

Puddletown Area Parish Council

POWERS AND FUNCTIONS OF PARISH COUNCILS¹

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¹ This document has been taken from the “Governance Toolkit for Parish & Town Councils” published by the National Association of Local Councils (NALC)

Introduction

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.

Parish councils in their current form were created by the Local Government Act 1894. Their governance, shape and form was consolidated in the Local Government Act 1972 (the Act). Under the Act, by passing a resolution, a parish council may be renamed a “town council”. This is particularly important since old urban district councils were incorporated into parish form. As a result of changes to the Act, brought about by the Local Government and Public Involvement in Health Act 2007, a parish council may be known alternatively as a “community”, “village” or “neighbourhood” council. This latest development is a reflection of the change in the nature of parishes, especially the needs of urban and suburban areas where there has been little tradition or expectation of a parish tier of local government.

The National Association of Local Councils (NALC) and the Society of Local Council Clerks (SLCC) quite sensibly use the generic expression of “local councils” to describe all councils which fall into this class of authority. For ease of use, and to ensure we don’t clash with any publication of NALC or SLCC, we have used the legal term of “**parish council**” throughout this publication to mean all councils at the parish level of local government.

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.

2. 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 Power to contribute to police services e.g. PCSOs Duty on Parish Councils to consider crime reduction in every policy and action	Local Government and Rating Act 1997, s.31 Police Act 1996, s.92 s17 Crime and Disorder Act 1998 (as amended)
Drainage	Power to deal with ponds and ditches	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

3. A very rough guide to who does what

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

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

Economic Development

Tourism Development

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

Parks, open spaces and halls
Swimming pools and leisure
centres
Support for the arts
Museums and art galleries

Economic Development

Tourism Development

Parish Councils

Clocks

Closed Churchyards Burials/Cemeteries

Planning – as consultees

Bus shelters

War and other memorials

Street lighting

Public Open Spaces

Village Halls

Playing fields

Museums and the Arts

Tourism Development

Environmental ServicesRefuse disposal

Recycling

Gypsy sites

Trading Standards**Registration of Births,
Marriages and Deaths****Library & Information Service****Grants to voluntary bodies****Community Planning****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****Allotments****Electoral****Registration/Elections****Council Tax and Business****Rate collection****Grants to voluntary bodies****Help with Lottery Applications****Community Planning****Community Safety (anti-social
behaviour, alcohol byelaws)****Litter bins and litter
clearance****Local charities****Markets****Public seating****Licensing – as consultees****Allotments****Grants to voluntary
bodies**

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