

WILLITON PARISH COUNCIL



SCHEME OF DELEGATION

Re-Adopted 4th November 2024

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Signed Cllr Payne (Chairman)

WILLITON PARISH COUNCIL

SCHEME OF DELEGATION

Policy Document

Introduction

This Scheme of Delegation authorises the Proper Officer, Responsible Financial Officer and Standing Committees to act with delegated authority in the specific circumstances detailed.

This policy should be used in conjunction with Williton Parish Council's Standing Orders, Financial Regulations, Code of Conduct and the committee Terms of Reference as well as any Statutory obligations/regulations in force at the time.

The policy aims to:

- Further clarify the roles and delegated responsibilities of officers, members and committees
- Ensure adequate control measures are in place to protect the Council's finances
- Ensure the Council is acting in accordance with Audit and Accounts regulations
- Ensure the Council is complying with s101 of the Local Government Act 1972 and relevant case law.

The Openness of Local Government Bodies Regulations 2014 (2014 SI No 2095), which requires a written record to be kept of certain decisions made by an officer of the parish council acting under delegated powers. The decisions are those:

- Made under a 'specific express authorisation', or
- Made under a general authorisation where the effect of the decision is to;
 - I) Grant a permission or licence
 - II) Effects the rights of an individual, or
 - III) Award a contract or incur expenditure which, in either case, significantly affects the financial position of Williton Parish Council

This policy follows the scope of this provision as detailed in the guidance issued by the Department of Communities & Local Government "Plain English" guide to the Regulations. The relevant guidance for parish councils is as follows:

- a) *"Officers take many administrative and operational decisions on how they go about their day-to-day work within the council's rules. These decisions will not need to be recorded"*
- b) *You will not be able to inspect some recorded decisions if the whole or part of it records confidential information or any other information where publicity would be prejudicial to the public interest*

Examples of decisions that should be recorded could include;

- *Decisions about awarding contracts*

Where decisions are already required to be published by other legislation, they do not need to be recorded again provided the record is published has the date the decision was taken and the reasons for the decision.

Decisions that do not need to be recorded might include the following examples:

- *Decisions to allocate burial plots;*
- *Routine administration and organisational decisions such as the purchase of office supplies or repairs;*
- *Decisions to book rooms or sports grounds;*
- *Decisions to approve works undertaken by a contractor.*

These are a few selected examples and not an exhaustive list."

Councils are governed by statutes of Parliament unless section 101 of the Local Government Act 1972 is exercised. This allows Councils to discharge their functions to:

- A committee or sub-committee
- An Officer
- Another Local Authority

Functions may be discharged to a Committee but not individual Councillors including the Chairman of the Council or Chairman of a Committee. When delegating functions to a committee it is essential that its appointment and terms of reference are approved by a resolution of the Full Council.

To be effective, committees must have clear "Terms of Reference", defining membership, remit and responsibilities, as well as administrative support from an Officer and effective chairmanship to ensure delivery against those "Terms of Reference"

When establishing a committee its terms of reference should specify whether the committee has delegated powers or whether any or all of its decisions should be referred back to Full Council for ratification.

Definitions

Proper Officer

The Parish Clerk is designated and authorised to act as the Proper Officer for the purposes of all relevant sections of the Local Government Act 1972 and any other statute requiring the designation of Proper Officer. This may include signing leases, licences and Service Level Agreements on behalf of Williton Parish Council.

Responsible Officer

The Parish Clerk is designated and authorised to act as the Responsible Officer (RFO) for the purpose of any statute requiring designation of a Responsible Officer. (Local Government Act 1972 s151.)

Clerk to the Council

The Parish Clerk is employed by the parish council for the proper discharge of its functions. (Local Government Act 1972 s151.)

Committee Clerk

Any Officer other than the Proper Officer, facilitating or offering administrative support to a meeting or the Council or Committee.

DELEGATIONS

General Delegations

Individual Councillors

Local Government Act 1972 (Section 101) and case law (Regina V Secretary of State for the Environment *ex parte* London Borough of Hillingdon 1986) are clear in their instruction that all Members must deal with matters through their collective Council membership. There are no circumstances where an individual Member can issue an instruction to the clerk, any other employee or contractor; make a decision on behalf of the Council; or authorise any expenditure. Therefore, no individual has any delegated responsibility.

Responsible Financial Officer

The Clerk shall be responsible for the Council's accounting procedures, in accordance with the Accounts and Audit Regulations in force at any time along with the Council's adopted Financial Regulations. The Clerk may obtain advice and guidance from external professionals (which may bear a cost) in order to ensure this is achieved.

Proper Officer

The Clerk will:

- Receive declarations of acceptance of office
- Receive and record Member's Registers of Interest
- Receive and grant dispensations
- Receive and retain plans and documents
- Sign Notices or other documents on behalf of the Council
- Receive copies of bylaws made by a principal local authority
- Certify copies of bylaws made by the Council
- Call and arrange all meetings of the Council and its Committees
- Sign summons to attend meeting of the Council

- Prepare and issue agendas, consulting with the Chairman or Vice Chairman of Council or Committee (as appropriate) whenever possible
- Carry out the wishes of Council or its Committees and Sub Committees
- Decide arrangement for the closure of the Council Office during the Christmas/New Year period, subject to consultation with the Council Chairman
- Seal documents, deeds contracts and agreements following a resolution so to do from Council or one of its Committees
- Respond to requests made under the Freedom of Information/Environmental Information Regulations and General Data Protection Regulation Legislation
- Keep proper records for all meetings
- To receive from Somerset Council's Monitoring Officer any documents in relation to complaints received under The Members code of Conduct (these will be kept confidential until the matter has been concluded)
- To institute and appear in any legal proceedings authorised by the Council
- To appear and make presentation to any tribunal or public enquiry into any matter which the Council has an interest.
- As line manager to other members of staff, carry out appraisals and report back to Personnel Committee, as appropriate.

In addition, the Proper Officer has the delegated authority to undertake the following matters on behalf of the Council;

- Day to day management of services, resources and assets, together with routine inspection control and compliance
- Manage staff performance, discipline and performance, in accordance with policies set by the Personnel Committee and as approved by council.
- Pay staff expenses and allowances
- Arrange staff training as required
- Provide guidance to the Personnel Committee on recommendations of employee's salary reviews, in accordance with the Council's staff appraisal system
- Authorisation to respond immediately to any correspondence, requiring or requesting information or relating to previous decisions of the Council, but not correspondence requiring an opinion to be taken by the Council or one of its committees.
- Respond to planning applications when an extension of time is not granted, following consultation with the Planning and Environment Committee by email where possible.
- Authorisation of routine recurring expenditure within the agreed budget
- Emergency expenditure up to £3,500 outside of the agreed budget, in conjunction with the Chairman or Vice Chairman of Council whenever possible (or if more appropriate the Chairman of the respective Committee)
- Authorisation of expenditure on works up to a maximum of £3,500, in conjunction with the Chairman or Vice Chairman of Council, whenever possible (or if more appropriate the Chairman of the respective Committee)
- Take proceedings or other necessary steps to enforce and recover any debt owing or other obligation due to the Council
- To act as Council's data protection officer

- To liaise with contractors for repairs and maintenance

Delegated actions of the Clerk to the Council 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.

Council

The following are reserved matters for the Council to decide, notwithstanding that the appropriate Committee(s) may make recommendations for the Council's consideration.

- Appointment of the Clerk/Responsible Financial Officer/Proper Officer following a recommendation of the Personnel Committee
- Electing the Chairman and Vice Chairman of Council
- Setting the Precept
- Borrowing money
- Appointment to a Committee
- Approval of the Council's Annual Accounts and completion of the Annual Return
- Making, amending, or revoking Standing Orders, Financial Regulations, Terms of Reference, Policies, Protocols and this Scheme of Delegation
- Making, amending or revoking bylaws
- Making of Orders under any statutory powers
- Nomination and appointment of representatives of the Council to any other authority, organisation or external body (excluding conferences, events or meetings)
- Nomination or appointment of representatives of the Council at any inquiry on matters affecting the Parish, excluding those matters specific to a committee
- Matters relating to the Council's Code of Conduct
- Approval of the Calendar of Meetings
- Appointment or nomination by the Council of persons to fill vacancies on outside bodies arising during the Council year
- Filling of vacancies occurring on any Committee of the Council during the Council year
- Agreement to take on new, including devolved, services
- Prosecution or defence in a court of law
- Approval of Special Dispensations (for a Member's non-attendance due to ill health or personal reasons)
- Approval of virements of funds
- Matters relating to use and eligibility of the General Power of Competence
- Confirmation that criteria met for Local Council Award Scheme accreditation

Standing Committees

Subject to the foregoing, and to observance of decisions of the Council on matters of principle or policy, all the Council's powers and duties shall be delegated to the Standing Committees (Environment and Planning Committee (EPC), Finance and Admin Committee (FAC) and Personnel Committee, (a sub-committee of FAC), in accordance with the terms of reference unless otherwise specified.

The acts and proceedings of a committee shall:

- Where they are delegated to the Committee, so far as is legally permissible, be deemed to be the acts and proceedings of the Council
- As regards other matters, be subject to confirmation by the Council, and when confirmed shall be deemed to be acts and proceedings of the Council
- In all respects be subject to the provisions of the Council's Standing Orders and Financial Regulations except as determined by the Council.

The Council may at any time without prejudice to executive action already taken revoke any executive power delegated to a Committee.

A Committee may refer specific matters to the Council for a final decision if it so wishes.

N.B It is vital that the Personnel Committee keeps confidential its deliberations and decisions in cases of grievance, disciplinary and capability hearing, because if an appeal against a decision is received it must, legally and in the interests of fairness, be heard again by elected members with no prior knowledge of the case.

Sub-Committees

Every Committee may appoint Sub-Committees whose terms of reference and members shall be determined by the parent Committee as identified in Standing Orders. The Chairman of the Committee shall be appointed a member of every Sub-Committee unless they signify that they do not wish to serve.

Working/Steering Groups

Working/Steering Groups/Parties may be formed by resolution of the Council or a Committee at any time. The work of such a Working/Steering Group/Party will be decided upon at the time it is formed by means of a Minute detailing the Terms of Reference. Each Working/Steering Group/Party will report back with recommendations to the Council or the Committee that formed it. The Working/Steering Group/Party will be disbanded by resolution of the Council or parent Committee to which it reports once it has completed its agreed objectives.

URGENT MATTERS

In the event of any matter arising which requires an urgent decision the Clerk will consult with the Chairman or Vice Chairman of Council whenever possible (or if more appropriate the Chairman of the respective Committee) before acting on behalf of the Council in respect of the matter then under consideration. If none of the above were available, and Extra Ordinary Meeting would be called, for a quorum to decide.

In an emergency the Clerk is empowered to carry out any function of the Council other than matters limited to Council. An emergency may be defined as:

- A matter with significant financial implications greater than £3,500.00
- A matter with significant legal implications
- A matter related to the conduct of a councillor or an employee that would potentially Amount to gross misconduct or bringing the Council into disrepute
- An emergency defined in the Council's Emergency Plan:
 - a) Flooding
 - b) Loss of Electricity
 - c) Pandemic
 - d) Emerging infectious disease
 - e) Multiple emergencies – e.g., Flooding resulting in loss of power
 - f) Health and Safety

Note this list is not exhaustive

Whenever any action is taken in this way, full details of the circumstances justifying the urgency and the action taken shall be submitted in writing to the next appropriate meeting of the Council.

Adopted by Williton Parish Council on 4th November 2024 minute nos. 24/195.5

Signed Cllr Peter Payne Chairman Williton Parish Council