

Fradley Parish Council

Scheme & Scope of Delegation of Powers- Clerk

Introduction:

Local Councils may only do what legislation requires or permits them to do. With some particular exceptions, the Council may delegate functions to committees, sub committees, officers, or other authorities. The power to delegate functions by local councils is set out in the amended Local Government Act 1972 S.101 (Appendix 1)

The aim of this document is to clarify the manner in which Fradley Parish Council has delegated its powers and the authority to spend.

Decisions are normally taken by the Parish Council at its regular monthly Parish Council meeting or at an additional meeting specifically convened for that purpose. Certain functions cannot be delegated and are therefore reserved to the full Council, although an appropriate committee may make recommendations thereon for the Council's consideration.

Examples are:-

- Setting the precept and approval of the Council's budget
- Approval of the Annual Accounts and completion of the Annual Return including the Governance Statement
- Consideration of an Auditor's report made in the public interest.
- The making, amending or revoking of Standing Orders, Financial Regulations and this Scheme of Delegation
- Adoption or revision of the Council's Code of Conduct.
- Confirmation (by resolution) that the Council has satisfied the statutory criteria to exercise the General Power of Competence when appropriate

Convening a meeting takes a minimum of three clear days (not counting Sundays and Bank holidays) and on rare occasions emergency business arises that needs a decision and/or action to be taken and it would be inappropriate to convene an additional ordinary meeting of the Council to consider the issue. As the Council has power under s. 101, LGA 1972 to arrange for the discharge of any of its functions by an officer of that authority, it is common practice for standing orders or council resolutions to provide for specific areas of decision-making to be delegated to a proper officer (see LGA 1972 s.270(3) for a formal definition). The Clerk/Responsible Finance Officer is Fradley Parish Council's proper officer.

The Clerk carries out the functions as provided by the Local Government Act 1972, and as set out in the job description for the post. The Council may delegate the full authority of the Clerk to any other temporary or permanent member of staff to act in the Clerks absence). Delegated actions shall be in accordance with Standing Orders, Financial Regulations, and this Scheme of Delegation, and in line with directions given by the Council from time to time.

Extent of Delegation

All delegated functions shall be deemed to be exercised on behalf of, and in the name of the Council.

The Clerk/RFO will exercise these powers in accordance with:

- Approved budgets
- The Council's Financial Regulations
- Any other adopted policies of the Council
- All statutory common law and contractual requirements

The Clerk/RFO may do anything pursuant to the delegated power or duty which it would be lawful for the Council to do including anything reasonably implied or incidental to that power or duty

General Administration

The Clerk is specifically authorised to:

- Undertake the day-to-day administration of the Council
- Receive declarations of acceptance of office
- Receive and publish Members' declarations of interest, and pass the originals to the Monitoring Officer of the Principal Authority
- Receive and determine Disclosable Pecuniary Interest (DPI) dispensations and report details of all dispensations received, and the decision on them, to the next available Council meeting
- Convene a meeting of the Council if a casual vacancy occurs in the office of the Chair
- Take steps to fill a casual vacancy in the office of Councillor (in accordance with the Co-Option Policy and Procedure).
- Sign notices or other documents on behalf of the Council
- Receive, retain, and dispose of plans, notices, records, and documents in accordance with the document retention policy and the law
- Certify copies of byelaws made by the Council if appropriate

In addition, the Clerk is authorised to undertake the day to day administration of the Council, which includes:

- Calling extra meetings of the Council, or any committee, or sub-committee, as necessary, having consulted with the appropriate Chair; except those meetings called in accordance with Standing Orders by the Council Chair or Members
- Issuing press releases and statements to the press or on social media on the Council's known policies, subject to the provisions of the Council's Press and Media Policy
- As webmaster, originating, updating, and managing the content on the Council's website and Social Media page(s);
- Responding to requests for information under the Freedom of Information Act 2000 and the General Data Protection Regulations (or similar Acts and Regulations)
- Acknowledging and handling all complaints regarding the Council (except where the complaint relates to the Clerk or Members)

- Making arrangements for the routine maintenance of the Council's property
- Purchasing basic office equipment and supplies
- Authorising payment for items below £500 in consultation with the Chair, where delay to the next Council meeting would be detrimental to the Council or the payee
- Dealing with staffing matters, the Disciplinary Procedure, and the Grievance Procedure.
- Maintain the Gifts and Hospitality register.
- Determine whether any matters should be referred to the Police, the Monitoring Officer, or other enforcement body

Planning

- The Council delegates decisions arising under development control consultations to the Clerk/RFO in consultation with all Councillors.
- Consultation may be by correspondence, including email, or in person. It may also take place at meetings of the Council
- The Clerk will arrange for relevant papers to be circulated to the Councillors who should return their comments, to the Clerk/RFO for determination of the Council's response within the prescribed consultation period.
- Delegated decisions will be reported to, and recorded in the minutes of, the next council meeting.
- In respect of controversial or major development proposals, the Clerk/RFO in consultation with the Chair, may decide that a parish meeting and/or an extraordinary meeting of the Council be called to consider the matter.

Finance

The Responsible Financial Officer to the Council is responsible for the Council's accounting procedures and financial records and is accountable for the proper administration of its finances, in line with the current Account and Audit Regulations and the Council's adopted Financial Regulations.

In addition, the RFO is authorised to undertake the day to day administration of the Council, which includes:

- Payment of all invoices and staff salaries etc, within agreed budget and subject to authorisation as per the bank mandate in place
- Making VAT and other tax returns and claims to Her Majesty's Revenue and Customs
- Apply for grants
- Issuing tenders, obtain quotations, negotiate prices and contract terms
- Placing orders for approved capital projects
- Authorising routine recurring expenditure within the agreed budget (e.g. Software renewals, maintenance)
- Purchase basic office equipment and supplies
- Making arrangements for the maintenance of the IT systems where required
- Paying the cost of holding an election or by-election, including the cost of polling cards, for the post(s) of parish councillor as determined by and charged for by the electoral officer of the relevant Principal Authority.

- Verifying and carrying out due diligence checks on applications to the Council for grant funding.
- Awarding a grant if the amount awarded is within the agreed budget and within the terms of the Grant Awarding Policy (in consultation with the Chair and or Vice Chair of the Council).
- Notifying insurers of changes in circumstances and, in the event of a loss, liaising with insurers appointed representative(s)

Emergency Matters

Fradley Parish Council uses the power of delegation under the LGA to delegate the management of emergency business to designated people - usually the Clerk/RFO in consultation with the Chair (or Vice Chair if the Chair is not available). Where it is inappropriate to convene an additional ordinary meeting of the Council. Such arrangements are lawful provided that the officer does not simply act under the direction of the member, as this would be effectively delegation to a single member and there is no power in the 1972 Act to delegate to a single member.

- Urgent decisions required between scheduled meetings of the Council are delegated to the Clerk/RFO in consultation with the Chair. Any decisions made under this delegation will be reported to, and recorded in the minutes of, the next Council meeting. Under this delegation, where appropriate, the Clerk/RFO may decide that an extraordinary meeting of the Council be called to deal with the emergency matter.
- In the event of any emergency involving the Council's property, premises, or facilities (e.g. damaged bench, flooding, broken equipment etc) the Clerk/RFO are authorised to order any works necessary to prevent any further material loss to the Council
- In the event of any safety critical occurrence or situation (e.g. dangerous branches and or trees, collapsed footpaths, broken play equipment, breached fencing allowing access into an unsafe area, removal of burnt out and or abandoned vehicles) the Clerk/RFO is authorised to commit the Council to any expenditure necessary in order to carry out remedial action, or isolate the area or in the case of vehicles arrange their lawful removal, in order to reduce the likelihood of anyone being harmed
- To commit the Council to an expenditure of up to £500 for costs incidental to ongoing projects already authorised by Council, or other ongoing work, or minor repairs to facilities (e.g. hire of equipment, purchase of fuel, servicing or repairs to machinery, purchase of wood or fencing materials or gates, purchase of topsoil, plants and shrubs, hire of contractor to offer specialised assistance or to carry out specialised repairs, engaging tradesmen to carry out minor repairs etc.), subject to the Clerk/RFO being confident that the Members, in all probability, would have approved such an expenditure if the facts had been brought to their attention before a commitment to expend the money had been made, and that the expenditure is within the budget.
- In the event of a situation arising which is not covered in this section, to take any action and commit the Council to any expenditure, but not until the circumstances of the situation have been discussed with the Chair or Vice Chair of the Council; in the eventuality of the Chair and Vice Chair not being available (e.g. on holiday) then the Clerk/RFO may seek approval from another Councillor; subject always to the

Clerk/RFO being confident that the Members, in all probability, would have approved such action and / or expenditure if the facts had been brought to their attention before a commitment to expend the money had been made.

In all the above cases the Clerk/RFO is authorised to only order works or to commit the Council to expenditure as specified. Such actions are to be reported at the next meeting of the Council.

Actual payments still need to be authorised by the Council and payments approved in the normal way.

Written Records

The Openness of Local Government Bodies Regulations 2014 (2014 SI No. 2095) require a written record to be kept of certain decisions made by an officer of a Parish Council acting under delegated powers. The Clerk will keep a log of all decisions made under delegated powers and will arrange for these to be made open for public inspection via the Council website

The Openness of Local Government Bodies Regulations 2014

Whilst acknowledging the requirement for officers of the Council to produce a written report relating to delegated decisions made under section 7 (2) (b) (i) and (ii), the Council confirms that with regard to paragraph (iii) the word 'materially' should be construed in such a manner as to confer upon the Clerk/RFO the authority to commit the Council to expenditure, as outlined within these Delegated Powers, and, as long as the expenditure is accommodated within the Council's agreed budget headings for the year, such decisions do not have to be recorded for the purposes of this Act as the expenditure is considered as not having a material effect on the finances of the Council.

Appendix 1 amended Local Government Act 1972 S.101

Arrangements for discharge of function by local authorities

(1) Subject to any express provision contained in this Act or any Act passed after this Act, a local authority may arrange for the discharge of any of their functions:

- (a) by a Committee, a sub-Committee or an officer of the authority, or*
- (b) by any other local authority*

(1A) A local authority may not under subsection (1)(b) above arrange for the discharge of any of their functions by another local authority if, or to the extent that, that function is also a function of the other local authority and is the responsibility of the other authority's executive.

(1B) Arrangements made under subsection (1)(b) above by a local authority ("the first authority") with respect to the discharge of any of their functions shall cease to have effect with respect to that function if, or to the extent that, —

- (a) the first authority are operating or begin to operate executive arrangements, and that function becomes the responsibility of the executive of that authority; or*
- (b) the authority with whom the arrangements are made ("the second authority") are operating or begin to operate executive arrangements, that function is also a function of the second authority and that function becomes the responsibility of the second authority's executive.*

(1C) Subsections (1A) and (1B) above do not affect arrangements made by virtue of section 9EB or 19 of the Local Government Act 2000 (discharge of functions of and by another authority).

(2) Where by virtue of this section any functions of a local authority may be discharged by a committee of theirs, then, unless the local authority otherwise direct, the committee may arrange for the discharge of any of those functions by a sub-committee or an officer of the authority and where by virtue of this section any functions of a local authority may be discharged by a sub-committee of the authority, then, unless the local authority or the committee otherwise direct, the sub-committee may arrange for the discharge of any of those functions by an officer of the authority.

(3) Where arrangements are in force under this section for the discharge of any functions of a local authority by another local authority, then, subject to the terms of the arrangements, that other authority may arrange for the discharge of those functions by a committee, sub-committee or officer of theirs and subsection (2) above shall apply in relation to those functions as it applies in relation to the functions of that other authority.

(4) Any arrangements made by a local authority or committee under this section for the discharge of any functions by a committee, sub-committee, officer or local authority shall not prevent the authority or committee by whom the arrangements are made from exercising those functions.

(5) Two or more local authorities may discharge any of their functions jointly and, where arrangements are in force for them to do so, —

- (a) they may also arrange for the discharge of those functions by a joint committee of theirs or by an officer of one of them and subsection (2) above shall apply in relation to those functions as it applies in relation to the functions of the individual authorities; and*
- (b) any enactment relating to those functions or the authorities by whom or the areas in respect of which they are to be discharged shall have effect subject to all necessary modifications in its application in relation to those functions and the authorities by whom and the areas in respect of which (whether in pursuance of the arrangements or otherwise) they are to be discharged.*

(5A) Arrangements made under subsection (5) above by two or more local authorities with respect to the discharge of any of their functions shall cease to have effect with respect to that function if, or to the extent that, the function becomes the responsibility of an executive of any of the authorities.

(5B) Subsection (5A) above does not affect arrangements made by virtue of section 9EB or 20 of the Local Government Act 2000 (joint exercise of functions).

(6) A local authority's functions with respect to levying, or issuing a precept for, a rate shall be discharged only by the authority.