



Association of **Council
Secretaries and Solicitors**

POWERS AND FUNCTIONS OF PARISH COUNCILS

Powers and Functions of Parish Councils

Parish and Town Councils (known collectively as Local Councils) are the first tier of local government and the closest to the community they serve. A Town Council is a parish council which has resolved to call itself a Town Council. The chairman of a Town Council can also be called the Town Mayor. There are some 8,500 Parish and Town Councils 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. All local authorities are constituted in the same way with Councillors elected by the local government electorate and a Chairman, who must be one of them. Local Councils vary in size and capacity; many are very small, representing a few hundred people, others represent communities of over 30,000 people with budgets over £1m and expenditure and staffing levels per head of population similar to a small District Council.

A Local Council is a body corporate with perpetual succession and a name. It comprises a Chairman (or Town Mayor), and Councillors. Local Councillors are often referred to as "Members" – for example in the Code of Conduct. The number of Councillors is fixed by the District Council. A Local Council's lawful acts, assets and liabilities are its own and not those of its Councillors.

A local 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). Local Councils have a wide range of powers under different acts of Parliament. Most of these powers are discretionary, ie the Council *may* do something, rather than it *must* do something. The exercise of these powers may be subject to various consents, from, for example, the owner of land or another public body such as the highways authority. Almost all Local Council powers are concurrent with those of the District Council, i.e. the power may be exercised by either the Parish/Town Council or the District Council.

A Local Council has the unfettered right to raise money by precept (a mandatory demand) on the District Council. The precept required by the Local Council is then collected by the District Council as part of the council tax levied on tax payers in that parish. Local Councils act as a sounding board for local opinion and have important rights of consultation. County and District or Unitary Councils are obliged by law to consult the Local Council on certain matters affecting the parish.

The range of services and amenities provided by Local Councils varies enormously. Many provide public seats and shelters, litter bins and notice boards. Some provide recreation grounds, public halls, cemeteries, allotments and swimming pools. All play an important role in maintaining and improving local services and facilities, supporting local voluntary organisations and activities and influencing and lobbying on local development.

Local Councils are represented nationally by a National Association which has a network of county branches. The National Association offers extensive training and support for Local Councils and their Clerks through county based Training Partnerships. The Association of Larger Local Councils represents larger parish councils.

There are certain obligations which by law a Local Council must fulfil. For example:

- a. It must hold an annual meeting;
- b. It must hold at least three other meetings a year;
- c. It must appoint such officers as it believes necessary for the proper discharge of its functions (this may be a Councillor unpaid, but in common practice is a Clerk and/or Treasurer);
- d. 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.

List of Parish Council Powers

(this is not an exhaustive list)

| Function | Powers & Duties | Statutory Provisions |
|---|---|--|
| Allotments | Duty to provide allotments. Power to improve and adapt land for allotments, and to let grazing rights | Small Holding & Allotments Act 1908, ss. 23, 26, and 42 |
| Baths and washhouses | Power to provide public baths and washhouses | Public Health Act 1936, ss. 221, 222, 223 and 227 |
| Burial grounds, cemeteries and crematoria | Power to acquire and maintain Power to provide Power to agree to maintain monuments and memorials Power to contribute towards expenses of cemeteries | 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) |
| Bus shelters | Power to provide and maintain shelters | Local Government (Miscellaneous Provision) Act 1953, s. 4 |
| Bye-laws | 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 | 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 |
| Clocks | Power to provide public clocks | Parish Councils Act 1957, s.2 |
| Closed churchyards | Powers as to maintenance | Local Government Act 1972, s.215 |
| Common pastures | Powers in relation to providing common pasture | Smallholdings and Allotments Act 1908, s.34 |
| Conference facilities | Power to provide and encourage the use of facilities | Local Government Act 1972, s.144 |
| Community centres | Power to provide and equip buildings for use of clubs having athletic, social or recreational objectives | Local Government (Miscellaneous Provisions) Act 1976 s.19 |
| Crime prevention | Powers to install and maintain equipment and establish and maintain a scheme for detection or prevention of crime | Local Government and Rating Act 1997, s.31 |
| Drainage | Power to deal with ponds and | Public Health Act 1936, s.260 |

| | | |
|-----------------------------------|---|---|
| Entertainment and the arts | ditches Provision of entertainment and support of the arts | Local Government Act 1972, s.145 |
| 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 | Local Government Act 1972, ss.124, 126, 127 |
| Litter | Power to accept gifts of land | Local Government Act 1972, s.139 |
| Lotteries | Provision of receptacles Powers to promote | Litter Act 1983, ss.5,6 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 |
| 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 | Local Government and Rating Act |

| | | |
|---------------|--|--|
| | schemes, taxi fare concessions and information about transport Powers to make grants for bus services | 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 |

Who Does What?..... a (very) rough guide!

County Councils

Monitoring Officer for County Members only

Education

Most schools
Special education
Nursery, adult, community

Personal Social Services

Securing provision for the elderly, children and those with disabilities (including social care and health and residential care)
Inspection Services

Planning

Strategic planning/structure plans
Minerals and waste planning
Historic buildings

Highways/Transport

Public transport
Highways and parking
Traffic management
Footpaths and bridleways
Transport planning
Street lighting

Emergency Planning

Recreation

District Councils

Monitoring Officer
Ethics & Probity for District & Parish Members

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

Cemeteries and Burials, Crematoria

Planning

Local Development Framework
Development control (Planning applications and enforcement)
Advertising consent
Historic buildings
Conservation areas
Tree preservation

Highways/Transport

Unclassified roads
Off-street car parking
Traffic management
Footpaths and bridleways
Road safety
Local transport plans
Street lighting
Street naming

Emergency Planning

Recreation

Parish Councils

Clocks

Closed Churchyards Burials/Cemeteries

Planning – as consultees

Bus shelters

War and other memorials

Street lighting

Parks and open spaces
Support for the arts
Archives and Record Office
Museums/Art Galleries

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

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

Litter bins and litter clearance

Local charities

Trading Standards

Markets

Seats
Licensing

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)

NOTE: Both the county and district functions are discharged by single authorities in the case of metropolitan district councils and unitary councils.

Establishing Parish Councils under the Local Government and Public Involvement in Health Bill

- No apparent amendment to current legislation, but proposals clearly an addition to Local Government and Ratings Act 1997.
- New requirement for District Councils to conduct a “Community Governance Review” if petitioned to do so by qualifying number of electors (50% of the electorate in areas with less than 500 electors, 250 electors if area included 500 - 2,500 electors and 10% of the electorate if the area contains 2,500+ electors). Can also conduct such review without receiving petition - can set own terms of reference
- Petition must specify area to be covered by the review sought and a recommendation, eg, change of boundary, creation of new local Council
- Various duties imposed in course of conducting review - consultation, ensuring that “community governance in the area under review reflects the identities and interests of the community and is effective and convenient”. Secretary of State will issue guidance - must have regard if so
- Groups may propose forming in non-traditional parish areas, and may style themselves “X Community Council”, “X Village Council” or “X Neighbourhood Council”. Areas and communities / neighbourhoods may also group together to create a local council. DC recommendations can be along these lines (including name and style of the local council to be created).
- Various publicity/ deposit/consultation obligations once review completed.
- District Council can make an Order giving effect to the recommendations - does not seem to have to go through the Secretary of State. No appeal included yet, but presumably subject to Judicial Review, and not clear whether existing right to make public petition to Secretary of State under 1997 legislation will be revoked.
- Principal aim appears to be encouraging groups / communities etc which do not have a traditional parish focus to use existing legislation to form into an incorporated body
- Would have a number of benefits - local accountability, local asset ownership, local byelaw powers etc, local focus for grant giving, local consultation body etc

ACTIONS (if enacted as drafted)

- Consider whether to conduct a Community Governance Review re: possible new local Councils and / or changes to boundaries of existing
- Consider whether to publicise new forms of local Councils and emphasise benefits in hope of prompting “Community” or “Neighbourhood” Council applications (Becoming a Councillor event?)

NB - SoS can make regulations identifying “eligible Parish Councils” which would have the Well-being powers bestowed upon them - wouldn’t have to produce a Community Strategy themselves, but would have to have regard for ours.