

# 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)<sup>1</sup> There must always be an officer to undertake the work of the RFO

#### 2.1. Key Statutory Obligations

- Obligations under the Accounting and Audit regulations<sup>2</sup> including signing the annual accounts<sup>3</sup> and ensuring the council meet proper practices<sup>4</sup>.
- 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 Officer<sup>5</sup>

#### 3.1. Key statutory obligations

- To sign and serve on councillors a summons with an agenda to attend council meetings<sup>6</sup>
- To convene a meeting of the council if a casual vacancy in the office of the Chair occurs<sup>7</sup> (*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 area<sup>8</sup>
- To receive and retain documents or notices<sup>9</sup>
- 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.<sup>10</sup>
- 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 agendas<sup>11</sup> and deciding which motions will be included.<sup>12</sup>
- 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 short<sup>13</sup>. The Clerk's contract of employment includes a schedule of duties which avoids misunderstanding as some councillors consider the only duty is minute taking!<sup>14</sup>

<sup>1</sup> Local Government Act 1972, s.151

<sup>2</sup> Accounts and Audit (England) Regulations 2011/817

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

<sup>4</sup> NALC Joint Panel on Accountability and Governance, Practitioners Guide

<sup>5</sup> Local Government Act 1972, s.270

<sup>6</sup> Local Government Act 1972, schedule 12, paragraph 10(2)(b)

<sup>7</sup> Local Government Act 1972, s.88

<sup>8</sup> Local Government Act 1972, s.236(9)

<sup>9</sup> Local Government Act 1972, s.225

<sup>10</sup> Health and Safety at Work Act 1974

<sup>11</sup> WMPC Standing Orders 9

<sup>12</sup> WMPC Standing Orders 9 f

<sup>13</sup> Local Council Administration, Arnold Baker, 9.16

<sup>14</sup> 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 precept<sup>15</sup>
- Borrowing money<sup>16</sup>
- Approving the council's annual accounts<sup>17</sup>
- Considering an auditor's report made in the public interest<sup>18</sup>
- Confirming (by resolution) that it has satisfied the statutory criteria to exercise the power of general competence (England only)<sup>19</sup>
- Adopting or revising the council's code of conduct<sup>20</sup>

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-committees<sup>21</sup>. 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 council<sup>22</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>23</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>24</sup>.
- It is recommended that the standing orders<sup>25</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>26</sup>

### 3.5. Restrictions on councillor activities<sup>27</sup>

- 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.

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<sup>15</sup> Local Government Act 1972, s.101(6)

<sup>16</sup> Local Government Act 2003, schedule 1, paragraph 2(4)

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

<sup>18</sup> Audit Commission Act 1998, s.11(8)

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

<sup>20</sup> Localism Act 2011, s.28(13)

<sup>21</sup> Local Government Act 1972, s.101(1)(a)

<sup>22</sup> Local Government Act 1972, s.112 (1)

<sup>23</sup> Local Government Act 1972, s.101(2)

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

<sup>25</sup> Local Government Act 1972, s.106

<sup>26</sup> Local Government Act 1972, s.106

<sup>27</sup> WMPC Standing Orders 25 a)