

# WICKHAM MARKET PARISH COUNCIL ESSENTIALS

## No. 7: Committees and Working Groups



### 1. Introduction

1.1. This document is intended to describe the principal organisational considerations for delegation by the Council to Committees or officers. The information is tailored to Wickham Market Parish Council activities and structure. There is more information within the legislation which currently would not apply to Wickham Market so this has been omitted.

1.2. Information specific to Wickham Market Parish Council can be found in Standing Orders 7.

### 2. A council has the power to delegate to a committee or to an officer<sup>1</sup>. Some statutory responsibilities cannot be delegated including:

- 2.1. Approving accounts.<sup>2</sup>
- 2.2. Precept Levy.<sup>3</sup>
- 2.3. Considering audit report.<sup>4</sup>
- 2.4. Adopting code of conduct.<sup>5</sup>
- 2.5. Resolving General Power of Competence.<sup>6</sup>

### 3. Committees with Delegated Power<sup>7</sup> (Standing Committees)

- 3.1. Must be formally established by a minuted resolution of the full council, together with Terms of Reference. The council standing orders<sup>8</sup> regulate committees' membership, responsibilities and meetings including quorum, agendas and minutes.<sup>9</sup>
- 3.2. While notice of meetings should be three clear days<sup>10</sup>, committees may be convened at shorter notice<sup>11</sup>
- 3.3. The members of a committee may include non-councillors unless it is a committee which regulates and controls the finances of the Council.<sup>12</sup>
- 3.4. The Council may appoint substitute committee members if regular members are unable to attend.<sup>13</sup>
- 3.5. Members of committees who are not Parish Councillors do not have voting rights<sup>14</sup> unless the committee is established for the following purposes:<sup>15</sup>
  - 3.5.1. The management of land owned or occupied by the council<sup>16</sup>
  - 3.5.2. Any function under section 144 of the 1972 Act(2) relating to the promotion of tourism<sup>17</sup>
- 3.6. If the committee's Terms of Reference are broader than items 3.2.1 and 3.2.2 above, The Chair must therefore be a member of the Parish Council because this position holds a casting vote.<sup>18</sup>
- 3.7. Parish Councillors who are not appointed members of the committee may attend under the same terms as public participation.<sup>19</sup>

<sup>1</sup> Local Government Act 1972 s101 (1) (a)

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

<sup>3</sup> Local Government Act 1972 s101 (6)

<sup>4</sup> Audit Commission Act 1998, s.11(8)

<sup>5</sup> Localism Act 2011, s.28(13)

<sup>6</sup> Parish Councils (General Power of Competence) (Prescribed conditions) Order 2012/965

<sup>7</sup> Local Government Act 1972 s101 (1)

<sup>8</sup> WMPC Standing Order 4

<sup>9</sup> Local Government Act 1972, s.106 and schedule 12, paragraph 42

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

<sup>11</sup> Public Bodies (Admission to Meetings) Act 1960, s.1(4)(a) applied by Local Government Act 1972, s.100(2)

<sup>12</sup> WMPC Standing Orders 4 b

<sup>13</sup> WMPC Standing Orders 4 d v.

<sup>14</sup> Local Government and Housing Act 1989, s13 (1)

<sup>15</sup> The Parish and Community Councils (Committees) Regulations 1990 s3 (1)

<sup>16</sup> The Parish and Community Councils (Committees) Regulations 1990 s3 (1) (a)

<sup>17</sup> The Parish and Community Councils (Committees) Regulations 1990 s3 (1) (c)

<sup>18</sup> Local Government Act 1972, schedule 12, paragraph 39(2)

<sup>19</sup> Local Government Act 1972, schedule 12, paragraph 42 and s.106

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- 3.8. The Chair and Vice Chair of Wickham Market Parish Council are appointed as ex-officio members of the committee.<sup>20</sup>
- 3.9. Benefits of Standing Committees:
  - 3.9.1. Can make decisions on behalf of the council thus improving efficiency.<sup>21</sup>
  - 3.9.2. Not all councillors are required to be present.
- 3.10. Disadvantages of Standing Committees:
  - 3.10.1. The council is still responsible for the decisions of the committee.<sup>22</sup>
  - 3.10.2. The council may carry out the work itself<sup>23</sup> but that undermines the committee.
  - 3.10.3. Creates further administrative burden on officers.

### 4. Advisory Committees<sup>24</sup>

- 4.1. Must be formally established by a minuted resolution of the full council, together with Terms of Reference. The council standing orders<sup>25</sup> regulate committees' membership, responsibilities and meetings including quorum, agendas and minutes.<sup>26</sup>
- 4.2. May appoint its own Chair<sup>27</sup>
- 4.3. Have no delegated power. Established to focus on elements of business and provide advice.<sup>28</sup>
- 4.4. Benefits:
  - 4.4.1. Bring together subject specialists.
  - 4.4.2. Prepares reports and makes recommendations.
  - 4.4.3. Can be comprised entirely of non-councillors.<sup>29</sup>
  - 4.4.4. No statutory right of public attendance.<sup>30</sup>
- 4.5. Disadvantages
  - 4.5.1. There may be insufficient councillors to make a committee structure work.
  - 4.5.2. Do not have the power to make decisions on behalf of the council.

### 5. Working Groups

- 5.1. The least formal group with no delegated authority. Usually set up to run a short-term project.
- 5.2. No statutory rights of public attendance, reporting, notice of meetings or minutes.
- 5.3. No minimum quorum.
- 5.4. No restrictions on meeting location
- 5.5. Cannot act on behalf of the council.

### 6. Delegation to the Clerk<sup>31</sup>

- 6.1. The council can delegate functions that it has the power to perform to the Clerk. Delegation must be by resolution of council or committee and be clearly recorded in the minutes. Such functions are not just the delegated authority approved annually in the financial regulations. For Wickham Market they include responsibility for staff management, operating the market, managing the allotments, certain pre-defined planning responses and certain predefined payments. Following good practice, delegation is reviewed and resolved annually.

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<sup>20</sup> WMPC Standing Orders 4 d xiii

<sup>21</sup> Local Government Act 1972 s101 (2)

<sup>22</sup> Local Government Act 1972 s101 (4)

<sup>23</sup> Local Government Act 1972 s101 (4)

<sup>24</sup> Local Government Act 1972 s102 (4)

<sup>25</sup> WMPC Standing Order 4

<sup>26</sup> Local Government Act 1972, s.106 and schedule 12, paragraph 42

<sup>27</sup> WMPC Standing Orders 4 d vii

<sup>28</sup> Local Government Act 1972, s102 (4)

<sup>29</sup> Local Government Act 1972, s.102(4)(a)

<sup>30</sup> Public Bodies (Admission to Meetings) Act 1960, s.1(1) and Local Government Act 1972, s.100(2)

<sup>31</sup> Local Government Act 1972 s101 (1) (a)