

# WICKHAM MARKET PARISH COUNCIL ESSENTIALS

## No. 2: Roles, Responsibilities and Duties of the Council and Individuals



### INTRODUCTION

This is intended to be a quick guide to some of the responsibilities and duties of council members and employees. The list is an example only and is not exhaustive. Users should refer to legislation for more information

### THE COUNCIL

#### **Role**

Local councils are the first tier of government and are closest to the community they serve. Their role includes managing facilities for the local community such as sports facilities, children's play areas, cemeteries and allotments. Also commenting on planning applications and developing a neighbourhood plan

#### **Legal Basis**

Elected Parish Councils were first established by the Local Government act in 1894.<sup>1</sup> However, The Local Government Act 1972 now provides the basis for most local council administration. Subsequent legislation such as the Localism Act 2011 has provided additional powers. The Parish Council is a body corporate<sup>2</sup> and must have at least five members. It has a separate legal personality, distinct from its members.<sup>3</sup>

#### **Responsibilities**

Some of the core responsibilities include:

- Raising funds through the Precept<sup>4</sup>, a component of local council tax.
- Financial Management and internal controls.
- Managing financial transactions and accounting records.
- Managing the council's data in accordance with GDPR.
- Ensuring that the Council has adequate insurance.
- Adopting Standing Orders giving more detail on governance.
- Managing Freedom of Information requests (which may be delegated to the Clerk).

#### **Duties**

A Council has a number of duties including:

1. Adopt a code of conduct<sup>5</sup> which governs the conduct and declarable interests of Councillors
2. Appoint an Internal Auditor<sup>6</sup> who will review the adequacy of systems and controls based on legislation<sup>7</sup> and best practice<sup>8</sup>
3. Maintain a Freedom of Information publication scheme<sup>9</sup>

### THE CLERK

#### **Role**

The Clerk is the chief administrator for the council whose role includes advising councillors on legal matters, managing documentation, records, correspondence, meeting agendas and taking minutes

#### **Legal Basis**

The Clerk is the Proper Officer of the council<sup>10</sup>, responsible for the internal administration of a council

#### **Responsibilities**

The Clerk is responsible for providing advice to the council to facilitate its lawful operation in addition to administration support including:

- Managing the council's correspondence.
- Updating or managing the content on the council's website.
- Issuing public notices for meetings.
- Managing council records.
- Drawing up agendas and taking minutes of meetings.
- Assisting with requests under the freedom of information act 2000 and the data protection act 1998.

#### **Duties**

The Clerk, as Proper Officer, has a number of duties, two of which are:

1. Serve on Councillors a signed summons and agenda to attend meetings<sup>11</sup>
2. Retain documents or notices<sup>12</sup>

<sup>1</sup> Local Government Act 1894, Chapter 73, 56 & 57

<sup>2</sup> Local Government Act 1972 s14

<sup>3</sup> Interpretation Act 1978, Sch 1: "Person" includes a body of persons corporate or unincorporate. [1889]

<sup>4</sup> Local Government Finance Act 1992, s.41

<sup>5</sup> Localism Act 2011

<sup>6</sup> Audit Commission Act 1998, s.2 and schedule 2 and Accounts and Audit (England) Regulations 2011/817

<sup>7</sup> The Accounts & Audit Regulations 2015 15(15)

<sup>8</sup> Joint Panel on Accountability and Governance (JPAG) Practitioners Guide

<sup>9</sup> Freedom of Information Act 2000 s19 (1)

<sup>10</sup> Local Government Act 1972, s.270

<sup>11</sup> Local Government Act 1972, schedule 12, paragraph 10(2)(b)

<sup>12</sup> Local Government Act 1972, s.225

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### A COUNCILLOR

<b>Role</b>	A councillor's role is to represent the community. While councillors are volunteers, they are holders of public office and are subject to the Code of Conduct based on the Nolan Principles <sup>13</sup> . A councillor will usually hold office for 4 years, or until the next election
<b>Legal Basis</b>	Parish Councillors are elected by the local government electors <sup>14</sup> The number of elected parish councillors for each parish council shall not be less than five <sup>15</sup>
<b>Responsibilities</b>	Councillors have a wide variety of responsibilities including <ul style="list-style-type: none"><li>• Developing strategies for the area such as Neighbourhood Plans</li><li>• Managing issues such as speeding</li><li>• Talking to the community about their needs and what the council is doing.</li><li>• Attending council meetings.</li><li>• Act in accordance with the Code of Conduct</li><li>• Working with other Councillors and officers on projects</li><li>• Representing the council on outside organisations</li></ul>
<b>Duties</b>	Once elected or co-opted, councillors must: <ol style="list-style-type: none"><li>1. Sign the Declaration of Acceptance of office in the presence of a member or the Proper Officer<sup>16</sup></li><li>2. Record their interests on the Register of Interests within 28 days of taking office<sup>17</sup></li></ol>

### THE CHAIRPERSON

<b>Role</b>	In addition to the role of a Councillor, the Chair is elected from serving councillors annually and runs meetings in a way that all members can contribute.
<b>Legal Basis</b>	A Council is not lawfully constituted without a chair <sup>18</sup>
<b>Responsibilities</b>	The Chair is responsible for ensuring meetings are conducted lawfully. When the council votes on a motion the chair has a second "casting" vote which can be used in the event that there are equal votes. The Chair is also responsible for controlling debate at meetings and keeping order to enable the meeting to get through the business on the agenda. This includes controlling disorderly conduct from both Councillors and any members of the public.
<b>Duties</b>	The Chair has several duties, two of which are: <ol style="list-style-type: none"><li>1. Sign a Declaration of Acceptance of Office at the annual meeting when elected<sup>19</sup></li><li>2. If the chair is present, they must preside over the meeting and sign the minutes<sup>20</sup></li></ol>

### THE RESPONSIBLE FINANCE OFFICER

<b>Role</b>	The Responsible Finance Officer's role is to manage all aspects of finance on behalf of the Council
<b>Legal Basis</b>	A Council must appoint a Responsible Finance Officer <sup>21</sup>
<b>Responsibilities</b>	Responsibilities include: <ul style="list-style-type: none"><li>• Managing financial records and activity in accordance with the current Practitioners Guide<sup>22</sup></li><li>• Preparing an annual budget for approval by the Council together with an appropriate precept request</li><li>• Preparing documentation for review by auditors</li></ul>
<b>Duties</b>	<ul style="list-style-type: none"><li>• Establishing a sound system of internal control<sup>23</sup></li><li>• Signing and approval of the statement of accounts<sup>24</sup></li></ul>

<sup>13</sup> The First Report of the Committee on Standards in Public Life, P14: The Seven Principles of Public Life

<sup>14</sup> Local Government Act 1972, s.16(2)

<sup>15</sup> Local Government Act 1972, s.16(1)

<sup>16</sup> Local Government Act 1972, s.83(4) and The Local Elections (Declaration of Acceptance of Office) Order 2012 (No 1465)

<sup>17</sup> Local Government Act 2000, s.81 also referring to the authority's Code of Conduct

<sup>18</sup> Local Government Act 1972, s.14(1)

<sup>19</sup> Local Government Act 1972, s.83(4) and The Local Elections (Declaration of Acceptance of Office) Order 2012 (No 1465)

<sup>20</sup> Local Government Act 1972, Sch 12, para 41

<sup>21</sup> Local Government Act 1972, s.151

<sup>22</sup> Joint Panel on Accountability and Governance, Practitioners' Guide

<sup>23</sup> The Accounts and Audit Regulations 2003, s.4 (1)

<sup>24</sup> The Accounts and Audit Regulations 2003, s.10 (2)