

# WINKLEIGH PARISH COUNCIL SCHEME OF DELEGATION

This procedure is a document that sets out Winkleigh Parish Councils approved and agreed practices. Any deviation must be by resolution of the full Council.

<b>DOCUMENT NO:</b>	WPCP/26
<b>APPROVED/ADOPTED/RATIFIED DATE</b>	05/06/2020
<b>APPROVED/ADOPTED/RATIFIED MINUTES REF</b>	40.4:20
<b>LAST REVIEW</b>	4 <sup>th</sup> May 2021 Minute ref 61.21
<b>REVIEW DATE</b>	May 2022
<b>VERSION NO:</b>	2

### VERSION CONTROL AND REVISIONS:

Version	Point	Description of Change	Date
2	Delegation of Powers	Addition of Emergency powers to Proper Officer	25/03/2020

**THIS IS A CONTROLLED DOCUMENT**

**Whilst this document may be printed, the electronic version maintained on the Winkleigh Parish Council website is the controlled copy. Any printed copies of this document are not controlled.**

## **GENERAL**

By this scheme Winkleigh Parish Council [“the Council”] delegates functions and where required by law cedes the same to officers.

By this scheme of delegation, the Council in pursuance of its powers under **section 101 of the LGA 1972 [Local Government Act 1972]** and in pursuance of its powers under **section 15 of the LGA 2000 [Local Government Act 2000]** to the extent of their respective powers delegate the functions referred to in this scheme to be discharged by bodies or persons and subject to the limitations hereinafter contained.

The scheme delegates powers and duties within broad functional descriptions and includes powers and duties under all legislation present and future within those descriptions and all powers and duties including those relating to the employment of staff incidental to that legislation.

The scheme operates under **sections 101, 151 and 270 of the LGA 1972 [“Local Government Act 1972”]**. **Section 15 of the LGA 2000 [“Local Government Act 2000”]** and all other powers enabling the Council and for the avoidance of doubt any reference to the Council shall be deemed to be a reference to the committee where the function falls to be discharged by the committee.

## **DEFINITIONS**

For the purpose of this scheme a function of the Council means any activity that the Council may lawfully perform under statute or common law.

## **OVERALL LIMITATIONS**

Any exercise of responsibility for functions or delegated powers shall comply with:

- a. Any statutory restrictions
- b. The Councils Standing Orders
- c. The Councils Policy framework and any other plans and strategies approved by the Council.
- d. The current year budgets
- e. The Councillors Code of Conduct
- f. The Code of Practice on local Authority Publicity.
- g. Agreed arrangements for recording decisions.
- h. Financial Regulations.

The scheme does not delegate any matter:

- a. Reserved by law
- b. Which by law may not be delegated to a Councillor and /or Officer.

## **DELEGATION OF POWERS**

**In an emergency and/or Council meeting suspended/inquorate, the council delegate all statutory powers and functions (except those prohibited under LGA 1972 s.101) to the Proper Officer until normal council service is resumed**

Decisions cannot be delegated to individual Councillors.

A Court can set aside any decisions made by a body or person not having the power to make them.

Local Councils may only do what legislation requires or permits them to do. With some exceptions,

the Council may delegate some functions to Committees, Officers or other Local Authorities.

The aim of this document is to clarify the way Winkleigh Parish Council has delegated its powers and the authority to spend.

## Council

Certain functions cannot be delegated and are therefore reserved to the full Council, although an appropriate working group may make recommendations thereon for the Council's consideration:

- Setting the precept and approval of the Council's budget
- Approval of the Annual Accounts
- Completion of the Annual Return including the Governance Statement
- Consideration of an Auditor's report made in the public interest (*within one month of receipt*).
- The making, amending or revoking of Standing Orders, Financial Regulations and this Scheme of Delegation
- Adoption or revision of the Council's Code of Conduct.
- Confirmation (by resolution) that the Council has satisfied the statutory criteria to exercise the General Power of Competence
- Determination and review of the Bank Mandate
- Matters of principle or policy
- Nomination or appointment of representatives of the Council to outside bodies (except approved conferences or meetings)
- Nomination or appointment of representatives of the Council at any inquiry on matters affecting the Parish
- The making, amending or revoking of bye-laws
- Agreement to write off bad debts
- Approval by resolution, before payment, of any grant or single commitment in excess of £5,000.
- Authorisation as to terms and purpose for any application for Borrowing Approval and subsequent arrangements for the loan.
- Approval of any financial arrangement which does not require formal borrowing approval from the Secretary of State (eg hire purchase or leasing of tangible assets)
- Approval of purchase, acquisition by other means, sale, lease or disposal of tangible moveable property over £1,000.
- Approval of purchase, acquisition by other means, lease, sale or disposal of real property (interests in land).
- Approval of the virement of unspent and available amounts to other budget headings or reserves
- Approval of changes in earmarked reserves as part of the budgetary process

## Proper Officer

The Clerk to the Council shall be the Proper Officer and carry out the functions of the Proper Officer as provided by the **Local Government Act 1972** and as set out in the job description for the post. In the absence of the Clerk, the full authority of the Proper Officer passes to the Locum Clerk. Delegated actions of the Clerk or other officer 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 Clerk is specifically authorised to:

- Receive declarations of acceptance of office.
- Receive and publish Members' Registers of Interest
- Receive and grant Disclosable Pecuniary Interest (DPI) dispensations after consulting with the

District Council's Monitoring Officer; details of all dispensations received and granted to be reported to the Council at the next available meeting.

- Sign and serve on councillors a summons with an agenda to attend Council and committee meetings
- Convene a meeting of the Council if a casual vacancy occurs in the office of the Chairman
- Sign notices or other documents on behalf of the Council
- Receive and hold copies of byelaws made by a principal local authority which affect the Council's area
- Receive and retain plans, notices and documents
- Certify copies of byelaws made by the Council
- To act as the representative of the Council

In addition, the Clerk is authorised to undertake the day to day administration of the Council, to include:

- Arranging extra meetings of the Council, having consulted with the appropriate chairman, except those called by the Chairman or members in accordance with Standing Order 4.
- Issuing press releases and statements to the press on the Council's known policies, subject to the provisions of the Council's Press and Media Policy.
- Updating and managing the content on the Council's website and Facebook Page
- Making arrangements for the maintenance of the office IT system.
- Disposal of Council records according to legal restrictions and an agreed retention and disposal policy
- Handling requests for information under **the Freedom of Information Act 2000 and the Data Protection Act 1998 and 2018**
- in the first instance, acknowledging and handling all complaints regarding the council (except where the complaint relates to the clerk)
- Making arrangements for the routine maintenance of the Parish Office equipment
- Purchasing basic office equipment and supplies
- Arranging emergency repairs to the Parish Office equipment or other Council premises (subject to the council's standing orders and financial regulations.)
- Taking appropriate action arising from other emergencies (in consultation with the Chairman/Vice Chairman of Council as appropriate to the circumstances)
- Making arrangements to pay salaries/wages and expenses to all employees of the Council (subject to the Council's financial regulations);
- Dealing with day to day matters in relation to the Management and function of Winkleigh Cemetery, in accordance with the Cemetery Management policy
- Authorising routine recurring expenditure within the agreed budget
- Emergency expenditure up to £200 whether or not there is budgetary provision for the expenditure (subject to Standing Orders and Financial Regulations)
- Day to day management of Council property and assets
- To monitor all of the implemented policies of the Council to ensure they are achieving the desired results and where appropriate suggest modifications
- Acting as line manager of all employees/contractors/volunteers of the Parish Council
- To act as the designated person on behalf of WPC Data Protection Data Controller in accordance with WPC Data Protection Policy

When the Council delegates a specific task or function to the Proper Officer, the action taken must be reported to the next Council meeting

## Responsible Financial Officer (RFO)

The Responsible Financial Officer (RFO) to the Council is responsible for the Parish Council's accounting procedures and financial records and is accountable for the proper administration of its finances, in line with the current **Account and Audit Regulations** and the Council's adopted Financial Regulations. The functions and duties of the RFO are set out in the job description for the post.

- Proposing a budget to the Parish Council for the forthcoming year.
- Monitoring financial progress of the Parish Council's expenditure and payments made on behalf of the Parish Council, subject to submitting position statements to all ordinary Parish Council meetings.

## Employment Committee

Decisions cannot be delegated to any individual Councillor.

The Employment Committee has the delegated authority from Winkleigh Parish Council:

- To advise Council on issues of staff pay and conditions. □
- To consider and recommend harmonisation of the terms and conditions of service and pension provision of employees. □
- To annually review and appraise the performance of employees and to recommend adjustment of salary to the Council. □
- Chairman of the Council to provide line-manager function for Clerk, including responsibility for day to day matters, such as holiday, sick leave and absence from work. □
- To ensure the Council complies with all legislative requirements relating to the employment of staff. □
- To deal with any staff disciplinary matters in accordance with the Council's Disciplinary Procedure. □
- To deal with any staff grievance in accordance with the Council's Grievance Procedure. □
- To periodically review all employment policies and procedures, including Grievance and Disciplinary Procedures, and the Equality Policy. □
- To oversee the appointment and recruitment process of Council employees. □
- To recommend to Council the appointment or termination of contract for the Clerk.
- All members of the Employee committee to be registered as Data Control Processors to comply with the Data Protection Act
- The Chairman of the Committee in consultation with one other designated Committee Councillor, to undertake emergency actions as listed below, in the absence of the Clerk due to holiday, sickness or unforeseen circumstances unless/until a locum is appointed,
  - Approve any emergency expenditure in accordance with Standing Orders and Financial Regulations if 'Action' required before the Clerk returns;
  - Planning application notifications – circulation by email to Cllrs
  - Act upon urgent emails requiring 'Action' before the Clerk returns

## 8. Reporting to Council

The Chair of the Employment Committee must provide a written report to Full Council at the next Parish Council Meeting in respect of those activities and recommendations at meetings, or in absence of the Clerk in order that progress may be noted and decisions ratified.