

# DRAYCOTT AND CHURCH WILNE PARISH COUNCIL SCHEME OF DELEGATION

## 1. The Clerk / RFO

The Clerk to the Council shall be the Responsible Financial Officer (RFO) to the Council and shall be responsible for the Parish Council's accounting procedures, in accordance with the Accounts and Audit Regulations in force at any given time.

The Clerk to the Council shall be the Proper Officer of the Council and as such is specifically authorised to:

- a) Receive declarations of acceptance of office
- b) Receive and record members' interest
- c) Receive and grant dispensations according to the Council's Code of Conduct; details of all dispensations received and granted to be reported to the Council at the next available meeting.
- d) Receive and retain plans and documents
- e) Sign notices or other documents on behalf of the Council
- f) Receive copies of bye-laws made by a primary local authority
- g) Certify copies of bye-laws made by the Council
- h) Sign summons to attend meetings of the Council
- i) To institute and appear in any legal proceedings authorised by the Council

In addition, the Clerk has the delegated authority to undertake the following matters on behalf of the Council:

- j) Day to day administration of services together with routine inspection and control
- k) Day to day supervision and control of all staff and contractors employed by the Council
- l) Implement national pay awards and conditions of service in line with the National Joint Council Scheme of Conditions of Service as amended by Local Agreement
- m) Authorisation to call any extra-ordinary meetings of the Council or any Committee as necessary, having consulted with the Chairman of the Council, and/or the lead councillor
- n) 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 its Committees
- o) Authorisation of routine recurring expenditure within the agreed budget according to the Council's financial regulations
- p) Emergency expenditure up to £500 outside of the agreed budget according to financial regulations
- q) To act as the Council's designated officer for the purposes of the Freedom of Information Act 2000

- r) To act as the Councils responsible person for Legionella prevention
- s) 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.

The Openness of Local Government Bodies Regulations 2014 (2014 SI No. 2095), which came into force on 6 August 2014, require a written record to be kept of certain decisions made by an officer of a parish council acting under delegated powers. The decisions are those:

- t) made under a 'specific express authorisation', or
- u) made under a general authorisation where the effect of the decision is to;
  - i. grant a permission or license,
  - ii. affect the rights of an individual, or
  - iii. award a contract or incur expenditure which, in either case, significantly affects the financial position of the 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:

- v) *'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.'*
- w) *You will not be able to inspect some recorded decisions if the whole or part of the records contain 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 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;*
- *routing administrative and organisational decisions such as the purchase of office supplies or repairs;*
- *decisions to book rooms or sports grounds; and decisions to approve works undertaken by a contractor.*

*These are a few selected examples and not an exhaustive list. It is for the council to decide what information should be recorded on the basis of the national rules.'*

The Clerk currently has authority to incur expenditure up to £2500 under financial regulations. The Parish Council does not consider that such expenditure is likely to significantly effect the financial position of the Parish Council. Expenditure in excess of these limits must be authorised by a committee or by Full Council and the decision will be recorded in the minutes.

## **2. The Council**

The full Council can take all decisions, or it may appoint one or more committees or sub committees for the purpose of discharging its functions. It may also delegate some of its functions to the officer(s) of the Parish Council.

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

- a) Setting the Precept
- b) Borrowing money
- c) Approval of the Council's Annual Accounts and completion of the Annual Return
- d) Making, amending or revoking Standing Orders, Financial Regulations or this Scheme of Delegation
- e) Making, amending or revoking bye-laws
- f) Making of Orders under any statutory powers
- g) Matters of principle or policy
- h) Nomination and appointment of representatives of the Council to any other authority, organisation or body (excepting approved conferences or meetings)
- i) Any proposed new undertakings
- j) Prosecution or defense in a court of law
- k) Nomination or appointment of representatives of the Council at any inquiry on matters affecting the Parish, excluding those matters specific to a committee
- l) All other matters which must by law be reserved to the full Council

**The Parish Council delegates the following duties/powers through its Financial Regulations;**

## **3. Budgetary control and authority to spend**

Expenditure on revenue items may be authorised up to the amounts included for that class of expenditure in the approved budget. This authority is to be determined by:

- a) the council for all items over £5,000
- b) a duly delegated committee of the council for items over £2500; or

- c) the Clerk, in conjunction with Chairman of Council or Chairman of the appropriate committee, or the Lead Councillor for any items below £2500

Such authority is to be evidenced by a minute or by an authorisation slip duly signed by the Clerk, and where necessary also by the appropriate Chairman.

Contracts may not be disaggregated to avoid controls imposed by these regulations.

In cases of extreme risk to the delivery of council services, the clerk may authorise revenue expenditure on behalf of the council which in the clerk's judgement it is necessary to carry out. Such expenditure includes repair, replacement or other work, whether or not there is any budgetary provision for the expenditure, subject to a limit of £2500. The Clerk shall report such action to the chairman as soon as possible and to the council as soon as practicable thereafter.

#### **4. Banking arrangements and authorisation of payments**

The Clerk / RFO shall have delegated authority to authorise the payment of items only in the following circumstances:

- a) By debit card for items not able to be invoiced to a maximum single transaction amount of £500 unless authorised by council or finance committee in writing before the order is placed
- b) If a payment is necessary to avoid a charge to interest under the Late Payment of Commercial Debts (Interest) Act 1998, and the due date for payment is before the next scheduled Meeting of council, where the Clerk and RFO certify that there is no dispute or other reason to delay payment, provided that a list of such payments shall be submitted to the next appropriate meeting of council;
- c) An expenditure item authorised under continuing contracts and obligations provided that a list of such payments shall be submitted to the next appropriate meeting of council or
- d) fund transfers within the councils banking arrangements up to the sum of £100,000, provided that a list of such payments shall be submitted to the next appropriate meeting of council.

#### **5. Instructions for making of payments**

Following authorisation under the Financial Regulations, the council, a duly delegated committee or, if so delegated, the Clerk or RFO shall give instruction that a payment shall be made.

All payments shall be effected by cheque / online banking or other instructions to the council's bankers, or otherwise, in accordance with a resolution of council or duly delegated committee.

## 6. Contracts

Procedures as to contracts are laid down as follows:

- a) Every contract shall comply with these financial regulations, and no exceptions shall be made otherwise than in an emergency provided that this regulation need not apply to contracts which relate to items below:
- b) for additional audit work of the external auditor up to an estimated value of £500 (more than this sum the Clerk and RFO shall act after consultation with the Chairman and Vice Chairman of council)

## 7. Committees and sub-committees

- a) **Unless the council determines otherwise, a committee may appoint a sub-committee whose terms of reference and members shall be determined by the committee.**
- b) **The members of a committee may include non-councillors unless it is a committee which regulates and controls the finances of the council.**
- c) **Unless the council determines otherwise, all the members of an advisory committee and a sub-committee of the advisory committee may be non-councillors.**
- d) The council may appoint standing committees or other committees as may be necessary, and:
  - i. shall determine their terms of reference;
  - ii. shall permit a committee to determine the number and time of its meetings;
  - iii. shall, subject to standing orders above, appoint and determine the terms of office of members of such a committee;
  - iv. shall, after it has appointed the members of a standing committee, appoint the chairman of the standing committee;
  - v. may dissolve a committee.

## 8. Code of conduct complaints

- a) Upon notification by the Borough that it is dealing with a complaint that a councillor or non-councillor with voting rights has breached the council's code of conduct, the Proper Officer shall, subject to standing orders, report this to the council.
- b) Where the notification in standing orders relates to a complaint made by the Proper Officer, the Proper Officer shall notify the Chairman of Council of this fact, and the Chairman shall nominate a person to

assume the duties of the Proper Officer in relation to the complaint until it has been determined and the council has agreed what action, if any, to take in accordance with standing order below.

- c) The council may:
  - i. provide information or evidence where such disclosure is necessary to progress an investigation of the complaint or is required by law;
  - ii. seek information relevant to the complaint from the person or body with statutory responsibility for investigation of the matter;
- d) **Upon notification by the Borough that a councillor or non-councillor with voting rights has breached the council's code of conduct, the council shall consider what, if any, action to take against him. Such action excludes disqualification or suspension from office.**

### 9. Urgent matters:

- a) In the event of any matter arising which requires an urgent decision the Clerk to the Council shall forthwith consult with the Chairman and Vice-Chairman of the Council, and the appropriate portfolio holder if the matter involves expenditure not provided for in the annual budget, and not covered by Finance Regulations before acting on behalf of the Council in respect of the particular matter under consideration.
- b) Before the Clerk exercises the delegated powers above, those members consulted shall consider whether the matter is of sufficient interest to justify the summoning of a special meeting of the Council or of the appropriate committee and where a meeting is so summoned the committee concerned shall have delegated power to act on behalf of the Council in respect of the particular matter then under consideration.
- c) Before exercising the delegated power, the Committee concerned shall consider whether the matter is of sufficient import to justify recommending to the Chairman of the Council that a Special Meeting of the Council should be called in accordance with Standing Order 18(c).
- d) Whenever any action is taken in this way, full details of the circumstances justifying the urgency and of the action taken shall be submitted in writing to the next appropriate meeting of the Council.

### 10. Committees

The council does not currently have any committees but may appoint a committee at any full council meeting and determine their terms of reference upon appointment of such committee.

### 11. Sub Committees

The council does not currently appoint sub-committees, but may do so if the committee believes it would be expedient to do so under Standing Order 4(a). Any powers delegated to a sub-committee shall be detailed at the time the sub-

committee is formed by means of a minute detailing the sub-committee's terms of reference, but such delegated powers must be agreed by the council.

## **12. Working groups**

- a) Working groups may be formed by resolution of the council or committee at any time. The work of such a working group shall be formed by means of a minute detailing the working group's terms of reference at full council meeting. Any existing working groups will be minuted at the AGM with the members, if working groups are no longer required, they will be minuted as disbanded.
- b) Where working groups are established, they will be convened by their lead member and maintain their own notes which shall be reported in full to the main Committee. They are advisory bodies only with no delegated decision-making powers. Officer(s) will attend by invitation only as ad hoc advisor(s).

## **13. Lead Councillors**

The council may name a lead councillor for an area by resolution of the council at any time. The role of the lead councillor is to act as the contact point for the public and to support the clerk with actions determined by the full council in that area.

## **14. Delegation – Limitations**

Committees, sub-committees and lead Councillors shall, at all times, act in accordance with the Council's Standing Orders, Financial Regulations, the committee's Terms of Reference, this Scheme of Delegation and, where applicable, any other rules, regulations, schemes, statutes, bye-laws or orders made and with any directions given by the Council from time to time.

## **15. Delegation of Planning Decisions by the Clerk**

The council has delegated authority to respond to non-contentious planning applications to the Proper Officer (the Clerk) the decisions on planning applications from Erewash Borough Council based on the following:

- a) Upon receiving notice from EBC for a planning application, the clerk will forward the notice to all Councillors and ask for their opinion / response within 1 week
- b) If there is a mixed response of Objection / No Objection, the clerk will arrange a meeting so that the council can determine a majority decision at a properly constituted meeting of the full council (summonsed and advertised so that members of the public can attend if they so wish)
- c) Where the application is for more than 2 new houses, the clerk will automatically call a properly constituted meeting of the full council (summonsed and advertised so that members of the public can attend if they so wish)

