

POWERS AND FUNCTIONS OF PARISH COUNCILS

adopted 2015, reviewed June 2017; **next review June 2019**

General Introduction As noted in: Governance Toolkit for Parish & Town Councils NALC Version three April 2009 www.scambs.gov.uk/.../Parish%20Toolkit%20April%202009.pdf

There are some 8,500 councils at parish level in England. As a tier of local government they are elected bodies, with discretionary powers and rights laid down by Parliament to represent their communities and provide services for them. Policy has centred on the fact that they act as a focus for local opinion, and provide a way to get things done in a way that is best suited to their local community.

All councils are constituted in the same way; councillors are elected by the local government electorate and each council has a Chair, who must be one of the elected councillors. Councils vary in size and capacity; many are small, representing a few hundred people, others represent communities of over 30,000 people with budgets of over £1m and expenditure and staffing levels per head of population similar to a small district council.

A council is a corporate body with perpetual succession and a name. Local councillors are often referred to as “Members” – for example in the Code of Conduct. The number of councillors is fixed by the district (or unitary) council. A parish council’s lawful acts, assets and liabilities are its own and not those of its councillors or any other council.

A council must act within the law. It can only spend, raise or use money if it has a statutory power to do so, otherwise it acts *ultra vires* (beyond its powers). Parish councils have a wide range of powers under different acts of Parliament. Most of these powers are discretionary, i.e. a council *may* do something, rather than it *must* do something.

A parish council has the unfettered right to raise money by precept (a mandatory demand) on the district council. The precept required by a parish council is then collected by the principal council as part of the council tax levied on tax payers in that parish.

Parish councils act as sounding boards for local opinion, though the range of services and amenities provided varies enormously. They often work with local voluntary organisations and other tiers of local government and have an important role in providing and improving very local services and amenities. Councils are represented nationally by NALC, referred to above, which works with independent county associations to provide routine support for councils and their clerks. County training partnerships provide training to the members and employees of parish councils.

There are certain obligations which by law a parish council must fulfil. For example:

- • It must hold an annual meeting;
- • It must hold at least three other meetings a year;
- • It must appoint such officers as it believes necessary for the proper discharge of its functions. This must include an officer responsible for the proper administration of financial affairs;
- • It must make Standing Orders for the supply of goods and services to the council.

The arrangements for meetings and proceedings of local councils are set out in Part II of Schedule 12 to the Local Government Act 1972, as supplemented by any standing orders adopted by a council.

Parish councils should not see themselves as operating in isolation. They will achieve far more by being prepared to work constructively with other public bodies and organisations around them.

Parish councils will wish to:

- • Be consulted on planning applications and will need a close relationship and understanding with the planning office of their district/unitary council. Parish councils are encouraged to prepare parish plans in consultation with the planning office with a view to the plan being taken into account by the district council in considering planning applications and preparing the local development framework.
- • Have points of contact with principal council services, such as highways, cleansing, parks, elections etc and to contribute to the way such services are provided.
- • Work closely with the standards committee and monitoring officer of the principal council on ethical framework matters and the members' code of conduct.
- • Be represented, collectively with other parish councils, on the Local Strategic Partnership.
- • Liaise with other stakeholders operating services within the parish council boundaries.
- • Contribute to proposals which may be made to the Secretary of State under the Sustainable Communities Act 2007

As the lowest tier of democratically elected representatives in the country, parish councils have the mandate to speak on behalf of the people they represent. It is important that parish councils learn how to do this with authority and integrity in order to have the optimum effect.

Barton Parish Council in particular

The Parish Council sets a 'Precept' each year, which goes onto the Council Tax, to pay for various items within the village. These include all repairs, maintenance and replacement of items on the Recreation Ground, maintenance and replacement of trees, all mowing contracts, repair and maintenance of 'village furniture', such as the bus shelter, benches and bins. We are also asked to put a sum towards bigger projects, such as the recent extension of the 30-mile an hour limit or an A603 crossing or safety measures outside the School.

A Parish Council is the lowest tier of government, with more of an advisory role to South Cambridgeshire District Council rather than the ability to act alone. Thus the district council is required to ask for, and take into account, our opinion, and to ask the opinion of neighbours, whenever a planning application is put in, but we do not have the final decision on whether or not it is accepted. Equally we can put forward the wishes of villagers regarding Highways to Cambridgeshire County Council for speed limits, for example, and if our case is demonstrated it may be accepted, but we do not have the right to put measures in ourselves without approval.

In order to carry out our role of putting forward the views and wishes of the Villagers we need you to keep us informed of what those wishes are, so do come along to Open Forums every first Tuesday at 19:30 and talk to your Councillors about your concerns so that we can take them up.

A rough guide to who does what: WHICH COUNCIL?

Cambridgeshire County Council	South Cambridgeshire District Council	Barton Parish Council
Monitoring Officer for County Members only	Monitoring Officer Ethics & Probity for District & Parish Members	
Education Most schools Special education Nursery, adult, community	Housing Management and maintenance of council houses Working with Housing Associations (known as Registered Social Landlords) Housing advice Renovation grants Homelessness Unfit housing Residential care	Clocks
Personal Social Services Securing provision for the elderly, children and those with disabilities (including social care and health and residential care). Inspection Services	Cemeteries and Burials, Crematoria	Closed Churchyards Burials/Cemeteries
Planning Strategic planning/structure plans Minerals and waste planning Historic buildings	Planning Local Development Framework Development control (Planning applications and enforcement) Advertising consent Historic buildings Conservation areas Tree preservation	Planning – as consultees
Highways/Transport Public transport Highways and parking Traffic management Footpaths and bridleways Transport planning Street lighting	Highways/Transport Unclassified roads Off-street car parking Traffic management Footpaths and bridleways Road safety Local transport plans Street lighting Street naming	Bus shelters War and other memorials Street lighting

Emergency Planning	Emergency Planning	
Cambridgeshire County Council	South Cambridgeshire District Council	Barton Parish Council
Recreation Parks and open spaces Support for the arts Archives and Record Office Museums/Art Galleries	Recreation Parks, open spaces and halls Swimming pools and leisure centres Support for the arts Museums and art galleries	Public Open Spaces Village Halls Playing fields Museums and the Arts
Economic Development	Economic Development	
Tourism Development	Tourism Development	Tourism Development
Environmental Services Refuse disposal Recycling Gypsy sites Trading Standards	Environmental Services Refuse collection/street cleansing Recycling Management of travellers/gypsy sites Food safety Public conveniences Markets Dog and pest control Noise abatement Health & Safety Seats Licensing	Litter bins and litter clearance Local charities Markets Public seating Licensing – as consultees
Registration of Births, Marriages and Deaths	Allotments	Allotments
Library & Information Service	Electoral Registration/Elections	
	Council Tax and Business Rate collection	
Grants to voluntary bodies	Grants to voluntary bodies	Grants to voluntary bodies
	Help with Lottery Applications	
Community Planning	Community Planning Community Safety (anti-social behaviour, alcohol byelaws)	

List of Parish Council Powers (this is not an exhaustive list)

Function

Allotments Drainage

Baths and
washhouses

Burial grounds,
cemeteries and
crematoria

Bus shelters

Bye-laws

Clocks

Closed churchyards

Common pastures

Conference facilities

Community centres

Crime prevention

Powers & Duties

Duty to provide allotments. Power to improve and adapt land for allotments, and to let grazing rights

Power to provide public baths and washhouses

Power to acquire and maintain Power to provide
 Power to agree to maintain monuments and memorials Power to contribute towards expenses of cemeteries

Power to provide and maintain shelters
 Power to make bye-laws in regard to pleasure grounds
 Cycle parks
 Baths and washhouses
 Open spaces and burial grounds
 Mortuaries and post-mortem rooms

Power to provide public clocks

Powers as to maintenance

Powers in relation to providing common pasture

Power to provide and encourage the use of facilities

Power to provide and equip buildings for use of clubs having athletic, social or recreational objectives

Powers to install and maintain equipment and establish and maintain a scheme for detection or prevention of crime
 Power to contribute to police services e.g. PCSOs
 Duty on Parish Councils to consider crime reduction in every policy and action

Power to deal with ponds and ditches

Statutory Provisions

Small Holding & Allotments Act 1908, ss. 23, 26, and 42

Public Health Act 1936, ss. 221, 222, 223 and 227

Open Spaces Act 1906, Ss 9 and 10; Local Government Act 1972, s. 214; Parish Councils and Burial

Authorities (Miscellaneous Provisions) Act 1970, s. 1
Local Government Act 1972, s. 214(6)

Local Government (Miscellaneous Provision) Act 1953, s. 4
Public Health Act 1875, s. 164 Road Traffic Regulation Act 1984, s.57(7)
Public Health Act 1936, s.223 Open Spaces Act 1906, s.15 Public Health Act 1936, s.198

Parish Councils Act 1957, s.2

Local Government Act 1972, s.215

Smallholdings and Allotments Act

1908, s.34

Local Government Act 1972, s.144

Local Government (Miscellaneous Provisions) Act 1976 s.19

Local Government and Rating Act 1997, s.31

Police Act 1996, s.92

s17 Crime and Disorder Act 1998 (as amended)

Public Health Act 1936, s.260

Dogs	Power to make a Dog Control Order Power to take enforcement action against those who commit an offence against a Dog Control Order	Cleaner Neighbourhoods and Environment Act 2005
Entertainment and the arts	Provision of entertainment and support of the arts	Local Government Act 1972, s.145
Flyposting and Graffiti	Power to take enforcement action against those that flypost or graffiti	Cleaner Neighbourhoods and Environment Act 2005
Gifts	Power to accept	Local Government Act 1972, s.139
Highways	Power to maintain footpaths and bridle-ways Power to light roads and public places Provision of litter bins Powers to provide parking places for bicycles and motor-cycles, and other vehicles Power to enter into agreement as to dedication and widening Power to provide roadside seats and shelters Consent of parish council required for ending maintenance of highway at public expense, or for stopping up or diversion of highway Power to complain to highway authority as to unlawful stopping up or obstruction of highway or unlawful encroachment on roadside wastes Power to provide traffic signs and other objects or devices warning of danger Power to plant trees and lay out grass verges etc. and to maintain them	Highways Act 1980, ss.43,50 Parish Councils Act 1957, s.3; Highways Act 1980, s.301 Litter Act 1983, ss.5,6 Road Traffic Regulation Act 1984, ss.57,63 Highways Act 1980, ss.30,72 Parish Councils Act 1957, s.1 Highways Act 1980, ss.47,116 Highways Act 1980, s.130 Road Traffic Regulation Act 1984, s.72 Highways Act 1980, s.96
Investments	Power to participate in schemes of collective investment	Trustee Investments Act 1961, s.11
Land	Power to acquire by agreement, to appropriate, to dispose of Power to accept gifts of land	Local Government Act 1972, ss.124, 126, 127 Local Government Act 1972, s.139
Litter	Provision of receptacles Power to take enforcement action against those that litter	Litter Act 1983, ss.5,6 Cleaner Neighbourhoods and Environment Act 2005
Lotteries	Powers to promote	Lotteries and Amusements Act 1976, s.7

Mortuaries and post mortem rooms	Powers to provide mortuaries and post mortem rooms	Public Health Act 1936, s.198
Open spaces	Power to acquire land and maintain	Public Health Act 1875, s.164 Open Spaces Act 1906, ss.9 and 10
Parish documents	Powers to direct as to their custody	Local Government Act 1972, s.226
Telecommunications facilities	Power to pay public telecommunications operators any loss sustained providing telecommunication facilities	Telecommunications Act 1984, s.97
Public buildings and village hall	Power to provide buildings for public meetings and assemblies	Local Government Act 1972, s.133
Public conveniences	Power to provide	Public Health Act 1936, s.87
Sustainable communities	Able to be represented on a panel of representatives to be consulted on proposals that would contribute to sustainable communities	Sustainable Communities Act 2007
Town and country planning	Right to be notified of planning applications	Town and Country Planning Act 1990, Sched.1, para. 8
Tourism	Power to encourage visitors and provide conference and other facilities	Local Government Act 1972, s.144
Traffic calming	Powers to contribute financially to traffic calming schemes	Highways Act 1980, s.274A
Transport	Powers in relation to car-sharing schemes, taxi fare concessions and information about transport Powers to make grants for bus services	Local Government and Rating Act 1997, s.26, 28 and 29 Transport Act 1985, s.106A
War memorials	Power to maintain, repair, protect and alter war memorials	War Memorials (Local Authorities' Powers) Act 1923, s.1; as extended by Local Government Act 1948, s.133
Water supply	Power to utilise well, spring or stream and to provide facilities for obtaining water from them	Public Health Act 1936, s.125
Well-Being	Power to well-being of the area (for eligible councils)	s2 and 4 of the Local Government Act 2000 (as amended by Part 4 of the Local Government and Public Involvement in Health Act 2007)

Document History		
Status	Date	Version
Draft by Clerk	23 November 2015	
Review by Clerk	23 May 2017	
Draft to Council for Debate	1 st June 2017	
Council Approved	6 th June 2017	latest
Next Review by Clerk	June 2019 or change of legislation	

