, Clerk and Chairman and an understanding of their different roles are vital.
Registration and Declaration of Interests

• Statutory requirements to disclose and register Disclosable Pecuniary Interests.

• Defined by Regulations, The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.
  – Employment, office, trade, profession or vocation carried on for profit or gain.
  – Sponsorship: payment or other financial benefit in preceding 12 months towards election expenses or expenses in carrying out duties as a member.
  – Extant contracts for goods services or works – including with spouse/partner.
  – Beneficial interests in land in Council’s area including licences for a month or more
  – Corporate tenancies where Council is landlord and tenant is a body in which you have a beneficial interest.
  – Beneficial interest in securities of a body which has a place of business or land in the Council’s area where:-
    • Total nominal (face) value exceeds £25,000 or one hundredth of total issued share capital; or
    • If share capital is more than one class, total nominal value of shares in any one class exceeds one hundredth of total issued share capital.

Note: Registration and disclosure requirements apply not only to your interests but also those of spouse/partner
• Legal requirement to complete Register of Interest within 28 days of taking office – criminal offence to fail to register, to fail to disclose DPI, to participate and vote in matter where have DPI (unless have dispensation).
• Fine and/or disqualification for up to 5 years, prosecution by Director of Public Prosecutions.
• Declare existence and nature of DPI at meeting, then leave meeting when item under consideration.
Dispensations

Parish/Town Council responsible for granting their own dispensations.

Can be granted for any period up to 4 years.

Grounds:
1. So many members have DPI’s that it would impede the transaction of the business.
2. Without the dispensation the strengths of political groups on the body would be so upset as to alter the likely outcome of any vote on the matter.
3. The grant of the dispensation would be in the interests of the inhabitants of the Council’s area; or
4. It is otherwise appropriate to grant the dispensation.
• Need to declare existence and nature of interest where.
  – It affects wellbeing or finances of you/a member of your family/a person with whom you have a close association, to a greater extent than others in your parish.
  – It is an interest falling under the categories of DPI’s but relates to a member of your family (other than spouse or partner) or person with whom you have a close association.

• Need to decide if it is appropriate for you to speak and vote.
Predetermination

• Difference between predisposition (OK) and predetermination (not OK!).

• Bound to have views on issues – but this is different to having a closed mind.
R (Island Farm Development Ltd) v Bridgend CBC

“Councillors will inevitably be bound to have views on and may well have expressed them about issues of public interest locally. It would be quite impossible for decisions to be made by the elected members whom the law requires to make them if their observation could disqualify them because it might appear that they had formed a view in advance. Whatever their views, they must approach their decision making in an open mind in the sense that they must have regard to all material considerations and must be prepared to change their views if persuaded that they should.”
Localism Act 2011

“a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision
JUST BECAUSE

– The decision maker had previously done anything that directly or indirectly indicated what view the decision maker took or would or might take in relation to a matter
AND

– The matter was relevant to the decision”

STILL CANNOT HAVE CLOSED MIND ABOUT DECISION ITSELF BUT OK TO HAVE A VIEW ON A MATTER WHICH IS RELEVANT TO THE DECISION
Bias

• “an attitude of mind which prevents the judge from making an objective determination of the issues that he has to resolve”  
  In re Medicaments (No.2)(2001)

• “Whether a fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased”  Porter v Maghill
Complaints

District Council’s Standards Committee deals with member conduct issues
- 8 elected members
- Reflects political balance

Plus
- One co-opted independent person
- Two co-opted parish representatives

Complaints made to District Council’s Monitoring Officer. Monitoring Officer decides, in consultation with Independent Person, if complaint should be investigated.
May seek views of Town/Parish Council prior to decision or investigation.
Emphasis of procedure is on local resolution.
Investigations

- Monitoring Officer will appoint Investigating Officer.
- Draft report to all relevant parties for comment.
- Final report to Monitoring Officer.
- If no breach, Monitoring Officer can close matter (may consult Independent Person).
- If breach, Monitoring Officer may seek local resolution or refer to hearing panel.
- Independent Person’s views sought before hearing panel makes decision.

District Council can only make recommendations on sanctions to Parish Council.

- No right of appeal by complainant or member (other than judicial review)
Sanctions

- Limited range of sanctions.
- No statutory sanctions.
- Power of self regulation.

- Naming and shaming
  - Report to Full Council.
  - Remove from outside appointments.
  - Recommend Group Leader to remove from Committees.
  - Withdraw facilities.
  - Bar from the offices and put on simple point of contact.
Reference Materials

- Parish Council Toolkit – available on NSDC website.
- Society of Local Council Clerks.
- National Association of Local Councils.
1. The Council is considering a planning application for a new public house on land next to:
   a) Your own property;
   b) The house that your son owns and lives in
   What interest if any should you declare?
2. If someone has undertaken work for your personally could you recommend them to the Council for a contract?
3. The Council is considering letting a 3 year grounds maintenance contract for the cemetery, one of the tenderers is a local company that employs your wife’s brother, do you have a Disclosable Pecuniary Interest? How would your answer differ if the company employed your wife/husband?
4. You are a member of the local Welfare Club and the Council receives a grant application for:
   a) Funds to renovate its function room;
   b) Funds to provide Christmas lights in the village
Do you have an interest? Does your view differ between the scenarios (a) and (b)?

5. If a relative ran a gardening business in the parish/town would you be permitted to recommend them to undertake work for the Council?

6. A decision to let a piece of land under licence for a year to a local political group in order for it to store its publicity caravan on is to be considered and you are a member of that local political group – do you have an interest/conflict?
7. A decision to let, under a rental agreement, the village hall to the village hall committee is to be considered and you and 2 other councillors are on that VH committee as the Council’s representative – do you have an interest you should declare?

8. There is a planning proposal for a development close to the parish/town council’s area that would increase traffic in the village/town, e.g. a distribution centre. A very active local pressure group has been formed in order to oppose the development. You are a leading member of this group in fact you are its chairman.

Do you need to declare an interest when the Council is considering the planning application?

Are you otherwise conflicted, what are the issues you need to consider concerning your position?
9. If the Council was consulted on the establishment of a bus stop at the end of your son-in-law’s road. The bus stop would be beneficial for your son-in-law (as it would for many residents in the vicinity) but the residents in the properties adjacent to where the bus stop is to be sited do not want it.

What if any, interest would you declare?