



## ROLE OF COUNCILLORS

### Who can be a councillor?

Subject to the rules on disqualification, a person is qualified to be a councillor if he is a Commonwealth citizen (which includes a British subject) or a citizen of a member state of the European Union, is over 18 and is an elector for the parish or community where he seeks election. In addition, he is qualified if he has either during the whole of the 12 months before the day on which he is nominated as a candidate, or the day of election, resided in the parish or community or within three miles of it; or he occupies land or premises there as owner or tenant; or he has his only or principal place of work there (work includes being a councillor for the place in which a person seeks re-election – *Parker v Yeo* (1992)).

In summary, a person is disqualified if: he holds a paid office under the council (e.g. the clerk); he has been made bankrupt or made a composition or arrangement with his creditors; he has within five years before election, or since election, been convicted of an offence and sent to prison for at least three months; he is guilty of corrupt or illegal practices relating to elections; he has been disqualified for breach of the Code of Conduct.

### Why become a councillor?

The following might be reasons –

- a. to run the council
- b. to represent the electors
- c. to use the position of councillor to forward policies
- d. to improve or change the parish or community
- e. to defend the parish or community against threats
- f. to take up electors' problems.

### The role of the councillor

Depending on the reasons for becoming a councillor, his or her role will be one or more of the following –

- a. to manage a small or medium scale enterprise, i.e.
  - i. to fix a budget
  - ii. to make management policy decisions
  - iii. to issue guidance to and control staff (usually part-time)
  - iv. to check that policy decisions taken by the council are carried out
  - v. to suggest new openings for enterprise
- b. to ensure that the views of the parish or community on any matter are put to the relevant persons or bodies and that its special interests are protected or promoted, i.e. -
  - i. to take decisions about what are the interests of the area
  - ii. to decide how to advance those interests
  - iii. to keep in touch with constituents
  - iv. to be seen to be acting in the interests of the locality



v. to publicise the activities of the council

To prepare for the role outlined above a councillor needs -

- a. to be aware of new possibilities by keeping in touch with current events in the local council world (e.g. by reading *Clerks and Councils Direct* and other relevant publications)
- b. to keep aware of what is happening in the locality and its implications
- c. to have an enquiring mind and to use it
- d. to take a lead in local affairs
- e. to have some idea of the goals the council seeks to achieve

### **Legal Responsibilities**

A councillor must:

- a. obey the council's Code of Conduct (see separate note).
- b. not take any paid appointment from the council while a councillor or for 12 months after ceasing to be a councillor.

The council is a corporate body with a legal personality separate from its members. Consequently, individual councillors are not liable for the adverse consequences of decisions made by the council, save in exceptional circumstances. In order to guard against the unlikely eventuality of personal liability, a council should always seek advice before embarking on a course of conduct about which councillors have doubts.

### **Danger zones for councillors**

In carrying out their tasks councillors need to be aware of possible dangers which, if ignored, could lead to difficulties both for the council and for the councillors themselves.

Examples of dangers to be avoided are:

- (a) Deciding on action not within the lawful powers of the council e.g. completing the financial package by reclaiming the VAT on money donated to the project by users of the hall or accepting a loan from a friendly district authority although the local council holds no credit approval for the loan. Potential result: having to refund the VAT in a later year; having to satisfy the audit by repaying the loan.
- (b) Changing plans during the execution of the project by e.g. ordering more building work orally without consultation with one's colleagues. Potential result: being unable to challenge the builder's invoice for extras though certain they were not all ordered and being repudiated by the council when seeking the cash to meet the bill.
- (c) Acting on assumptions which have not been checked e.g. that the track passing the hall is a public vehicular right of way and building a car-park at its end. Potential result: having to pay to buy the right of way or see the car park investment wasted.
- (d) Cutting out the bureaucracy by making a "simple" agreement with others whom "we know" to let them use council property. Potential result: being unable to prevent the others from doing what they want with the property or even get



them out to re-let to others.

(d) Saying things about opponents and their actions which turn out to be untrue or irrelevant. Potential result: threats of libel proceedings; demands for apologies and compensation against a councillor.

(e) Bringing complaining letters to the council without checking if they tell the full story and reading the letters in public. Potential result: threats of libel against the council; demands for copy documents.

(f) Missing the vital factor in a situation e.g. that no-one has any right to use a village green for any purpose except lawful sports and pastimes.

(g) Taking up assumed popular causes; raising them at all possible times. Potential result: turning every other member against oneself so that no issue is ever taken seriously by the others.

(h) Checking on what is being done by the council in detail. Potential result: a large audit bill for the council because you can always find an (unimportant) irregularity which you can blow up into an issue demanding investigation.

(i) Ignoring procedural rules e.g. by failing to do a declaration of acceptance as a chairman or refusing a recorded vote. Potential result: Losing the chairmanship or provoking a judicial review against the council.

(j) Failing to recognise a personal involvement. Potential result: breaking the Code of Conduct, leading to investigations, complaints and disputes.

### **Avoiding Danger Zones**

Taking the following steps when appropriate will help to avoid danger zones:

(a) Consider all the parts of a project or a campaign at once. Do not make piecemeal decisions. (If, for example, deciding to borrow also at the same time decide on how to pay back).

(b) Check that the clerk has got all the necessary advice and consulted the appropriate advisers about a project.

(c) Ensure the clerk has all the basic advisory tools - e.g. *Local Council Administration*, *Code of Conduct*, *Clerks and Councils Direct*, *Standing Orders*, *Governance and Accountability in Local Councils - a Practitioners' Guide*.

(d) Do not ignore advice because it is inconvenient or you cannot believe the clerk has got it right.

(e) Have all decisions clearly recorded in writing, particularly instructions to others which will require payment.

(f) Never cut procedural corners however tedious. It is always worth doing it right.

(g) Always ask your self before speaking in public or writing (including emails) on a public matter - Do I need to say this? Is it true? (If it is a comment) is it necessary, appropriate and reasonable? Only a triple "yes" justifies an open mouth.

(h) Never read out (or circulate) the full text of someone else's writing except where you are sure every word is either true or necessary relevant comment. Extract the necessary facts only for publication.



- (i) Consider all the aspects of a situation: the first answer may not be the best.
- (j) Do not become a bore.
- (k) Do not try to catch out other councillors.
- (l) Accept that when a decision has been made, even if you think it is the wrong one, you move on to other issues. Democracy includes recognising when you have lost.
- (m) Never pretend to yourself (or assert to others) that a matter of personal interest is a public issue.
- (n) Remember a councillor is always on parade and should never be liable to be found waiting.