

THE PARISH CLERK

The Clerk is employed by the council, under section 112 (1) of the Local Government Act 1972, to provide administrative support for the council's activities. Any other staff, although employed by the council, answer to the clerk who is their manager and is responsible for their performance.

The clerk's primary responsibility is to advise the council on whether its decisions are lawful and to recommend ways in which decisions can be implemented. To help with this, the Clerk can be asked to research topics of concern to the council and provide unbiased information to help the council to make appropriate choices.

The clerk has a wide range of other responsibilities which are set out in his/her job description. The clerk must recognise that the council is responsible for all decisions and that he/she takes instructions from the council as a body.

The clerk is not answerable to any individual councillor – not even the Chairman

The Council must be confident that the clerk is, at all times, independent, objective and professional.

'Proper officer' is a title used in statute. It refers to the appropriate officer for the relevant function. In town and parish councils, the proper officer is normally the clerk. In financial matters, the proper officer is known as the Responsible Financial Officer.

Roles and Responsibilities of the Clerk

The parish council Clerk is the 'engine' of an effective parish council. He or she is its principal executive and adviser and is often also the officer responsible for the administration of its financial affairs. The Clerk is sometimes a council's only employee.

The Clerk is required to give clear guidance to Councillors, including the Chair, before decisions are reached, even when that guidance may be unpalatable. The Clerk has a key role in advising the council, and Councillors, on governance, ethical and procedural matters. They must also liaise with the Monitoring Officer at the district/unitary council on ethical issues and the Councillors' Register of Interests.

Some larger councils employ a range of administration and support staff and the Clerk is responsible for advising the council on staffing provision and managing the recruitment process.

The Clerk to the Council will be the Proper Officer of the Council and as such is under a statutory duty to carry out all the functions, and in particular to serve or issue all the notifications required by law of a local authority's Proper Officer. The Clerk will be totally responsible for ensuring that the instructions of the Council in connection with its function as a Local Authority are carried out. The Clerk is expected to advise the Council on, and assist in the formation of, overall policies to be followed in respect of the Authority's activities and in particular to produce all the information required for making effective decisions and to implement constructively all decisions. They will be accountable to the Council for the effective management of all its resources. The Clerk may also be the Responsible Financial Officer and responsible for all financial records of the Council and the careful administration of its finances.

The post of the Clerk should be seen as analogous to that of the Chief Executive in a County or District Council. A local authority operation consists of policy-making and decisions, and administration. The Chief Executive is head of the administration and therefore responsible for all the work that is carried out within that function. Clearly there are differences in scale; however, the Clerk is also solely responsible for the administration of that Council and, taking into account that he/she is often the sole employee at Officer level, has within his/her sphere

a more immediate and arguably much wider responsibility in relation to the organisation than his/her counterpart at County or District Council level

It is the duty of the Clerk as the Proper Officer to assist Members of the Council on matters of fact and law. Councillors (even where it is contrary to their personal wishes or expectations) should take fully into account the advice and guidance given by the Clerk on the existence and applicability of the relevant facts or the law. Councillors should then seek means to make their policy decisions taking into account such guidance. Councillors should also accept as a fact that it is the duty of the Clerk to minute any situation in which the advice given has not been heeded.

THE CHAIRPERSON:

- Holds a statutory post defined in law
- Is a member of the Council and is elected annually
- Has the authority at meetings and must be obeyed when issuing lawful direction or direction in line with Standing Orders.
- Is the interface between the public and Council
- The one to welcome speakers and make them 'feel at home'
- Is to make sure the decision is clear for the clerk to act upon.

The Chairperson should:

- Know that the agenda was put up in time and be familiar with business to be covered
- Arrive in good time, adequately briefed and with all the necessary papers in correct order.
- Ensure the meeting is quorate
- Start the meeting on time by declaring it open and end it by clearly stating it closed and the time it ended.
- Know that he/she has no more statutory power than any other Councillor except that of the casting vote.
- Ensure that all points of view have a clear hearing
- Keep the discussion to the point, and that it is relevant and ensure the Council deals with clear issues
- Ensure the Council/committee acts only within its terms of reference and/or legal powers and functions
- Ensure compliance with standing orders, financial regulations, Council policies, etc.
- To ensure that where and when appropriate and allowable the Council takes a vote to exclude the public and press from Council meetings.
- Understand the principles of debate and voting (see Standing Orders and Good Councillor Guide)
- Remain impartial and not 'guide' Councillors to his/her desired decision.
- Ideally not allow the meeting to continue for more than 2 hours without a break (depending on Standing Orders).
- Create an atmosphere which encourages participation
- Be in control of the meeting.
- Know that he/she cannot be a committee of one
- Respect and understand the role of the clerk/RFO and other officers, and ensure that employment issues (e.g. performance, disciplinary matters) are only raised in Council meetings when appropriate and in line with Council policy and employment law.
- Co-operate with officers and Councillors
- Act as a representative of the Council at civic or local events

The Chairman on his own has no power to make decisions without the Resolution of the Council.

The Chairman cannot decide which items should appear on the agenda for meetings.

The Clerk is responsible for the agenda, apart from Extraordinary Meetings. Normal practice would be for the Clerk to consult with the Chairman when drawing up the agenda to ensure that appropriate and necessary items are added.

The Chairman should not involve himself in the day-to-day administration of the Council, but can be a point of reference for officers if agreed by Council.

Handling Public Disturbances at a meeting:

No one is entitled to interrupt or obstruct the proceedings of the Council or its committees. The Chairman should never argue or allow argument with an interrupter. If the public becomes disorderly it may eventually be necessary to close the meeting or the adjourn to a more private place. It is, however illegal to decide to exclude the public from any future meeting. The press is in a privileged position inasmuch as its representatives must so far as possible be given facilities for taking their reports.

THE PARISH COUNCIL AND ITS COUNCILLORS

Parish Councillors are elected by the electors of the parish, under section 16 (2) of the Local Government Act 1972, every four years. A councillor may also be returned by bye-election, co-option, appointment by the district council or by return after a successful election petition. All Councillors are required to complete a declaration of Acceptance of Office and to provide a written undertaking that they accept the Council's Code of Conduct.

Individual councillors work together to serve the community and to help the Council to make decisions on behalf of the local community. Councillors contribute to the work of the council by suggesting ideas, engaging in constructive debate and by responding to the needs and views of the community representing their constituents. Councillors comment on proposals to ensure the best outcome and vote to enable the council to make decisions. Councillors must accept the decisions of the Council as a whole even if they do not agree with it. In such circumstances a Councillor may ask for a vote against a resolution to be recorded. Councillors are required to behave in an ethical way and to declare an interest when necessary.

The Chairman is elected by the members of the Council at the Annual Council meeting and serves for twelve months under Section 15 (1) of the Local Government Act 1972. The Chairman's main role is to run council meetings.

The Chairman is responsible for ensuring that effective and lawful decisions are taken at meetings of the council and, assisted by the clerk, guides activities by managing the meetings of the council. The Chairman is responsible for involving all councillors in discussion and ensuring that councillors keep to the point. The Chairman summarises the debate and facilitates the making of clear resolutions and is responsible for keeping discussions moving so that the meeting is not too long. The Chairman has a casting vote. His/her first vote is a personal vote as a member of the council. If there is a tied vote, the Chairman can have a second, casting vote.

The Chairman will often be the public face of the council and will represent the council at official events. He/she may be asked to speak on behalf of the council in such circumstances should only express the agreed views of the council and not his/her personal views. The Chairman cannot legally make a decision on behalf of the council.

The Local Government Act of 1894 created civil parish councils effectively excluding the church from local government. Local government was further reformed in 1974 following the Local Government Act of 1972 with the result that parish councils had more freedom to operate without consents from central government. A parish council is a body corporate under section 14 (3) of the Local Government Act 1972, which means that it is an 'it' in law and that the decisions it takes are the responsibility of the council as a whole.

The council represents and serves the whole community. The council is responsible for the services it provides. It establishes policies for action and decides how money will be raised and spent on behalf of the community. It is responsible for spending public money lawfully and achieving the best value for money. Except in certain circumstances (Public Bodies (Admission to Meetings) Act 1960) council meetings are open to the public. The council as a body decides whether to work in partnership with other organisations and it often serves (through representatives) on other bodies. An individual councillor (including the Chairman) cannot make a decision on behalf of the council so when working in partnership, councillors

must always remember that they represent the council as a corporate body.