

# WARMINGTON PARISH COUNCIL



www.warmington.org

This information is a guide, a handbook in essence, for elected and co-opted members of Warmington Parish Council (councillors) and, in parts, for people co-opted to committees, including those without voting rights.

It summarises the responsibilities and roles of the council, its officers, chairman and members, with extracts from a number of different sources, each referenced by a [hyperlink](#), representing different points of view of how local councils work. All of them reach the same conclusion, as it is legal fact.

There are also links to papers which underpin the workings of the parish council and are in effect the council's constitution.

Best Practice within the local council sector recognises that when clerks and councillors work together, each understanding the role of other, the council and the community benefits. A council is formed of a chairman, a clerk (or proper officer) and councillors. The chairman and the councillors, taking account of advice of the clerk, make decisions, and the clerk enacts those decisions. Aside from a meeting, councillors have no authority to issue instruction to the clerk, outside contractors or third parties. The council can delegate decision making to committees, within a predetermined budget, but not to an individual, other than the clerk.

- [Code of Conduct and Internet Policy](#)
- [CiLCA definitions of roles](#)
  - [The Clerk](#). [The Clerk's role can be subdivided into three areas of following duties and responsibilities](#)
  - [Councillors as Individuals](#): A councillor has several [duties and responsibilities](#)
  - [Chairman](#): The main role of the chairman is to chair meetings. The chairman's [role is detailed here](#)
  - [The Council as a whole](#): The council is a corporate body with a legal existence of its own quite separate from that of its members. [Its powers are defined by statute](#).
- [NCALC clarification of roles](#) - When members of the council are not in a properly convened meeting, they are not acting on behalf of the council as councillors
- [Good Councillor Guide Excerpts](#)
- [Governance Toolkit](#)
- [Job description for clerks](#)

Readers should also familiarise themselves with:

- Warmington Parish Council [Standing Orders](#)
- Warmington Parish Council [Financial regulations](#)
- [Good Councillors Guide](#)
- [Open and accountable local government](#) (recording and reporting of meetings etc)
- NALC Legal topic notes:
  - 2 – [Chairman of local councils](#)
  - 5 – [Parish council meetings](#)
  - 30 – [Defamation](#)
  - 80 – [Members code of conduct](#)
  - 81 - [Predetermination](#)

Use to come back to this page

## The Clerk

An employee of the Council, the Clerk is responsible for carrying out any lawful actions as instructed by a properly convened meeting of the Council. The Clerk's role can be subdivided into three with the following duties and responsibilities: -

### General Administrative

- Guide and advise the council on matters of law and procedure and implement policy.
- Prepare and distribute notices, agendas and minutes as directed by the council, their Standing Orders and the law.
- Manage and maintain the resources and documentation of the council.
- Maintain financial records if agreed by the council. The clerk may have delegated powers to raise cheques for small amounts of money where appropriate.
- Act as a point of contact for electors.
- Oversee any other person employed by the council.

### Proper Officer

- Act on behalf of the Returning Officer at District Council.
- Preside at any co-option by ballot of the council if no poll has been called to fill a casual vacancy.
- Sign the summonses to attend Parish Council meetings.

### Responsible Financial Officer

- Maintain accounts and records and prepare year end accounts.
- Ensure the council appoint an independent internal auditor.
- Ensure the year end statement is signed by all parties and submitted to the external auditor.
- Supply councillors with regular budgetary control statements.
- Set a budget justifying the request for precept.
- Submit the precept request to District Council.
- Ensure that Pay, Tax and NI is correctly paid.
- Prepare a risk assessment policy which is adopted by the council and regularly monitored.
- Organise the council's insurance.



## Councillors as Individuals

A councillor has the following duties and responsibilities:-

- Is elected for a 4 year term of office. S/he is a member of the council and signs a declaration of office and an undertaking to observe the code of conduct
- Duty to attend and take part in meetings of the council. Councillors should give written apologies with valid reasons. Failure to attend throughout 6 consecutive months will result in the councillor automatically ceasing to be a member of the council.
- Vote at meetings
- Declare any personal or pecuniary interests as they arise and take the appropriate action. In the case of a pecuniary interest this would involve leaving the meeting for that particular agenda item.
- Councillors can ask the clerk to add items to the agenda. They cannot make decisions on their own.
- Must act in accordance with the Nolan principles of Standards in Public life.

## Chairman

The Chairman is elected at the Annual meeting for a 1 year period. S/he is a member of the council and signs a declaration of office and an undertaking to observe the code of conduct. The Chairman:-

- May convene a meeting of the council. Presides over the meetings. The Chair has no individual power to make decisions but must ensure that all decisions are clear and understood for the Clerk to act upon. He must remain in control of the meetings at all times, keep discussion to the point and try to remain impartial.
- Has a second or casting vote where voting at a meeting is equal.
- Signs the minutes of the meetings when approved by the council
- Signs the Annual return when approved by the council

- Is the public face of the council.

### The Council as a whole

The council is a corporate body with a legal existence of its own quite separate from that of its members. It has powers expressly conferred upon it by statute and must act within these powers. It must also act in a reasonable manner and in accordance with the “Nolan principles”. The role of the Council is one of representation, consultation and the delivery of services. Within this role the council:-

- Is accountable to the electorate.
- Convenes the minimum number of meetings required by law – 3 plus AGM.
- Makes decisions.
- Sets and monitors budgets, precepts, risk assessment policies and standing orders.
- Maintains and preserves all assets belonging to the Council.
- Ensures compliance with Acts of Parliament.
- Can delegate powers to the Proper Officer.
- Can delegate functions to a committee apart from setting budgets, approving annual statement and precepts.
- Non-elected / co-opted members of a committee are beholden by the council’s Code of Conduct and in the case of co-opted members with voting rights, must submit a Register of Interest to the monitoring officer.



ENDS...../(CiLCA definitions of roles)

### **NCALC UPDATE excerpt – September 2017**

**When members of the council are not in a properly convened meeting, they are not acting on behalf of the council as councillors.....**

Staff resources, which for most councils means the contracted hours of the clerk, are not in limitless supply and even where a forward-looking council is prepared to increase the hours it has to be mindful of escalating staff costs. One potential solution is to consider the use of volunteers.

Before exploring further though, let's get one thing absolutely clear. Councillors are not volunteers, they are elected public officials. Yes, councillors normally give their time freely but in all other respects they fall outside the definition of “volunteer” because of their statutory functions and responsibilities. One wouldn't refer to a Member of Parliament as a volunteer, and it's the same thing for parish and town councillors, albeit that in most cases parish and town councillors do not receive allowances, even though they are able to do so under the Local Authorities (Members 'Allowances) (England) Regulations 2003.

**A grey area is created when a councillor carries out some action or other on behalf of the council, which looks like he is doing it as a councillor but actually he has taken off his hat that says “Councillor” and put on another that says “Council Volunteer”.** For example, let's imagine that the council has a Twitter account and one of the councillors looks after it. In that role he is effectively acting as a volunteer, not a councillor. In other words, the job of running a Twitter account is a job of management (staff) not of governance (elected members). If everyone concerned understands the distinction then all will be well, but trouble lies ahead if it is not clear and, ideally written down.

Councils can identify all sorts of volunteer opportunities. For example:



- Internal roles such as Communications Officer, Webmaster, Newsletter Editor etc.
- Community-based volunteer roles such as Parish Special Constable or Good Neighbour Scheme Co-ordinator etc.
- Roles connected with the discharge of council functions, such as grounds maintenance operative, caretaker, bin-emptier, handyman, allotment manager etc.
- Any volunteers that work for the council should report to an officer of the council, which in most cases means the clerk. \**Third parties cannot report to a member of the council.*

ENDS...../(NCALC Excerpt)





## Councils

Your chairman has the role of team leader for council meetings (see Part Three) while your clerk is also a vital team member. The clerk provides advice and administrative support and takes action to implement council decisions. The clerk may have to act as a project manager, personnel director, public relations officer or finance administrator.

**The clerk is not a secretary and is not at the beck and call of the chairman or other councillors; the clerk is answerable only to the council as a whole.**

The clerk is the proper officer of the council in law. Legally councils can delegate decisions to clerks because they are trusted professional officers whose objectivity allows them to act for the council.

## Meetings

At least three clear days before each council, committee or sub-committee meeting, you should be sent a summons and agenda. The three clear days is established in law because it is important to be notified of issues to be discussed. Topics requiring a decision cannot be added to the agenda after the deadline has passed; they must wait for another meeting.

Each agenda item should make it very clear what you as a councillor are expected to do and be precise about the subject under discussion. For example, an agenda item saying “footpaths” gives you no idea what to expect. It is more helpful to know that your task at the meeting is “To receive a report from Cllr Gorie on the condition of footpaths in the parish and to agree action in response to proposals for repairs (copy of report attached).”

***It is actually unlawful to make a decision, especially a decision to spend money, without sufficient (three clear days) warning. Vague agenda items that don't specify exact business (such as Matters Arising, and Any Other Business) are dangerous and should be avoided, because the council cannot make unexpected decisions***

Putting the agenda together is the clerk's responsibility. The clerk must sign the agenda and can decide how it will be set out. This process is often undertaken in consultation with the chairman. You may ask the clerk to add items to the agenda if you feel a relevant subject should be discussed.

The chairman is in charge during council meetings; this is an office created by legislation commanding respect. Remember, the chairman is elected at the Annual Meeting of the Council for one year. Chairmen have a duty to ensure that council meetings run smoothly, that all business is properly considered and all councillors who wish to speak can do so. It is good practice for the chairman to refer to the clerk for advice.

**The chairman has few special powers. *For instance, it is unlawful for a council to delegate decision making to any individual councillor and the chairman is no different.***

However, when a vote is tied, the chairman may use a second, or casting vote.

ENDS...../(GCG Excerpt)

**Governance Toolkit** (Association of Council Secretaries & Solicitor/SLCC/NALC /Standards Board)



## Introduction - Roles and Responsibilities

The parish council Clerk is the ‘engine’ of an effective parish council. He or she is its principal executive and adviser and, for the majority of smaller parish councils, is 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 normally responsible for advising the council on staffing provision and managing the recruitment process. In smaller councils the Clerk may also carry out the role of the Finance Officer. However, it is common, especially in larger councils, for a separate Responsible Finance Officer to be appointed and given specific duties relating to the budget, annual accounts and audit to ensure proper financial management and transparency.

The Clerk is an independent and objective servant of the council who takes instructions from the corporate body and must recognise that the council is responsible for all decisions.

In an emergency (e.g. to cover a temporary vacancy) a Councillor may fulfil the role of Clerk to the parish council (this must be unpaid (see below)). However, it is not good practice for Councillors to do this as it confuses Officer/Member roles.

It should be noted that Councillors may not be paid employees of their council (as there is an unacceptable conflict of interest) and may not become employees of their former council until at least 12 months after ceasing to be a Councillor (Sections 112(5) and 116 Local Government Act 1972).



**Parish Councillors** have a dual role:-

- They represent the views and concerns of the residents of the Parish to the Parish Council itself and, through it, to the District, County or Unitary authority;
- They report back to residents on issues affecting the Parish.

The formal part of these roles, especially the first one, is carried out by attending meetings and corresponding with the Parish Clerk. The Parish Council might have committees and even sub-committees. This is more likely to be the case in larger councils. Individual Councillors do not have, and cannot be given, powers to make decisions on behalf of the Parish Council. This applies to the Chairman as much as to the other Councillors, although the Chairman does have personal responsibilities in connection with the running of formal meetings.

The less formal part of listening and talking to people almost certainly will take up more of the councillor's time. However, it is important to remember that "rules of behaviour" apply whenever activities of being a Parish Councillor are being undertaken.

What follows in this Part is a series of advice notes or briefings intended to assist Councillors to avoid pitfalls which can catch the unwary in the carrying out of what might seem the most straightforward of activities. The briefings also will help Parish clerks to advise their Councillors both inside and outside meetings and to induct newly-elected or co-opted Councillors.

## **THE ROLE OF THE CHAIRMAN**

The main rules of Law governing the role of the Chairman of a Parish Council are set out in the Local Government Act 1972, principally within Schedule 12, which sets out, for example: that

- the Chairman must preside at a meeting of the Parish Council if he or she is present; and
- it is the person who presided at the meeting who has the responsibility to sign the minutes as a true record.

It is the duty of the Chairman "to preserve order, and to take care that the proceedings are conducted in a proper manner, and that the sense of the meeting is properly ascertained with regard to any question which is properly before the meeting"

National Dwellings Society v Sykes (1894)

It is the Chairman's responsibility:

- (a) To determine that the meeting is properly constituted and that a quorum is present;
- (b) To inform himself as to the business and objects of the meeting;
- (c) To preserve order in the conduct of those present;
- (d) To confine discussion within the scope of the meeting and reasonable limits to time;

- (e) To decide whether proposed motions and amendments are in order;
- (f) To formulate for discussion and decision questions which have been moved for the consideration of the meeting;
- (g) To decide points of order and other incidental questions which require decision at the time;
- (h) To ascertain the sense of the meeting by:
  - (i) putting relevant questions to the meeting and taking the vote thereon (and if so minded giving a casting vote);
  - (ii) declaring the result; and
  - (iii) causing a ballot to be taken if duly demanded;
- (i) To approve the draft of the minutes or other record of proceedings (with the consent of the meeting);
- (j) To adjourn the meeting when circumstances justify or require that course; and
- (k) To declare the meeting closed when its business has been completed

"Knowles on Local Authority Meetings" (ICSA Publishing)

ENDS...../(Governance Toolkit Excerpt)





## ROLE OF THE CLERK TO THE COUNCIL

Becoming a Clerk to a Parish or Town Council is one of the most rewarding jobs in a local community - a competent Clerk underpins a good Council.

The role of Clerk is to ensure that the Council as a whole conducts its business properly and to provide independent, objective and professional advice and support and being a Clerk puts you in the centre of things.

Parish and Town Councils are part of Local Government in Northamptonshire together with Northamptonshire County Council and the seven District/ Borough councils. (Obviously soon to be superseded by

The County Council is responsible for strategic services such as highways, education, libraries, social services, strategic planning and refuse disposal.

District Councils are responsible for local services including housing, local planning and refuse collection.

The Parish and Town Councils in the County are often viewed as the part of government closest to the people.

They are the only local government tier that represents residents at Parish and Town level.

Importantly Parish and Town Councils can “precept” – raising a council tax each year to improve facilities and services for local people.

Their powers and duties cover many things that we take for granted where we live and can include the provision and maintenance of allotments, burial grounds and public monuments, public clocks, halls, some street lighting, litter bins, car parks, public lavatories, rights of way, roadside verges, bus shelters, swimming pools and village greens.

Parish Councils are consulted on and can comment on planning applications and can be represented at public inquiries. Similarly, they advise the County and District authorities on the views of residents, and especially priorities for local investment.

Most Council meetings are open to the public and are led by the Council's Chairperson and advised by the Clerk to the Council who is there to see that business is conducted within the law.

### What does the Clerk to the Council do?

The enclosed job description lists the duties in detail but the main duties of the job can be summarised as to: -

- ensure that the Council conducts its business lawfully
- administer all the Council's paperwork
- ensure that meeting papers are properly prepared and the public is aware of meeting times
- communicate the Council's decisions
- organise and manage the provision of the Council services
- organise and oversee the implementation of projects
- manage and lead the staff
- communicate and market the Council services and facilities
- keep property register and other legal documents
- keep up to date by training/qualification.

Like everything else in life once you know how to do it then it's a very rewarding role. It is important to understand however that being a Clerk to a Town/Parish Council is a job not a spare time activity! The job is no different from large to small Councils. What is different however is the amount of time needed to deal with the volume of business as most Council meetings are held 'out of hours' so being a Clerk is not just a daytime activity.





## Job Purpose

1. To ensure that the Council's civic and administrative functions and services are performed professionally and in accordance with all relevant statutory obligations.
2. To carry out all the functions required by law of a local authority's Proper Officer in a timely manner and to issue all statutory notifications.
3. To ensure that the Council's Standing Orders and Financial Regulations are correctly observed and implemented.
4. To manage the Council's employees / volunteers effectively and to be the Council's principal adviser on policy matters, be responsible for all aspects of Health and Safety, manage the provision of Council services, buildings, land and resources and to promote the Council.
5. To be responsible for ensuring that the instructions of the Council in connection with its function as a Local Council are carried out and to produce all the information required for making effective decisions and to implement constructively all decisions.
6. To be responsible as the Council's Responsible Financial Officer under S151 of the Local Government Act 1972 for all financial matters and records of the Council.
7. To act as the principal adviser on financial matters and be responsible for the careful administration of the Council's finances.



## Key Duties and Responsibilities

1. To ensure that statutory and other provisions and notices governing or affecting the running of the Council are observed and to advise the Councillors on all meeting procedures and regulations.
2. To be the Council's principal adviser on all policy issues, to keep services and activities under continuous review and to identify, plan and implement improvements in quality, efficiency and effectiveness.
3. To keep up to date with changes in legislation and forthcoming changes and advise the Council accordingly ensuring that all Council policies and procedures meet statutory requirements.
4. To prepare and publish, in consultation with appropriate Members of the Council, agendas for meetings of the Council and Committees in accordance with all statutory requirements and prepare minutes for approval.
5. To ensure that all meetings of the Council and all meetings of its Committees, Sub-Committees and Working Parties are clerked, attending personally other than where such duties have been delegated to another Officer, and to maintain Councillor's attendance records.
6. To receive and conduct all necessary and appropriate correspondence and documents on behalf of the Council as a result of the instructions, or the known policy of, the Council or, when appropriate, bring relevant items to the attention of the Council.
7. To sign, seal and deliver any agreements, contracts, conveyances, licences, consents, approvals etc on behalf of the Council and to secure planning and other consents on behalf of the Council as authorised.
8. To study reports and other data on activities of the Council and on matters bearing on those activities and where appropriate, to discuss such matters with consultants and specialists in particular fields and to produce reports for circulation and discussion by the Council.
9. To monitor the implemented policies of the Council to ensure they are achieving the desired result and where appropriate suggest modifications.
10. To be responsible for the management, maintenance and use of all the Council's properties and facilities, whether through direct management or through contracts, agreements or partnerships with other parties or providers.
11. To act as the official representative of the Council at meetings of other relevant organisations as required.

12. To issue notices and prepare agendas and minutes for the Annual Meeting, attend the Annual Meeting and to implement the decisions made by the Council.
13. To maintain effective and positive press and public relations and prepare, in consultation with key Councillors, press releases about the activities of, or decisions of, the Council.
14. To take appropriate public relations action to enhance the profile and image of the Council and promote and protect the views/interest of the Council with all relevant external organisations or individuals.
15. To develop effective liaison and an effective working partnership with other relevant District and County Councils, other public authorities, statutory and voluntary bodies and other agencies as the Council's representative, to ensure that the Council plays a full and effective role in issues affecting the area.
16. To work to improve, develop and maintain and update the Council's website.
17. ~~To lead the development and publication of the Parish Plan and produce a rolling business plan in liaison as the Responsible Financial Officer.~~
18. To have an understanding of planning and development issues as they affect the Council area, in particular the Local Development Plan, the Local Strategic Partnership and the Emergency Plan and advise Councillors accordingly.
19. To take appropriate action to ensure that all Council elections are arranged and held successfully.
20. To ensure that the Council's obligations for financial risk assessment and insurance are properly met and that **health and safety obligations under the Health and Safety at Work Act and other related legislation are met.**
21. To be the principal adviser to the Council on matters of ceremony, civic protocol, and develop relevant cultural, community and commercial links.
22. To make appropriate arrangements for civic functions and occasions and to support the Council on any ceremonial occasions.
23. To attend training courses or seminars on the work and role of the Clerk and the Council's activities as required by the Council.
24. To work towards the achievement of Quality Status of the Council and obtain the Certificate in Local Council Administration (if not already gained) as a minimum requirement for effectiveness in the role.
25. To continue to acquire the necessary professional knowledge required for the efficient management of the affairs of the Council.
26. To attend the Conference of the National Association of Local Councils, Society of Local Council Clerks, and other relevant bodies, as a representative of the Council as required.
27. To carry out all the functions required by law of a local authority's Responsible Financial Officer and in particular ensure that Financial Regulations are correctly observed, implemented and recommend revisions where necessary.
28. To provide general advice as appropriate including the presentation of budget estimates and precept proposals to Committees and the Council and ensure that all Management Reports are reported to the Council and the statutory External Audit requirements are completed each year.
29. To prepare and publish the Council's Annual Report.
30. To ensure that the Council's finances are effectively managed and monitored and to advise the Council on its financial forward plan, strategy and policies.
31. To advise on and prepare and present the annual estimates of income and expenditure for revenue services, the capital budget programme and annual precept requirements to Committees and the Council.
32. To ensure that all Management Reports are reported to the Council and the statutory external audit requirements are completed each year.
33. To monitor and manage the Council's budget expenditure and income and provide Council Committees with a regular statement of income and expenditure under each heading in the approved annual revenue and capital budgets.
34. To ensure that the Council's obligations for financial risk assessment are properly met.

35. To report on invoices for goods and services to be paid for by the Council and to ensure such accounts are met

36. To ensure that:-

- all necessary activities in connection with the management and payment of salaries and expenses are administered accurately and legally
- all payments made to the Council are recorded, any necessary receipts issued, all cash and cheques received banked and all associated records kept and any queries are investigated
- invoices are prepared and issued on behalf of the Council for goods and services to ensure payment is received
- all necessary records in connection with the above are maintained
- all necessary administration and banking procedures are arranged to ensure that all full and part time staff wages and salaries are paid
- all relevant rents or charges are collected for relevant Council services and facilities
- all necessary Revenue and Customs, VAT and pension financial returns and/or payments are completed and dispatched on time
- records, returns and public notices for the annual audit are prepared and the necessary public notices displayed
- appropriate financial IT systems are in place and operated securely

37. To monitor and ensure that the Council's accounts are balanced and the Council informed of the ongoing financial situation.

38. To ensure that adequate financial security and internal financial and accounting controls are in place and periodically reviewed and the accounting records of the Council are maintained and kept up to date in accordance with proper practices.

39. To work closely with internal and external audit to ensure financial compliance with Financial Regulations and Standing Orders and recommend any necessary amendments to the relevant Committee.

40. To ensure that appropriate and adequate insurances are maintained and an annual equipment inventory is carried out.

41. To advise the Council on and assist in the raising of funds by way of grants and sponsorship etc.

42. To ensure that all surplus Council funds are invested securely and to maximise income.

43. To undertake such other duties commensurate with the level of the post and job purpose as required by the Council from time to time.

