



Bury Parish Council

SCHEME & SCOPE OF DELEGATION OF POWERS

Local Councils may only do what legislation requires or permits them to do. With some particular exceptions, the Council may delegate functions to committees, sub committees, officers, or other authorities. The power to delegate functions by local councils is set out in the amended Local Government Act 1972 S.101 (Appendix 1).

The aim of this document is to clarify the manner in which Bury Parish Council has delegated its powers and the authority to spend.

Decisions are normally taken by the Parish Council at its regular monthly Parish Council meeting or at an additional meeting specifically convened for that purpose. Certain functions cannot be delegated and are therefore reserved to the full Council, although an appropriate committee may make recommendations thereon for the Council's consideration.

Examples are:-

- Setting the precept and approval of the Council's budget
- Approval of the Annual Accounts and completion of the Annual Return including the Governance Statement
- Consideration of an Auditor's report made in the public interest.
- 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

Convening a meeting takes a minimum of three clear days (not counting Sundays and Bank holidays) and on rare occasions emergency business arises that needs a decision and/or action to be taken and it would be inappropriate to convene an additional ordinary meeting of the Council to consider the issue. As the Council has power under s. 101, LGA 1972 to arrange for the discharge of any of its functions by an officer of that authority, it is common practice for standing orders or council resolutions to provide for specific areas of decision-making to be delegated to a proper officer (see LGA 1972 s.270(3) for a formal definition). The Clerk and the Responsible Finance Officer are this parish Council's proper officers.

The Clerk carries out the functions as provided by the Local Government Act 1972, and as set out in the job description for the post. The Council may delegate the full authority of the Clerk to any other temporary or permanent member of staff to act in the Clerks absence. Delegated actions 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.

General Administration

The Clerk is specifically authorised to:

- Receive declarations of acceptance of office;
- Receive and publish Members' declarations of interest, and pass the originals to the Monitoring Officer of the Principal Authority;
- Receive and determine Disclosable Pecuniary Interest (DPI) dispensations and report details of all dispensations received, and the decision on them, to the next available Council meeting;
- Convene a meeting of the Council if a casual vacancy occurs in the office of the Chair;
- Take steps to fill a casual vacancy in the office of Councillor (in accordance with the Co-Option Policy and Procedure).
- Sign notices or other documents on behalf of the Council;
- Receive, retain, and dispose of plans, notices, records, and documents in accordance with the document retention policy and the law;
- Certify copies of byelaws made by the Council;
- Respond to planning and licensing matters in accordance with the wishes of the Council.
- Act as Safeguarding and Data Protection Officer.

In addition, the Clerk is authorised to undertake the day-to-day administration of the Council, which includes:

- Calling extra meetings of the Council, or any committee, or sub-committee, as necessary, having consulted with the appropriate Chair; except those meetings called in accordance with Standing Orders by the Council Chair or Members;
- Issuing press releases and statements to the press or on social media on the Council's known policies, subject to the provisions of the Council's Press and Media Policy;
- As webmaster, originating, updating, and managing the content on the Council's website and Social Media page(s);
- Responding to requests for information under the Freedom of Information Act 2000 and the General Data Protection Regulations (or similar Acts and Regulations);
- Acknowledging and handling all complaints regarding the Council (except where the complaint relates to the Clerk or Members);
- Making arrangements for the routine maintenance of Council property;
- Purchasing basic office equipment and supplies;
- Authorising payment for items below £800 in consultation with the Chairman and RFO where delay to the next Council meeting would be detrimental to the Council or the payee (cf. Finance Regulation 4.1).
- Maintain the asset register.
- Determine whether any matters should be referred to the Police, the Monitoring Officer, or other enforcement body (in accordance with the Policy Statements and Procedures).

- Oversee the Council's responsibility as a Burial Authority.

The Responsible Financial Officer to the Council is responsible for the 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.

In addition, the RFO is authorised to undertake the day-to-day administration of the Council, which includes:

- Making VAT and other tax returns and claims to Her Majesty's Revenue and Customs
- Apply for grants
- Issuing tenders, obtain quotations, negotiate prices and contract terms
- Placing orders for approved capital projects
- Authorising routine recurring expenditure within the agreed budget (e.g. Software renewals, maintenance)
- Purchase basic office equipment and supplies
- Making arrangements for the maintenance of the IT system;
- Paying the cost of holding an election or by-election, including the cost of polling cards, for the post(s) of parish councillor as determined by and charged for by the electoral officer of the relevant Principal Authority.
- Verifying and carrying out due diligence checks on applications to the Council for grant funding.
- Notifying insurers of changes in circumstances and, in the event of a loss, liaising with insurers appointed representative(s)

Emergency Matters

NBBF PC Financial Regulations 5.5 uses the power of delegation 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 £800. The Clerk shall report such action to the chairman as soon as possible and to the council as soon as practicable thereafter.

Such arrangements are lawful provided that the officer does not simply act under the direction of the member, as this would be effectively delegation to a single member and there is no power in the 1972 Act to delegate to a single member.

- In the event of any emergency involving the Council's property, premises, or facilities (e.g. damaged bench, flooding, broken equipment etc) the Clerk and/or the RFO are authorised to order any works necessary to prevent any further material loss to the Council;
- In the event of any safety critical occurrence or situation (e.g. dangerous branches and or trees, collapsed footpaths, broken play equipment, breached fencing allowing access into an unsafe area, removal of burnt out and or abandoned vehicles) the clerk and/or the RFO are authorised to commit the Council to any expenditure necessary in order to carry out remedial action, or isolate the area or in the case of vehicles arrange their lawful removal, in order to reduce the likelihood of anyone being harmed; To commit the Council to an expenditure of up to £800 for costs incidental to ongoing projects already authorised by Council, or other ongoing work, or minor repairs to facilities (e.g. hire of equipment, purchase of fuel, servicing or repairs to machinery, purchase of wood or fencing materials or gates, purchase of topsoil, plants and shrubs, hire

of contractor to offer specialised assistance or to carry out specialised repairs, engaging tradesmen to carry out minor repairs etc.), subject to the Clerk and RFO being confident that the Members, in all probability, would have approved such an expenditure if the facts had been brought to their attention before a commitment to expend the money had been made, and that the expenditure is within the budget (cf. Finance Regulation 5.5). To avoid late charges under the Late Payment of Commercial Debts (Interest) Act 1998, the Clerk has delegated authority to make payments of items in certain circumstances which must be submitted at the next appropriate meeting of the Council.

- In the event of a situation arising which is not covered in this section, to take any action and commit the Council to any expenditure, but not until the circumstances of the situation have been discussed with the Chair or Vice Chair of the Council; in the eventuality of the Chair and Vice Chair not being available (e.g. on holiday) then the Clerk may seek approval from another Councillor; subject always to the Clerk and RFO being confident that the Members, in all probability, would have approved such action and / or expenditure if the facts had been brought to their attention before a commitment to expend the money had been made.

In all the above cases the Clerk and RFO are authorised to only order works or to commit the Council to expenditure as specified. Such actions are to be reported at the next meeting of the Council.

Actual payments still need to be authorised by the Council payments approved in the normal way.

Planning

In the event that the parish council are unable to meet, the proper officer may offer comments on an application to the planning authority, based on the majority opinion offered by email to the clerk by the council. These views will be presented under delegated authority by the clerk in the usual manner to the planning case officer.

This scheme is only applicable to the permanent proper officer of the council who is not a locum or temporary staff.

The Openness of Local Government Bodies Regulations 2014

Whilst acknowledging the requirement for officers of the Council to produce a written report relating to delegated decisions made under section 7 (2) (b) (i) and (ii), the Council confirms that with regard to paragraph (iii) the word 'materially' should be construed in such a manner as to confer upon the Clerk and RFO the authority to commit the Council to expenditure, as outlined within these Delegated Powers, and, as long as the expenditure is accommodated within the Council's agreed budget headings for the year, such decisions do not have to be recorded for the purposes of this Act as the expenditure is considered as not having a material effect on the finances of the Council.

Appendix 1 amended 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*

(1A) A local authority may not under subsection (1)(b) above arrange for the discharge of any of their functions by another local authority if, or to the extent that, that function is also a function of the other local authority and is the responsibility of the other authority's executive.

(1B) Arrangements made under subsection (1)(b) above by a local authority ("the first authority") with respect to the discharge of any of their functions shall cease to have effect with respect to that function if, or to the extent that,—

- (a) the first authority are operating or begin to operate executive arrangements, and that function becomes the responsibility of the executive of that authority; or*
- (b) the authority with whom the arrangements are made ("the second authority") are operating or begin to operate executive arrangements, that function is also a function of the second authority and that function becomes the responsibility of the second authority's executive.*

(1C) Subsections (1A) and (1B) above do not affect arrangements made by virtue of section 9EB or 19 of the Local Government Act 2000 (discharge of functions of and by another 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 may arrange for the discharge of any of those functions by a sub-committee or an officer of the 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) Where arrangements are in force under this section for the discharge of any functions of a local authority by another local authority, then, subject to the terms of the arrangements, that other authority may arrange for the discharge of those functions by a committee, sub-committee or officer of theirs and subsection (2) above shall apply in relation to those functions as it applies in relation to the functions of that other authority.

(4) 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.

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

- (a) 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; and*

(b) any enactment relating to those functions or the authorities by whom or the areas in respect of which they are to be discharged shall have effect subject to all necessary modifications in its application in relation to those functions and the authorities by whom and the areas in respect of which (whether in pursuance of the arrangements or otherwise) they are to be discharged.

(5A) Arrangements made under subsection (5) above by two or more local authorities with respect to the discharge of any of their functions shall cease to have effect with respect to that function if, or to the extent that, the function becomes the responsibility of an executive of any of the authorities.

(5B) Subsection (5A) above does not affect arrangements made by virtue of section 9EB or 20 of the Local Government Act 2000 (joint exercise of functions).

(6) A local authority's functions with respect to levying, or issuing a precept for, a rate shall be discharged only by the authority