

**TOLLESHUNT D'ARCY
PARISH COUNCIL**

www.tolleshuntdarcypc.org



Scheme of Delegation Policy

V1.0

Clerk: Michelle Curtis, PO Box 13205, Maldon, Essex CM9 9FU
Tel: 078483 325853 e-mail: clerk@tolleshuntdarcypc.org

1.0 Introduction

1.1 This document sets out the manner in which Tolleshunt D'Arcy Parish Council has delegated its powers.

1.2 The legal basis of the delegation conferred by the Document is contained in the following provisions of the 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

(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 arrange for the discharge of any of those functions of a local 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) 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.

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

(5) A local authority's functions with respect to issuing a precept for a rate or borrowing money shall be discharged only by the authority.”

1.3 It is desirable that in the interests of certainty in decision making and to avoid lengthy discussions in Council meetings, Standing Orders should discourage, so far as is legally possible, action being taken by the Council after the matter has been 'decided' by a Committee, or Sub-committee. If the Council feel, however, that action is necessary then normally it should refer the matter back to the Committee concerned (Standing Order 10a. iv).

1.4 The intention of the delegation scheme is that the Council should act with all reasonable speed. Decisions should be taken at the most suitable level and that officers are given power over the day to day administration of the Council.

2.0 Proper Officer and Responsible Financial Officer

2.1 The Clerk to the Council is designated and authorised to act as Proper Officer for the purposes of all relevant sections of the Local Government Act 1972 and any other statute requiring the designation of a Proper Officer.

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

2.3 The Clerk to the Council, usually known as the Parish Clerk, is employed by the council under section 112 of the Local Government Act 1972 for the proper discharge of its functions.

2.4 The Clerk to the Council shall do the following;

- i. at least three clear days before a meeting of the council, a committee or sub- committee serve on councillors by delivery or post at their residences or by e-mail authenticated in such manner as the proper officer sees fit, a signed summons confirming the time, place and the agenda**
- ii. Give public notice of the time, date, venue and agenda at least 3 clear days before a meeting of the Council or a meeting of a committee or a sub- committee (provided that the public notice with agenda of an extraordinary meeting of the Council convened by councillors is signed by them).**
- iii. Convene a meeting of full Council for the election of a new Chairman of the Council, occasioned by a casual vacancy in the office, in accordance with 2.4(i) OR 2.4(ii) above.**
- iv. Receive and retain copies of byelaws made by local authorities.**
- v. Receive and retain declarations of acceptance of office from councillors.**
- vi. Make available for inspection the minutes from meetings.**
- vii. retain a copy of every councillor's register of interests and any changes to it and keep copies of the same available for inspection.
- viii. Keep proper records required before and after meetings.
- ix. process all requests made under the Freedom of Information Act 2000 and Data Protection Act 2018, in accordance with and subject to the Council's procedures relating to the same.
- xi. receive and send general correspondence and notices on behalf of the Council except where there is a resolution to the contrary.
- xii. manage the organisation, storage of and access to information held by the Council in paper and electronic form.
- xiii. arrange for legal deeds to be signed by 2 councillors and witnessed.
- xiv. record every planning application notified to the Council and the Council's response to the local planning authority.
- xv. refer planning applications received by the Council to Planning Committee.
- xvi. institute and appear in any legal proceedings authorised by the Council,
- xvii. appear or make representation to any tribunal or public inquiry into any matter which the Council has an interest.
- xviii. as required, alter the date or time of a committee meeting, but before doing so, shall consult the Chairman of the committee concerned about the need for the change and about alternative dates and times.
- xix. manage the Council's allotments.

- xx. undertake day to day management and maintenance of Council land and facilities.
- xxi. prepare statements for the press where the known policy of the council exists.
- xxii. carry out the wishes of any Council, Committee, or sub-committee decision.
- xxiii. develop and maintain the councils I.T. capabilities, including the council website and social media activity.
- xxiv. manage the day-to-day operational management of the council.
- xxv. action or undertake activity or responsibilities instructed by resolution or contained in standing orders.
- xxvi. organise and manage events on behalf of the council.
- xxvii. represent the council at meetings and forums.
- xxviii. Prepare, produce and publish council publications and documents.

2.5 The Clerk to the Council is authorised as follows:

- i. to arrange for the prompt authorisation, approval, and instruction regarding any payments to be made by the Council in accordance with the Council's financial regulations.
- ii. to incur expenditure up to limit set in the Financial Regulations.
- iii. to incur expenditure on behalf of the Council which is necessary to procure services, carry out any repair, replacement or other work which is of such extreme urgency that it must be done at once, whether or not there is any budgetary provision for the expenditure, subject to a limit set in Financial Regulations. The Clerk to the Council shall report the action to the council as soon as practicable thereafter.
- iv. to authorise for payment, staff salaries and expenses in line with council policy.
- v. to prepare VAT reclaim on behalf of the council.
- vi. to take proceedings or other steps as may be necessary to enforce and recover any debt owing or other obligation due to the Council.
- vii. to issue invoices on behalf of the council.
- viii. to carry out duties in line with the responsibilities of RFO.

- xi. to carry out duties in accordance with the Financial Regulations of the parish council and the Audit and Accounting and Governance regulations.
- xii. to accept bookings and to negotiate and authorise the rents and fees for persons using the facilities provided by the council, other than standard charges proscribed by the council, including free use of facilities, where required.
- xiii. to let allotments, serve notices to cultivate and terminate allotment tenancies on breach of the tenancy conditions
- xiv. to make recommendations on improvements, maintenance, layout, new and redundant areas, finance and any other relevant allotment matters
- xv. to carry out annual inspection of all allotments.
- xvi. to use promotions to encourage increased usage and overall income of the councils facilities or activities
- xvii. to close all or parts of facilities to allow for maintenance work or in the interests of health & safety
- xviii. to keep all land and property under review and take such emergency action as may be necessary for the protection of the public or the Council's property
- xix. to order goods, works and services as per Financial regulations

xx. Whilst retaining overall responsibility, the Clerk to the Council may delegate the duties listed above in 2.4 and 2.5 to other staff members with the exception of those marked in bold.

2.6 The Clerk to the Council is given delegated powers to act as line manager to all the Council staff in accordance with the Council's policies, procedures and budget, including:-

i. the monitoring and management of staff performance

ii. the management of discipline and grievance matters up to and including final written warning in line with council policy.

iii. the arrangement of staff training.

iv. the approval and authorisation of reasonable overtime as required.

v. the approval and authorisation of annual leave entitlement and other absence as appropriate.

2.7 The Clerk to the Council is authorised to act on behalf of the Council in cases of urgency or emergency. Any such action is to be reported to the next meeting of the Council and the relevant committee or sub-committee. The Chairman of the Council or Chairman of the appropriate Committee shall be informed as soon as practically possible of any action taken by the Clerk to the Council.

3.0 Committees

3.1 Committees are delegated powers to act within their Terms of Reference. This means that on all matters not reserved for consideration by another Committee, or by the full Council, Committees can RESOLVE and thereafter action can normally be taken by officers, however certain matters cannot legally be delegated and others, such as deciding major policy are reserved by the Council to itself. On such matters, committees can only RECOMMEND a course of action and, in these cases, officers cannot normally carry out the instructions of the committees until the recommendation has been approved by the Council.

3.2 Should members wish to raise any question concerning the exercise of delegated or other powers, then they should contact the appropriate committee chairman or the Clerk to the Council, and if necessary the matter can be raised subsequently at committee.

3.3 Members are entitled to attend all committees and sub-committees whether or not they are members of the committee, although no voting rights or right to participate in discussions or proceedings are granted.

4.0 General arrangements for delegation of powers

4.1 Applicable to all committees of the Council

a) The Council had delegated to every committee of the Council full powers to act in all matters covered by the committee's Terms of Reference subject to:

- i the provisions of any Standing Order or Financial Regulation for the time being in force, except where such Order or Regulation has been specifically waived by resolution of the Council.
- ii. prior Council approval of annual capital and revenue estimates
- iii.any scheme requiring application for consent to borrow having first been approved by Council, and loan sanction secured.
- iv.when matters of major policy are involved, the existence of a policy approved by the Council. In the absence of such policy, Committees and Sub-committees may consider the matter and make recommendations to the Council.

Major policy will arise either:

- a. on matters of major importance which have not previously been before the Council; or
- b. matters which have arisen in other Committees or Sub- committees but which cannot be resolved by them in the absence of settled Council policy; or
- c. in cases of doubt where a major policy is involved, the Chairman of the Council or the Chairman of any other Committee or Sub- committee, or in their absence the appropriate Vice-Chairman may, before a decision is taken by the committee or sub-committee, state that a matter of major policy is involved.

v. prior Council approval to recommendations for the allocation of duties, powers and guidelines to committees.

- b) the exercise by committees of the above powers shall be without derogation to the powers of the Council to call for a report on any committee decision.
- c) every committee shall have power to authorise an officer, after consultation with the Chairman of the Committee, to take decisions on specific urgent matters falling within its own Terms of Reference as it sees fit.
- d) Notwithstanding the powers delegated to committees, the Council retain the right to exercise such powers when necessary.

4.2 The following matters that are reserved for the full Council and may not be delegated to a committee:

- the adoption of Standing Orders and Financial Regulations
- the appointment of permanent representatives to outside bodies
- the making of bye-laws **Scheme of Delegation**
- the dismissal of officers
- the setting of the annual budget and precept
- the approval of final accounts and statutory return
- the noting the report of the Internal Auditor

5.0 Terms of reference – Working groups

5.1 The council may form or disband a working group who will carry out tasks as defined by the full council. Specific terms of reference, including if necessary delegated powers, will be prepared by the Clerk for ratification at the next full council meeting following the working group being established.

5.2 The Role of a working group will be:

- To tackle issues as directed by the council.
- To be task specific and time limited
- To examine an issue in detail, read reports and related materials, examine options, get advice for the council
- To act as experts and/or liaise with experts
- To make recommendations to council
- To answer questions from the council

No funding or monies to be spent or committed without delegated authority or prior full council endorsement.

5.3 Full council must direct the working group and set clear terms of reference for them regarding objectives, scope and outcome. The role of full council is to question and challenge the recommendations, in order to be satisfied of the correct decision.

The working group must facilitate the full council with as much information as it requires to ensure it can make a properly informed decision on its recommendation.

5.4 The operation of the working group:

- A Working Party will not have a budget.
- The number of councillors on a working group shall be no less than three and no more than five members.
- The leader of the working group to be appointed by the full council at the time of the working group members are appointed.
- The quorate of a working group will be a minimum of three councillors at each meeting.
- Work priorities and co-option of named experts to be approved by full council.
- The working group will prepare notes of meetings for full council to report on any activity and progress.
- A working group will not meet in public, therefore Standing Orders are not applicable, although the Code of Conduct still applies.
 - The working group will examine options and make recommendations to Full Council.

Version	Details of Changes	Date	Approver
V1.0	Adopted	26/10/2021	TDPC
	Next Review October 2024		