



Treverbyn Parish Council - Scheme of Delegation

Introduction

This Scheme of Delegation authorises the Proper Officer and Responsible Financial Officer (which may be the same person), and Standing Committees to act with delegated authority in the specific circumstances detailed.

This policy should be used in conjunction with Council's Standing Orders, Financial Regulations, Code of Conduct and the committee Terms of Reference as well as any statutory obligations/regulations in force at the time.

The policy aims to:

- Further clarify the roles and delegated responsibilities of officers, members and committees;
- Ensure adequate control measures are in place to protect the Council's finances;
- Ensure the Council is acting in accordance with the Audit and Accounts regulations; and
- Ensure the Council is complying with s101 of the Local Government Act 1972 and relevant case law (*Regina V Secretary of State for the Environment ex parte London Borough of Hillingdon 1986*).

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:

- made under a 'specific express authorisation', or
- made under a general authorisation where the effect of the decision is to;
 - i) grant a permission or licence,
 - 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:

- a) *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.*
- b) *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:

- *routing administrative and organisational decisions such as the purchase of office supplies or repairs;*
- *decisions to book rooms or decisions to approve works undertaken by a contractor.*

These are a few selected examples and not an exhaustive list.

General Delegations

Individual Councillors

Section 101 of the Local Government Act 1972 and relevant case law (*Regina V Secretary of State for the Environment ex parte London Borough of Hillingdon 1986*) are clear in their instruction that there that all Members must deal with matters through their collective Council membership. There are no circumstances where an individual Member can issue an instruction to the Clerk, any other employee or a Contractor; make a decision on behalf of the Council; or authorise any expenditure. Therefore, no individual Member has any delegated responsibility.

Responsible Financial Officer

The Clerk shall be the Responsible Financial Officer to the Council and shall be responsible for the Council's accounting procedures, in accordance with the Accounts and Audit Regulations in force at any given time along with Councils adopted Financial Regulations. The Clerk may obtain advice and guidance from external professionals (which may bear a cost) in order to ensure this is achieved effectively.

Proper Officer

The Clerk 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. The Clerk will

- Receive declarations of acceptance of office
- Receive and record Member's Registers of Interest
- Receive and grant dispensations
- Receive and retain plans and documents
- Sign Notices or other documents on behalf of the Council
- Receive copies of bylaws made by a principal local authority
- Certify copies of bylaws made by the Council
- Call and arrange all meetings of the Council and its Committees
- Sign summons to attend meetings of the Council
- Prepare and issue agendas, consulting with the Chairman and Vice Chairman of Council or Committee (as appropriate) whenever possible
- Seal documents, deeds, contracts and agreements following a resolution to do so from Council or one of its committees
- Respond to requests made under the Freedom of Information/Environmental Information Regulations and General Data Protection Regulation Legislation
- To keep proper records for all meetings
- To receive from Cornwall Council's Monitoring Officer any documents in relation to complaints received under The Members' Code of Conduct (These will be kept confidential until the matter has been concluded.
- To institute and appear in any legal proceedings authorised by the Council

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

- Day to day administration of Services, together with routine inspection, control and compliance
- Day to day supervision and control of staff employed by the Council
- Authorisation to call any extra ordinary meetings of the Council or any Committee as necessary.
- 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 one of its committees.
- Authorisation of routine recurring expenditure within the agreed budget
- Emergency expenditure up to £2,000 outside of the agreed budget (Financial Regulations 5.18)
- Authorisation of expenditure on works up to a maximum of £500 (Financial Regulation 5.15)

Delegated actions of the Clerk to the Council shall be in accordance with Standing Orders, Financial Regulations and this Scheme of Delegation whilst in line with directions given by the Council from time to time.

Council

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

- Appointment of the Clerk/RFO following a recommendation from the HR committee
- Electing the Chairman and Vice Chairman of Council
- Setting the Precept
- Borrowing money
- Appointment to a Committee
- Approval of the Council's Annual Accounts and completion of the Annual Return
- Making, amending or revoking Standing Orders, Financial Regulations, Terms of Reference or this Scheme of Delegation
- Making, amending or revoking bylaws
- Making of Orders under any statutory powers
- Matters of principle or policy
- Nomination and appointment of representatives of the Council to any other authority, organisation or external body (excluding conferences, events or meetings)
- Nomination or appointment of representatives of the Council at any inquiry on matters affecting the Parish, excluding those matters specific to a committee
- Matters relating to the Council's Code of Conduct
- Approval of the Calendar of Meetings
- Appointment or nomination by the Council of persons to fill vacancies on outside bodies arising during the Council year
- Filling of vacancies occurring on any Committee of the Council during the Council year
- Agreement to take on new, including devolved, services
- Prosecution or defence in a court of law
- Approval of Special Dispensations (for a member's non-attendance due to health or personal reasons)

Urgent matters

In the event of any matter arising which requires an urgent decision the Clerk will consult with the Chairman and Vice Chairman whenever possible (or if more appropriate the Chairman of the respective committee) before acting on behalf of the Council in respect of the particular matter then under consideration.

In an emergency the Clerk is empowered to carry out any function of the Council other than matters limited to Council. An emergency may be defined as:

- I. A matter with significant financial implications greater than £500
- II. A matter with significant legal implications
- III. A matter related to the conduct of a councillor or an employee that would potentially amount to gross misconduct or bringing the Council into disrepute.
- IV. An emergency as defined in the Council's Emergency Plan:
 - a) Flooding
 - b) Loss of electricity
 - c) Pandemic
 - d) Emerging infectious disease
 - e) Multiple emergencies – e.g. Flooding resulting in a loss of power

Note is list is not exhaustive.

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.

Standing Committees

Subject to the foregoing, and to observance of decisions of the Council on matters of principle or policy, all the Council's powers and duties shall be delegated to the Standing Committees in accordance with the terms of reference unless otherwise specified.

The acts and proceedings of a Committee shall:

- (a) where they are delegated to the Committee, so far as is legally permissible be deemed the acts and proceedings of the Council;
- (b) as regards other matters, be subject to confirmation by the Council, and when confirmed shall be deemed the acts and proceedings of the Council;
- (c) in all respects be subject to the provisions of the Council's Standing Orders and Financial Regulations except as otherwise determined by the Council.

The Council may at any time without prejudice to executive action already taken revoke any executive power delegated to a committee.

Any Committee may refer specific matters to the Council for a final decision if it so wishes.

Note: It is vital that the Human Resources Committee keeps confidential its deliberations and decisions in cases of grievance, disciplinary and capability hearings, because if an appeal against a decision is received it must, legally and in the interests of fairness, be heard again by elected members with no prior knowledge of the case.

Sub Committees

Every Committee may appoint Sub-Committees whose terms of reference and members shall be determined by the parent Committee as identified in Standing Orders. The Chairman

of the Committee shall be members of every Sub-Committee appointed by it unless they signify that they do not wish to serve.

Working/Steering Groups/Parties

Working/Steering Groups/Parties may be formed by resolution of the Council or a Committee at any time. The work of such a Working/Steering Group/Party will be decided upon at the time it is formed by means of a Minute detailing the Terms of Reference. Each Working/Steering Group/Party will report back with recommendations to the Council or the Committee that formed it. The Working/Steering Group/Party will be disbanded by resolution of Council or the parent Committee to which it reports once it has completed its agreed objectives.

DRH

Clerk

February 2025