

# The Good Councillor's Guide 2012

For Community and Town  
Councillors



Llywodraeth Cymru  
Welsh Government

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# FOREWORD

## From the Welsh Government Minister for Local Government and Communities, Carl Sargeant AM



This guide is for all community and town councillors, but particularly those of you who have recently been elected or co-opted to a council. Thank you all for taking on the valuable role of local councillor, and the responsibility that comes with it.

Community and town councils are responsible to their local electorates for delivering a wide range of services and for the provision and upkeep of local amenities. You also represent the interests of individual members of the public and your wider community. The work of a councillor can be diverse and complex, but also very rewarding. This guide outlines the roles, duties and responsibilities of a local councillor. This is the start of a continuous learning process, and you should discuss with your clerk and chair what additional training is available to you. You should also familiarise yourself with your council's responsibilities and its standing orders.

These are challenging and changing times for all areas of the public sector in Wales, and the Welsh Government wants to make all tiers of local government in Wales work effectively and efficiently to improve quality of life for citizens. For town and community councils, this means not only engaging with local people, but working in a joined-up way with county or county borough councils, and I urge all councillors to consider formal 'charter' agreements to underpin these relationships.

As you carry out your role, gaining knowledge and experience, you will have the personal satisfaction of knowing you have made a positive difference to your community. I sincerely hope that you enjoy the many challenges and rewards of being a local councillor.

A handwritten signature in black ink that reads "Carl Sargeant". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Carl Sargeant  
Minister for Local Government and Communities



# ACKNOWLEDGEMENTS

This guide is an introduction to being a community or town councillor. It is not intended to be a definitive legal guide. The first edition, published in October 2004, was researched and written by Elisabeth Skinner, Laurie Howes and James Derounian of the University of Gloucestershire for the Welsh Assembly Government. It was based on the English version of the guide, published in 2003, and funded by the Countryside Agency. In 2004, the advisory panel included representatives of the Welsh Assembly Government, One Voice Wales, the Society of Local Council Clerks, the Audit Commission, the Commission for Local Administration in Wales and local authority Monitoring Officers. This second edition (2012) is an update written by Elisabeth Skinner of the School of Natural and Social Sciences at the University of Gloucestershire with support from the Welsh Government, One Voice Wales and the Society of Local Council Clerks. The contents do not necessarily reflect the views of the individual bodies represented on the advisory panel.

Information is correct at the time of writing (April 2012) but new legislation and detailed guidance is always coming on stream. Readers are advised to use community and town council networks to keep up-to-date.

Electronic copies of the guide are available from the following websites: the Welsh Government ([www.wales.gov.uk](http://www.wales.gov.uk)), SLCC ([www.slcc.co.uk](http://www.slcc.co.uk)), and One Voice Wales ([www.onevoicewales.org.uk](http://www.onevoicewales.org.uk)).



# The good councillor's guide

## Essential guidance for community and town councillors

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This guide introduces the work of community and town councils and the part you play as a councillor in the first tier of local government and closest to the public. You will also find it a useful reference. The guide is divided into five parts to help you find your way as a new, or even as an experienced, councillor.

### Part One WHERE ARE YOU HEADING?

Part One introduces what you can do as a councillor and what your community or town council can achieve. It points you in the right direction so that you can serve and represent your community.

### Part Two DUE CARE AND ATTENTION

Here the rules of what you **must**, or **must not** do, as a council, councillor, employer and financial manager are outlined. If you and your council understand the law, then you can act with confidence.

### Part Three GETTING UNDER WAY

What happens at council meetings? Decisions taken at meetings drive the actions of the council and the best meetings are productive, professional - and never too long!

### Part Four DELIVERING THE GOODS

This is about action for local people. Partnership working and the council's representative role is examined in this section; the delivery of services and your council's role in the town and country planning system are reviewed and a belief in active councils is stressed.

### Part Five THE TOOLBOX

Finally you will find helpful ideas for your councillor's toolbox including danger areas, useful publications, documents and contacts for advice.

The index provides a quick reference when you need to know something in a hurry. Words in bold, coloured, font throughout the text (the first time you meet them) are explained in the glossary.

# Part One WHERE ARE YOU HEADING?

## 1 COUNCILLORS

You are a councillor; you are over 18 and a British national, or a qualifying citizen of the Commonwealth or the European Union. You are **not** a paid employee of the council because the law forbids it.

You are one of approximately 8,000 community and town councillors in Wales. You will be held accountable by local people for things that happen locally; so why do you get involved? You almost certainly want to do something positive and, like most councillors, you hope to make a difference by influencing decisions that affect your community.

Did you stand for election? Was there a vote, or were you returned unopposed? Perhaps you were co-opted; **co-option** is where the council chooses who will fill the vacant seats if there are not enough candidates at election time. In addition, if a vacancy occurs between elections, the council must find out if the electors want an election before they can co-opt. Some councillors represent a political party and others are independent of party affiliations. Whichever route you take to becoming a councillor, once you formally accept the office, it makes no difference; you are councillors **working together to serve your community**. Your task is to bring local issues to the attention of the council, and help it make decisions on behalf of the local community.

You can claim expenses if you attend meetings outside the community. These include an attendance allowance (or financial loss allowance if you are employed) and travel and subsistence allowance. It is extremely important to obtain prior approval before incurring expenditure and to retain receipts to support claims for expenses.

The Independent Remuneration Panel for Wales has recently acquired powers (through the Local Government (Wales) Measure 2011), and intends to review the remuneration of community councillors.

## 2 THE COUNCIL

Your council is a **corporate body** with a legal existence of its own quite separate from that of its members. Its decisions are the responsibility of the whole body. The council has been granted **powers** by Parliament or the National Assembly for Wales, including the right to raise money through taxation (the **precept**) and a range of powers to spend public money (more later).

Your council is an elected tier of local government. The other tier in Wales consists of **county or county borough councils**. County or county borough councils have a legal duty to deliver services such as education, town and country planning, environmental health and social services. Community and town councils have the legal power to take action, but they have fewer **duties** and freedom to choose what action to take. They can play a vital part in representing the interests of their communities and influencing other decision makers. Furthermore they can take action to improve the quality of life for local people and their local environment and, in some cases, they can deliver services to meet local needs. It is important that you, as a community and town councillor, work closely with the county or county borough councillors representing your area to benefit your community. **You and your council can make a difference.**

## What does your council do?

Planning, highways, traffic, community safety, housing, street lighting, allotments, cemeteries, playing fields, community centres, litter, war memorials, seats and shelters, rights of way - these are the issues that concern community and town councils. The Welsh Government encourages community and town councils to deliver **more** services and play a greater part in their communities. This follows the report of the 'Research Study into the Role, Functions and Future Potential of Community and Town Councils in Wales', produced by the University of Wales, Aberystwyth in 2003.

As examples your council could organise or give financial support for:

- an evening bus taking young people to the nearest town;
- affordable housing to rent;
- pond clearing events;
- redecorating the community centre;
- a teenagers' drop-in club;
- restoring a bandstand;
- equipment for the playgroup;
- transport to hospital.

Projects like these would be a challenge and are not for the fainthearted. Of course, your council could always decide to do very little; but you and your electors might then wonder why the community or town council should exist at all.

## Diversity is a strength

There are over 730 community and town councils in Wales; this number has remained relatively stable since the 1980s. The Local Government Act 1972 divided the whole of Wales into 'communities' for local democracy and local control. However, communities lying within the former boroughs of Cardiff, Merthyr Tydfil, Newport, Port Talbot, the Rhondda and Swansea were not included in provisions establishing community councils. As a result, some urban areas in South Wales do not have any town or community councils.

A typical community council represents around 1500 people but the largest population served by a town council is Barry with over 45,000. These considerable differences are reflected in annual spending which might range from under £1000 to a million pounds. It is important that you know how much your council spends each year and where the money goes.

The diversity of community and town councils is a strength. Each can make a unique response to the needs of their community with a sensitivity that is more difficult for county and county borough councils to achieve.

## Pulling together

The diversity of community and town councils often arises because councillors have different enthusiasms and interests. Celebrate this. Councillors have different skills and attitudes; for example, some work with ideas while others are very practical; some like accounts while others prefer reports. The community or town council needs a range of skilled people to work as a team.

Your chair has the roles of team leader and umpire at meetings (see Part Three). The clerk provides advice and administrative support, and takes action to implement council decisions. The clerk may have to act as a project manager, personnel director, public relations officer or finance administrator. The clerk is not just a secretary and is not at the beck and call of the chair or other councillors; the clerk is answerable only to the council as a whole. The clerk is the **proper officer** of the council in law. Legally councils can agree to delegate decisions to clerks because they are professional officers whose independence allows them to act on behalf of the council. Clearly the clerk must be treated with respect.

The best councils will have a clerk and councillors who work as a team to serve the community.

### 3 YOUR COMMUNITY

The job of your council is to represent the interests of the **whole** community - and to represent the interests of different parts of the community equally. Occasionally there will be a conflict of interest requiring sensitive judgement; for example, dog owners, parents of young children and walkers might disagree about use of the village green. Making difficult decisions, in an open and reasoned way, is something that community and town councils need to do well.

Local people, including the younger population, need to understand and appreciate the councillor's role; this means that councillors should promote their role in the local community and find people keen to succeed them in their council activity. It is a good idea to set up a youth council or committee of young people, to show that you are keen to listen to young people's views. You might even give the youth council a budget to spend. The Local Government (Wales) Measure 2011 ss118-121, makes it possible for a community council to appoint up to two youth representatives (aged 16 to 25) to join the council to represent the interests of young people who live, work or receive education or training in the area.

As a councillor, you have a responsibility to be well-informed, especially about diverse local views. You cannot assume that you represent the interests of all your electors without consulting them. Discovering the needs of different groups in the community (such as young, elderly and disabled people) is an important part of your role as councillor.

The tried and tested tools noted below are just some ways in which people can express their hopes and wishes for the community. They provide valuable opportunities for local people to identify features that need improving or are worth protecting. They stimulate discussion and inform the decision makers and usually lead to action. They can be used to help build the 'capacity' of a local community enabling it to contribute to initiatives such as Communities First and community strategies; this means giving people the skills and confidence they need to participate in opportunities for influencing community action.

- **Community surveys** are based on questionnaires through which residents, including children, have an opportunity to express their views about where they live. Several thousand such surveys have been conducted across the UK since the 1970s. The response rate from households is impressive - usually over 50% - and in smaller communities it can reach 90%.

- **Design statements** involve communities in a review of the built and natural environment of their area. The published results can be used by your local planning authority to help them make planning decisions (see Part Four).
- A **community map** can be a creative exercise; for example, it might be a painting, tapestry or model of the community. People identify local features that matter to them as they work on the map.
- **Planning for Real®** (<http://www.nif.co.uk>) is a consultation exercise, where people create a simple model of the community (or part of it) and use it to generate discussion and set priorities.
- **Community conferences** or workshops provide more opportunities for bringing people together to talk about the future of the community.
- **Community action plans** can be led by the community or town council; they draw in community groups and residents, to produce a plan of action for improving the local quality of life and the environment. The community plan can be based on the findings of consultation exercises such as those described above; local people from all parts of the community should be given the opportunity to have their say.

In addition to helping your council identify real improvements, the process of using tools like these can strengthen people's sense of purpose and belonging.

**The process is as important as the end product.**

You should, of course, use the knowledge you have already as a basis for decisions on behalf of your community, but these tools help you to become even better informed and give a stronger mandate for action. Community consultations can help you to:

- **speak on behalf** of your community with greater confidence especially in discussions with county and county borough councils;
- **provide services and facilities**, especially where there is no other provider or where the community or town council can secure better value for money;
- **support** community action and services provided by others; the council can offer buildings, staff expertise and funding to get local projects off the ground;

- **work in partnership** with community groups, voluntary organisations, county or county borough councils, the business sector and neighbouring community and town councils, to benefit the community. The county and county borough council and the community or town council should complement each other.

For many people, it is the satisfaction of acting on behalf of their local community that encourages them to become councillors. The next challenge is to make sure that the council acts properly in achieving what it sets out to do. It must proceed with due care and attention to the law. Part Two introduces the rules that guide your council - not as glamorous as action, but vital to its success.

# Part Two DUE CARE AND ATTENTION

## 4 THE RULES

What **can** you do? What **must** you do? What must you **not** do? The rules may not be exciting, but without understanding them your council could run into trouble.

- A council **must** do what the law requires it to do.
- A council may do **only** what the law says it may do.
- A council must **not** do anything unless it has a legal power to act.

The crucial question is - does the council have a legal power to act? A council must always ask this question when making a decision, especially if it involves spending public money. A community or town council can undertake an activity only when a specific Act of Parliament, or a Measure or Act of the National Assembly for Wales, allows it. For example, the Local Government (Miscellaneous Provisions) Act 1976, section 19, gives local authorities (including community and town councils) the power to spend money on recreation. There is a useful list of activities and specific legal powers in Part Five.

If the council acts without a legal power (even if it would be popular with the community), or if it uses the wrong power to act, then the council could be charged with acting **beyond its powers (ultra vires** is the legal term). Being caught 'powerless' is an uncomfortable experience and an unnecessary risk. The good news is that there are lots of sources of advice. Start by asking your clerk, whose job includes giving legal advice to the community or town council. Your clerk should have access to **One Voice Wales** (if your Council is a member) and the **Society of Local Council Clerks** for expert advice.

There are very few activities that a community council cannot undertake; the trick is to ensure that there is a legal power for every action of the council. If the council cannot find a specific power, then **section 137 (Local Government Act 1972)** is very useful. It gives a community council the power to incur expenditure for things that will benefit the community (or part of it) where there is no other specific power covering the action; **it cannot be used retrospectively, that is after the spending has taken place. If other legislation prevents a council from incurring expenditure or limits the amount that may be spent, section 137 cannot be used to overrule that.**

Under section 137, your council can spend up to a set figure annually per elector (in 2012/13 this is £6.80, rising annually with inflation) on anything it considers worthwhile if (and only if) no other power can be used. The expenditure under this power must be commensurate with the benefit to the community; this means that there must be a match between the level of money spent and the scale of benefit to local people. The Local Government (Wales) Measure 2011 gave the power of wellbeing to community councils enabling a council to **“do anything which it considers likely to achieve the promotion or improvement of the economic, social or environmental wellbeing of their area.”** This power is important because there is no limit on expenditure under this power; it therefore provides a community council with considerable scope for action. Further guidance on how to use this power comes from the Welsh Government and One Voice Wales.

## So what must you do as a council?

The law gives community and town councils lots of choice in activities to undertake; but there are very few **duties**, activities that they **must** carry out in delivering services to local people. Some examples of duties are that a council must:

- participate in the development and implementation of community plans led by the county or county borough council for the area;
- provide allotments if the council considers that there is demand for them from local residents and it is reasonable to do so;
- comply with its obligations under the Freedom of Information Act 2000 and the Data Protection Act 1998;
- comply with general law, for example relating to employment;
- consider the impact of their decisions on reducing crime and disorder in their area;
- have regard to the purpose of conserving biodiversity in carrying out their functions;
- decide whether to adopt a churchyard when it is closed, if asked to do so by the **Parochial Church Council** (note: this does not apply to a Church In Wales churchyard).

In line with the Freedom of Information Act 2000 and the principle of open government, each community council must have a **publication scheme**. This demonstrates what information is available and how it is made accessible to the public. A risk assessment is one of the core documents in the model scheme.

This means that community and town councils have an obligation to demonstrate that they have identified and managed the risks to public money arising from their work. A community council must also comply with its obligations under the Data Protection Act 1998.

All community and town councils need to publish a Welsh Language Scheme setting out how the Welsh language will be treated on a basis of equality with English.

The community council also has a duty to ensure that all the rules for the administration of the council are followed. The council must:

- **appoint a chair of council;**
- **appoint officers** as appropriate for carrying out its functions;
- **appoint a responsible financial officer** (RFO) to manage the council's financial affairs; the RFO is often the clerk, especially in smaller councils;
- **appoint an independent and competent internal auditor** (see below);
- **keep records of all decisions related to council business** (the minutes);
- **hold an Annual Meeting of the Council** in May or shortly after the local council elections.

These rules are set out in law to guide the **procedures** of the council. It is also recommended that your council add its own regulations. Together these rules can make up **standing orders** as formally agreed by your council (see Part Three). If you discover that your council does not have its own (non-financial) standing orders, this is not unlawful but it is unwise, and duties set out in **statute**, such as appointing a chair and a proper officer (usually the clerk), still apply. One Voice Wales (see Part Five) provides model standing orders. Your council must have standing orders with respect to contracts for the supply of goods and materials or the execution of works (s135, Local Government Act 1972).

Council meetings must be open to the public, and disability legislation requires the council to make its meetings accessible to anyone who wishes to attend. Similarly the Freedom of Information Act 2000 requires the council to make documents available to the public in the spirit of open government.

A model publication scheme is available to members of One Voice Wales.

If you are beginning to think there are too many rules, then remember that they protect people's rights (including yours) and give confidence that the organisation is properly run.

## 5 RULES FOR COUNCILLORS

Even if you are qualified to stand as a councillor and the elections were properly held, you cannot act as a councillor until you have signed a formal **declaration of acceptance of office**. This includes an undertaking to observe the **code of conduct** adopted by your council (see below).

You have a duty to act properly as a councillor. In particular you have a responsibility to:

- **attend community or town council meetings** when summoned to do so; the notice to attend a council meeting is, in law, a summons, because you have a duty to attend;
- **prepare for meetings** by studying the agenda and making sure you are properly informed about issues to be discussed, taking advice where appropriate;
- **take part in meetings and form objective judgements based on what is best for the community - and then to abide by majority decisions;**
- **ensure, with other councillors, that the council is properly managed;**
- **act on behalf of the whole electorate equally**, and not just those who supported your election campaign; similarly take an interest in all issues equally and not just those local issues for which you campaigned; listen, and then represent the views of the community when discussing council business and working with outside bodies;
- **maintain proper standards of behaviour** as an elected representative of the people.

### The code of conduct

The code of conduct adopted by your council is a legal document that guides you, to make sure you maintain proper standards of behaviour as a councillor. When you sign your 'declaration of acceptance of office' you also agree to observe the code.

The code is based on these important principles laid down by the National Assembly for Wales in 2001:

- selflessness;
- honesty;
- integrity and propriety;

- a duty to uphold the law;
- stewardship;
- objectivity in decision making;
- equality and respect;
- openness;
- accountability;
- leadership.

The essence of the code is that you agree to act openly and honourably in the public interest. You never use your position improperly to secure personal advantage or to avoid disadvantage for yourself, or any other person. You should never bring yourself, as a member of the council, or the council itself into disrepute. The code also reminds you that you must:

- promote equality;
- show respect and consideration for others;
- **not** use bullying behaviour or harass another person;
- **not** compromise the impartiality of your council staff;
- **not** disclose confidential information;
- **not** prevent access to information to which someone is lawfully entitled;
- **not** bring your office or authority into disrepute;
- report possible criminal behaviour by another member;
- report possible breaches of the code by another member;
- **not** make vexatious, malicious or frivolous complaints against other members or employees of your council;
- **not** use your position improperly to secure personal advantage or disadvantage for anyone;
- **not** use council resources improperly for political or private purposes;
- make decisions on the merits of the case and in the public interest with regard to the advice of officers;

- abide by the rules on allowances and expenses;
- avoid accepting unofficial gifts, hospitality and other benefits and services.

As a councillor, you must declare a **personal interest** as soon as you are aware that you (or people connected to you) might benefit, more than most other people in the community, from the outcome of a matter under discussion. The council must be seen to make decisions fairly and openly, without having prejudiced the matter. If a member of the public is likely to think your judgement on an issue will be influenced, or prejudiced, by your personal interest, then you must declare a **prejudicial interest**. This applies whether it is a council, committee or sub-committee meeting, or another meeting where members or officers of the authority are present. It helps if the agenda gives councillors an opportunity to declare an interest early in a meeting.

In nearly all cases, if you have a prejudicial interest you must withdraw from the discussion, unless granted a dispensation by the **Standards Committee** of the county or county borough council. The code makes clear some instances where a personal interest is not prejudicial, for example where the matter relates to:

- another relevant authority of which you are a member;
- another public authority or body where you are in a position of management;
- a body to which you have been elected, appointed or nominated by your council.

Personal interests include your employer, landholdings in the community you serve, family and business interests, and your membership and positions of control (such as treasurer) in other organisations. Disclosed interests must be registered with the **Monitoring Officer** at the county or county borough council or with the clerk to your council if arrangements are in place for the clerk to maintain the register; it therefore helps (but is not compulsory) if you complete your **register of interests** at the start of your term as councillor. Gifts and hospitality received in your capacity as a councillor must be registered.

Monitoring Officers may give advice on request but the basic responsibility for complying with the code, and in particular for deciding whether to declare an interest, rests with you. In deciding whether you have a personal interest, you must have regard to any advice from the relevant standards committee. You are strongly recommended to read your council's code of conduct carefully, as what has been said here is only a summary. You should also be aware that you are governed by your council's Code of Conduct at all times when acting, or giving the impression you are

acting, in your role as an elected member, regardless of whether you are in a council meeting, committee or not.

If you are aware that another councillor is failing to comply with the Code of Conduct, you have a duty to report this failure to the **Public Services Ombudsman for Wales** and to the relevant local authority Monitoring Officer. The Ombudsman will then decide whether to investigate.

Guidance published by the Ombudsman to assist you in understanding your obligations under the code is essential reading.

Remember, the code protects your electors, your council and you as a councillor.

## 6 RULES FOR EMPLOYERS

Rules also protect your employees and your council as an employer. This is a considerable responsibility; misunderstandings can sometimes arise between a council and its employees. The law requires that at all times the council must act as a responsible employer.

Remember, the clerk is employed by the council and answers to the council as a whole. This means that individual councillors cannot instruct the clerk. All other staff, although employed by the council, normally answer directly to the clerk who is their manager and responsible for their performance. These principles should build on mutual respect and consideration between employee and employer and on a proper understanding of different roles (see Part One).

It is most important for the council to ensure that all staff have a contract of employment. Clerks should be paid (as a minimum) according to the recommendations agreed by the **National Association of Local Councils** and the Society of Local Council Clerks. But note, when councillors occasionally act as clerk, they cannot be paid.

Council employees enjoy the full security of the law whether they are full-time or part-time workers. Employment law protects them in terms of pension rights, annual leave, sick leave and pay, for example. It guards against bullying or harassment and discrimination. An agreed grievance procedure ensures that problems are handled properly if they occur. Health and Safety law also protects employees (and councillors and members of the public); your clerk should be able to advise on such matters. For more information on the council's role as an employer, see **Being a Good Employer** (details in Part Five).

Employment law is a complex area and councils need to ensure that they have a good grasp of their main employer responsibilities. One Voice Wales offers a training module on 'The Council as an Employer' which provides an opportunity for councils to become familiar with this role. The penalties for failing to comply with employment law can be significant especially having regard to the level of awards that can be made by Employment Tribunals in cases where a council has failed to meet its responsibilities. One Voice Wales is able to offer a consultancy service to councils who may need specific assistance in dealing with identified employment issues.

## 7 RULES FOR DEALING WITH PUBLIC MONEY

It is essential that the council is seen to provide value for money and is constantly looking for ways of improving its performance in achieving the three Es: economy, efficiency and effectiveness. The financial rules, a variety of statutes and procedures protect the council. Most importantly the rules give your council the tools it needs to achieve its goals and make best use of public money.

Being financially responsible for a public body can be daunting. The rules set by Government are designed to make sure that the council takes no unacceptable risks with public money. The words **risk management** should be engraved upon every councillor's heart. The good news is that the rules protect you and your council from possible disaster. Your council should establish a risk management scheme which highlights every significant risk in terms of the council's activities and makes clear how such risks will be managed. This includes investing in proper insurance to protect employees, buildings, cash and members of the public. It is recommended that your council should ensure that it has legal expenses cover within the policy. For example, remember that playgrounds and sports facilities must be subject to regular checks that are properly recorded. It's not just about money, it's about taking care of people.

As a councillor, you share responsibility for financial management of the council, but the finances are administered by an officer known, in law, as the **responsible financial officer** (RFO). Your role is to ensure that the RFO acts properly and that the council avoids the risk of fraud, bad debts or carelessness. In particular, as a minimum two councillors must sign every cheque; so, if you are asked to sign, always make sure the request is correct and never sign a blank cheque. Note that changes to legislation and regulations are expected to permit a variety of payment methods.

As an aid, required by law, your council **must** have its own financial regulations (similar to standing orders) giving details of how the council manages its finances. Model financial regulations are available from One Voice Wales. If your council has

not adopted financial regulations then there could be trouble ahead and your council must take action as a matter of urgency.

So the council must have a system of **internal control** where someone, (other than the RFO), keeps an eye on the arrangements for financial management and checks financial documents selected at random. The level of internal control should be appropriate to your council's expenditure and activity. They report their findings to the council, and together with regular feedback from the RFO on the accounts, all councillors will be aware of the council's financial position. This ensures everything is open and above board and you have the information you need.

The **budget** is an essential tool for controlling the council's finances. It demonstrates that your council has sufficient income to carry out its activities and policies. It is important that the budget is prepared in advance, as it is used to set the precept for the year. By checking spending against budget plans on a regular basis at council meetings, the council controls its finances and monitors progress towards what it wants to achieve. Remember, every councillor is accountable to the public and their constituents for the council's resources.

The council must adopt transparent **procurement procedures**. This is the process by which the council purchases services and goods. It means that the council must obtain tenders as appropriate (the clerk will advise) and treat those tenders with absolute fairness. It also means setting up proper contracts with providers of services or goods. The council must, by law, have standing orders relating to contracts made by them for the supply of goods and materials or for the execution of works.

## Internal and External Audits

The **internal auditor** is an independent and competent person appointed by the council to carry out checks on its system of control. The independent internal auditor cannot be involved in any other business of the council and cannot, therefore, be a serving member of the council. Another clerk or an accountant could be suitable (but reciprocal arrangements between councils are not permitted). The internal auditor carries out tests focusing on areas of risk to public money, reports to the council and signs a report on the annual return (required by law) to confirm that the council's system of controls is in place and operating. 'Governance and Accountability for Local Councils in Wales: A Practitioner's Guide 2011', published by One Voice Wales and the Society of Local Council Clerks (SLCC), sets out an effective approach to internal audit.

The law requires an external audit to be carried out so that local taxpayers can be assured that the risks to public money have been managed. The Wales Audit Office appoints auditors for all community and town councils in your county (known as **external auditors**) to review the council's **annual return**.

The annual return is the principal means by which the council is accountable to its electorate and most councils must complete an annual return to confirm that everything is in order. Signed statements confirm responsibility for governance arrangements during the year. In particular they show that:

- the accounts have been properly prepared and approved;
- a system of internal control is in place - including the appointment of a competent and independent internal auditor - and the effectiveness of both the system and the appointment has been reviewed;
- the council has taken reasonable steps to comply with the law;
- the council has assessed all possible risks to public money;
- a competent and independent internal auditor has been appointed;
- the **accounts** have been publicised for general inspection so that electors' rights can be exercised;
- there are no potentially damaging or hidden issues such as an impending claim against the council;
- significant differences in the figures (between the current and the previous year) have been explained.

As a member of the council, you have responsibility for making sure that the annual return accurately represents the financial management of the council. Your clerk will advise.

If you and your fellow councillors have acted properly leading up to the external audit then you will receive the external auditor's certificate and statement of **limited assurance**, which means that nothing in the accounts and documents viewed gives cause for concern.

# Part Three GETTING UNDER WAY

## 8 MEETINGS

Councils conduct their business through meetings. This is where you play your part as a decision maker. The chair is in charge, and the clerk (or perhaps a deputy) supports the council as it discusses business. The meeting is the council team in action.

Council meetings are formal events, not social occasions. They have a clear purpose - to make decisions following appropriate, focused debate. Furthermore, they are public events: the press and public have a right to observe how the council operates. Exceptions are when sensitive issues are discussed (such as legal, contractual or personnel matters) and then the council can agree to exclude the press and public for just those items.

Public participation is encouraged. This does not mean that members of the public take part in debate, but it is good practice to encourage members of the public to express their views or ask questions under a specially designed slot (agenda item) during the meeting. The format for public participation should be set out in the council's standing orders (see below).

The council usually makes its decisions in council, committee and sub-committee meetings. Council, committee and sub-committee meetings must all be advertised and open to the press and public. The council should decide on a schedule of meetings for the year.

- Council meetings are meetings of the full council. All councillors have a duty to attend.
- Committee meetings bring together a smaller number of councillors to concentrate on a specific function of the council and share the workload.
  - Some committees are permanent or standing committees, but others are set up for short-term projects. Many councils have a permanent Planning Committee allowing them to comment on planning applications once a fortnight without convening a full council meeting.
  - Some committees are advisory; they make recommendations to the full council, which then makes the decisions. There are also executive committees where the full council delegates (or hands over) the power to make certain decisions to the committee. The committee then reports

its decisions to the full council. This helps, for example, the Planning Committee to make decisions without referring to the full council.

- Sub-committees are appointed by a committee to focus discussion on a specific topic among an even smaller group of councillors. Otherwise, they operate like committees.
- Working parties, or 'task and finish groups', are occasionally set up for a short-term purpose. They are not subject to the strict rules that apply to formal council meetings and do not need to be held in public. A working party cannot make a decision on behalf of the council.
- There are rules about who is permitted to join a committee or sub-committee. Sometimes non-councillors can be included (although with a few exceptions, they cannot vote). This is an excellent means of involving others, particularly young people, in council work.

## Annual meetings

If you are elected in May your first meeting will be the **Annual Meeting of the Council**. This is where you elect a chair and probably a vice-chair, and appoint committee members and representatives to other bodies. It helps to think of this as the Annual General Meeting and to remember that it is a meeting of the **council**.

Unlike in England there is no requirement to hold an **Annual Community or Town Meeting** but a community or town meeting can be called at any time. This is **not** a council meeting. It is a meeting of the community or town electors called to discuss community or town affairs. The meeting can be called by the chair of the community or town council or by two other councillors or by the lesser of 10% or 50 electors for the community. A community or town meeting would be a good opportunity to consult your electors on your council's work programme for the year and what else they would like you to do.

## Standing orders

The rules for the Annual Meeting of the Council will be contained in the council's standing orders. These include rules of procedure laid down in law and additional regulations chosen by your council. Standing orders help the council to operate smoothly. For example, a standing order reinforces the legal requirement for a **quorum** - a third of the councillors (or three whichever is the greater) must be present for the meeting to go ahead. Other standing orders determine, for example:

- the order of business;
- the length of meetings and the duration of speaking time;
- the schedule of meetings for the year;
- **delegation** (handing over tasks) to committees and officers;
- voting requirements;
- procedures for public participation.

## Respecting the chair

The chair is in charge during council meetings; this is a post recognised in law and must command respect. Remember, the chair is elected at the Annual Meeting of the Council for one year. Chairs have a duty to ensure that all decisions are lawful and should take steps to involve **all** councillors in discussion. It is good practice for the chair to refer to the clerk for advice.

In law, the chair has few special powers. For instance, it is unlawful for a council to delegate decision-making to any individual councillor and the chair is no different. However, when a vote is tied, the chair has a second, or casting vote, ensuring that a decision can be made.

The chair often enjoys a special relationship with the public, especially in a town where the chair is also the mayor. The chair may carry out civic duties on behalf of the council such as addressing community events or welcoming official visitors from abroad. The chair can receive an extra '**chair's allowance**' to support this important public role.

Where councillors, clerk and chair work together as a team they combine energies and skills to deliver real benefits to the community they serve. Good working relationships, mutual respect and an understanding of their different roles are vital. Conflict between these key players, especially during meetings in front of the press or public, can damage the council.

## 9 BEING PREPARED

Your first meeting as a councillor can be daunting as you wonder what will happen and where to sit. Hopefully other councillors will be welcoming.

At, or before, your first meeting you must sign the declaration of acceptance of office. In law, you are not a councillor until you sign. At the same time you make

a written undertaking to observe your council's code of conduct. Before you sign, the clerk must give you a copy of this important document which you must read.

At least **three clear days** before each council or committee meeting, a summons and **agenda** should be sent to you. The **three clear days** is established in law because it is important to be notified of issues to be discussed. Topics requiring a decision **cannot** be added to the agenda after the deadline of three clear days has passed: they must wait for another meeting.

Each agenda item should make it very clear what you as a councillor are expected to do and be precise about the subject under discussion. For example, an agenda item saying "Stiles" gives you no idea what to expect. It is more helpful to know that your task at the meeting is:

- To receive a report from Cllr Gorie on the condition of stiles in the community and to agree action in response to proposals (copy of report attached).

It is actually unlawful to make a decision, especially a decision to spend money or a recommendation related to a planning application, without sufficient (three clear days) warning. Vague agenda items that don't specify exact business (such as Matters Arising, Correspondence and Any Other Business) can be dangerous and it is good practice to avoid them, because you never know what decisions might crop up under these headings.

The agenda is the clerk's responsibility. The clerk must sign the agenda and can decide how it will be set out. This process is often undertaken in consultation with the chair. You may ask the clerk to add items to the agenda if you feel a relevant subject should be discussed.

The 5 Ws help councillors prepare for a meeting.

- What is the meeting for?
- What part should I play?
- What papers must I read?
- What people do I need to consult?
- What did I promise to do before this meeting?

## 10 AT THE MEETING

What if you cannot attend? Remember, you have a duty to attend but sometimes things crop up and you are unable to make it. You should contact the clerk with an apology and explanation. A darts match is not an adequate excuse whereas illness or work commitments are acceptable reasons. If you fail to attend any meetings for six months, before the end of this period you must ask the council to approve your reason for continued non-attendance. Without formal council approval, you are disqualified and cease to be a councillor.

Remember, if you might have a personal interest in a council decision, you must declare that interest as soon as you are aware of it. The big question, if you have declared a personal interest in respect of a matter being considered at the meeting, is whether it is a prejudicial interest (prejudicing your judgement in the public interest). If so, you cannot vote on the matter (unless you have a dispensation from the county/county borough council's Standards Committee). There should be an item on the agenda enabling councillors to declare their interests.

It is, of course, the chair's job to manage the meeting by introducing agenda items, inviting members to speak, focusing discussion, clarifying matters for decision and summing up debate. Councillors, having engaged in discussion, vote for or against the proposal by a show of hands. Matters to be decided are called proposals or motions and are recorded in the minutes as **resolutions**; for example, "It was resolved that the council will contribute £2000 to the community bus scheme." If you have no view on a proposal, or cannot decide, you can abstain, but you shouldn't do this too frequently. Normally voters' names are not minuted but if necessary, you can ask for names to be recorded.

Remember that council decisions are corporate decisions. It is good practice to search for constructive solutions and as much common ground as possible.

You should keep contributions short and to the point: you probably don't enjoy listening to others who speak for too long. Always work through the chair and try not to score points off fellow councillors. Never engage in personal attacks on others - however tempting. If you can add a dash of humour and common sense to the proceedings then you will be a pleasure to work with!

The council must advertise the meetings by putting up public notices; electors have a right to attend. The council should offer members of the public an opportunity to have their say in a short, defined period early in the meeting. Under Paragraph 14 (2) of the Code of Conduct, a councillor who has declared a prejudicial interest in an item on the agenda can make representations, answer questions or give evidence

on the matter provided that the public are also allowed to attend for the same purpose. The councillor leaves the room as usual when the council discusses the matter. In addition, county and county borough councillors and police officers would normally contribute to the meeting at the invitation of the chair under an appropriate agenda item.

The meeting must remain quorate at all times, so if you need to leave during a council meeting always warn your clerk and chair beforehand.

As a rule, meetings should not last more than two hours otherwise concentration begins to lapse. A well-crafted agenda with precise topics for discussion is a valuable tool to help the chair bring the meeting to a close on time.

## 11 AFTER THE MEETING

Decisions have been taken and these need to be implemented. If councils just listen to information and talk, taxpayers might ask "what's the point?"

The clerk or the minuting secretary writes the minutes as a legal record of what was decided at the meeting. It is not necessary to note who said what - the discussion can be summarised - but decisions must be precisely recorded. It is important that the minutes are accurate and therefore the minutes of the last meeting are confirmed and signed at the start of the next meeting. It is a good idea if the minutes record clearly the actions to be taken following the meeting.

What happens if a decision needs to be taken between meetings? Where the matter needs full discussion then the chair might call an extraordinary meeting, but delegation is a useful tool. Section 101 (of the Local Government Act 1972) allows a council to delegate the power to make decisions to an officer, a committee, a sub-committee or another council. It is good practice to specify in standing orders the kind of decisions that the clerk can make such as routine decisions, dealing with emergencies or spending small sums of money. Standing orders may require decisions to be taken by the clerk after consultation with two councillors (including the chair) but the decision remains with the officer. Most important, the council must not allow delegation to a single councillor - not even to the chair; nor to two or more councillors unless they have been formally constituted as a committee or sub-committee.

# Part Four DELIVERING THE GOODS

## 12 SERVICES

You have come full circle and now return to issues raised in Part One. The best community and town councils want to improve the quality of life and the environment for people in their community. The trend across England and Wales is for the tier of government closest to the people to be more active and to provide more services. This section suggests how your council can be dynamic and professional in delivering the goods, especially if it works in partnership with others.

Community and town councils can use their legal powers to provide many services, from community centres to festivals, allotments to buses. Councils may do almost anything provided they act lawfully and have a power or duty to do so (see Part Five for a list of powers).

Community and town councils also provide services in partnership with other bodies (including neighbouring community councils), or as their agent. It is important that the work of the community or town council complements the work of the county or county borough council; this means working in partnership. For example, a community or town council might manage library services for the county and county borough authority or provide a grass-cutting service that more closely meets local needs. The Welsh Government strongly encourages all councils to enter into formal 'Charter' agreements to underpin the relationship with the county or county borough council for the area. Guidance on developing charters is contained in 'A Shared Community - Relationship building and charters for unitary authorities and community and town councils'.

If the community or town council takes the lead in setting up a partnership, then it should represent community interest groups and minority interests (such as disabled people or ethnic groups) through either membership or consultation. The partnership should be of a manageable size - say up to twenty partners - and aim to give the English and Welsh languages equal status.

Community and town councils might also work in partnership with, for example, the village hall committee to help local young people, or with local companies to encourage tourism. They can offer funding, equipment and premises, to help **others** provide services. Giving grants to organisations that run child care, services for the elderly, arts activities, pond clearance or sport can improve the quality of community life. A modest grant often helps another body to secure further finance from other sources, such as the Lottery or the European Union.

The community or town council can act as the first port of call (or information point) for all local services. Access to services delivered by other organisations including county and county borough authorities and **voluntary bodies** could be available through an internet-connected computer located with the community council. If you think your council couldn't possibly afford it, then ask yourself whether local people would pay a little more in council tax, if they could see real benefits delivered by the community or town council.

### 13 THE COMMUNITY ACTION PLAN

How does your council know which services to deliver or what activities to support? The answer is clear. It consults, listens and identifies what is missing; it then agrees priorities for action and its policies and action plans begin to take shape and can be articulated in the form of a **community action plan**. A community action plan covers a wide range of issues such as housing, the local economy, community safety, health and transport. It is an all-embracing plan showing how the local economy and quality of life, including the environment, can be improved. A community action plan is a good idea, whatever the size of the community.

A community action plan should be developed in consultation with the local community. In Part One it was suggested that surveys, community maps, community conferences, design statements and Planning for Real®, are ways in which your council can identify the needs and wishes of local people. Tools like these strengthen community spirit and build confidence, especially if they involve all parts of the community. A council that listens knows that it has local support for actions it may take.

Once the community has a plan, the council can draw up its own plan demonstrating its strategy for implementing its responsibilities within the community action plan. The idea that a community or town council might have a strategy or even a **business plan** no longer raises eyebrows. It is an essential tool for guiding action; it shows clearly what the council wants to achieve and how it will get there.

Once you know what you (and particularly local people) want, you can decide how to pay for it. Many councils start with the money and then decide how far it will stretch. Some councils claim that they have so little money that they can do almost nothing. Evidence clearly suggests that local taxpayers would be willing to pay more if they could see the results in terms of better services. Ask first, and then set the budget accordingly. The best councils will draw up a business plan linking actions to finance for the period of an administration, say four years.

Whatever your council's approach to plan-making, financial regulations say it must have a budget. It is good advice to follow the PBP principle: the **P**lan creates the **B**udget that determines the **P**recept. Remember, the precept is taken from the council tax. Your council should investigate other sources of funding such as grants and sponsorship to help implement its policies; on average non-precept funding makes up one third of community council income. Note the **Communities First** programme for specified electoral wards where poverty and disadvantage are major issues, administered by the Welsh Government. It is the Welsh Government's focused anti-poverty programme for supporting and funding the most deprived communities in Wales as identified by the Welsh Index of Deprivation. It aims to bring together key services and enable the community to be fully involved in working to improve key priorities of Prosperous Communities, Learning Communities and Healthy Communities. A Communities First partnership can employ a Communities First Co-ordinator. If people in the community have little experience of participating in public consultation or decision making processes then the partnership is advised to draw up a plan for capacity building. This means finding lively ways of developing new skills and building confidence in the community.

In all cases the community or town council plays an active role. It represents the interests of the community in any partnership set up to manage local action to improve the quality of life and the environment. Community or town council representation on other bodies and joint working arrangements are likely to increase in future. When the opportunity arises, consider standing for these posts.

Either councillors or officers can represent the council on a partnership. Representatives remain accountable to the community or town council and must report back on a regular basis.

A community action plan is particularly useful for informing the community or town council's participation in the county or county borough council's **community strategy**. The county or county borough council has a duty to initiate, maintain, facilitate and participate in community planning for its area. As part of this process the county or county borough council, and its planning partners must identify long-term objectives for improving the social, economic and environmental wellbeing of their area. To meet their planning duty, the county or county borough council works with partners to look at the evidence base, engage with citizens and communities and draw up a community strategy. From April 2013, in all areas, this will be done through the **Local Service Board (LSB)** and the community strategy will be known as the **Single Integrated Plan**. The LSB is made up of the leaders and chief executives of the local authority, the local health board, the police and the Community Voluntary Council. The Single Integrated Plan will bring together the

community strategy as well as the plans for children and young people, health social care and well-being, and community safety. Community and town councils are statutory partners in drawing up the community strategy and should take every opportunity to participate in this two-way process.

A key challenge is to ensure that the single integrated plan makes proposals in line with the needs and objectives of the specific local community that the community or town council represents. This is an exciting time to be a community councillor. Plans and policies will guide you as you seek to improve the quality of community life.

## 14 TOWN AND COUNTRY PLANNING

Your council's contribution to the preparation of plans can help to manage change but the wider planning system deeply affects life in the community and is a vital tool for delivering benefits. Town and country planning (planning the use of land and physical space) is, for many councils, their single most important activity. Surprisingly therefore, many community or town councils have no policies of their own to guide responses to planning applications. A lack of tailored local policies on how to develop and protect the area can result in inconsistent and off-the-cuff observations being made to the local **planning authority** (the county or county borough council or a National Park Authority).

So what part does your community or town council play in the planning system? Community and town councils have a legal right to ask for copies of planning applications, and can comment on the merits of planning applications. Most community and town councils spend time and energy at their full council or planning committee meetings, deciding what recommendations to make. While the planning authority doesn't have to agree, it must consider the community view. If the local planning authority does not agree with your observations, you should consider asking for its reasons.

Some planning applications seek approval for development in principle through outline planning permission. If plans are not properly considered at this stage, it is often too late to express concern when the full details of agreed outline proposals come before the council at a later date.

Your council's observations on a planning application should conform to the local planning authority's adopted development plan, otherwise they will be ignored. The planning authority **must**, by law, be guided by its own development plan.

The community or town council needs to understand the procedures by which the planning authority makes decisions. Some decisions are made by the authority's

planning committee, while most decisions are delegated to officers. Central to the decision making process are **material considerations** - issues that are, in law, **material** or relevant to a planning application. Such matters must be taken into account when making a recommendation on a planning application. Material considerations include:

- the planning authority's development plan;
- a site's planning history (including earlier applications);
- accessibility;
- traffic;
- roads and parking;
- archaeology;
- a community survey, plan or design statement.

Your personal feelings about the application, or the applicant, are irrelevant. It is the wider public interest that is important.

Planning Aid Wales offers advice and training for community and town councillors on their role in the planning process.

There are three possible responses to a planning application. Your council can decide to recommend approval or refusal, or approval subject to conditions. The community or town council can suggest appropriate conditions such as materials, maximum size, parking or access arrangements for example.

The planning authority is responsible for **development control**, where development is managed through planning applications. The community or town council's local knowledge, combined with a sound understanding of the planning process, means that its views are more likely to be heard by the planning authority. As one planning officer observed; **"there are those community and town councils who understand the system and have influence...and there are those that don't."**

Community and town councils can spend hours on individual planning applications and forget that it is perhaps more important to influence the policies of the planning authority. The single most influential document in the planning process is the local planning authority's development plan. All planning decisions must be determined in accordance with the development plan unless material considerations indicate otherwise. If your council doesn't participate when that plan is being discussed and developed, then it may be unpleasantly surprised later on when it attempts to object

to planning applications that are submitted in accordance with the plan's policies. Development plans are subject to annual monitoring reviews.

A design statement is a supplement to the **local development plan** and can influence development control. It is usually produced by the community or town council, in consultation with the community to which it belongs. Once accepted by the planning authority it becomes a **supplementary planning document**. A community with a design statement is more likely to agree over planning matters. It is also possible to work in partnership with the local planning authority to draw up a separate element of a community or town action plan covering relevant spatial planning - the implications of the action plan for physical space within the community. The spatial element of the plan can then be adopted as a supplementary planning document.

Planning can get people very agitated and the council has a responsibility to represent the whole community - not just those with the loudest voices. Planning, like finance, often spells trouble for the council. The council must ensure proper procedures are in place. Its view on a planning application cannot be summarised from comments written onto a copy of an application passed from councillor to councillor outside a meeting. Decisions must be taken at meetings that are lawful and well-managed. It is efficient practice where applicable to have a planning committee that meets every two weeks as your county or county borough planning authority is required to determine planning applications within a tight time frame.

Councillors should follow the code of conduct at all times - remember those personal interests. It can be particularly sticky for a town or community councillor who also serves on the planning committee of the county or county borough council. 'Dual-hatted' councillors can speak and vote on an application before both councils. When considering an application county or county borough council, 'dual hatted' councillors must keep an open mind and avoid being influenced by the community or town council position; instead they must view the application from the county perspective. Councillors must not only make decisions fairly, openly and impartially, without prejudging issues, but must be seen to be doing so. An open mind is essential for any aspect of council work.

## 15 THE ACTIVE COMMUNITY COUNCIL

At the heart of best practice in service delivery and community planning is the active community or town council working in partnership with its county or county borough council. Councils should be working to improve communication between tiers for all areas of service delivery.

A council that uses electronic communication and has its own interactive website will give a more modern, dynamic and professional image to the public. Websites are especially useful for dispersed communities. In particular, the community or town council can provide a one-stop-shop information point with electronic access to services elsewhere. Electronic communication provides rapid and up-to-date access to information from organisations such as the Welsh Government or the county or county borough council. It is also a valuable tool for connecting councillors and their constituents, especially the young, and can be used to facilitate networking between community and town councils.

In future, county and county borough councils may consider allocating further funding so that community and town councils can deliver more services. This will not happen unless a county or county borough council is confident of the community or town council's professionalism and ability to deliver. Charter agreements can provide the basis for discussions between councils that wish to investigate the delegation of services.

The Welsh Government encourages community and town councils, as public sector organisations representing local communities, to work in partnership with other organisations to achieve the best deal for local people. The community or town council should select its representative on a partnership with care, depending on experience and expertise and an ability to represent the range of views held by the local community; this means being fully informed of those views. It is also important to make sure that channels of communication are open so that the debates and decisions made by the partnership are reported clearly to the community concerned and vice versa.

The community or town council is often represented on other organisations in the community, including a primary school's governing body where the council is represented. Contact with other organisations helps the council to keep in touch with local needs and interests. It also helps the council to co-ordinate activities and oversee grants that they give to local groups.

The best community or town council represents all parts of its community and creates a sense of belonging. It aims to be inclusive by ensuring that no-one feels disadvantaged. In particular, it must make sure that people with either Welsh or English as their first language (or speakers of other languages) are not excluded.

Policies and legislation are continually emerging from the Welsh Government and the UK Government and it is vitally important to keep in touch with changes as they develop. It is essential for councillors and council staff to attend training courses,

particularly those that will contribute to personal development as well as to helping to keep the council on the ball (see Part Five for more guidance).

In summary, the good community or town council:

- provides community leadership and a vision for the future;
- listens to local people and articulates their needs;
- works closely with community groups;
- keeps them informed of what it does and why;
- acts in a professional manner; this means that its finances are properly managed; it conforms to high standards of behaviour and is served by a trained clerk;
- works in partnership with others especially county and county borough authorities and other community and town councils;
- is committed to ongoing training and development, not only for its staff but for councillors too;
- most important, is active and elected by its community.

The central idea is that the council has a close relationship with its community and is so active that people want to serve as councillors - hence the elections. It is a vision of democracy at its best; local votes for local people for local action. The **Local Government (Wales) Measure 2011** allows Welsh Ministers to create schemes for accrediting quality in community government; look out for further guidance on this.

The next and final part contains advice, contacts and other information to help you in your role as a community councillor.

# Part Five THE TOOLBOX

## 16 HAZARDS

Even in the best councils things go wrong, so one of the most useful resources is the council's clerk. Trained clerks can recognise when something needs attention; if they cannot fix the problem, they will know someone who can.

Your council should anticipate where breakdowns and accidents might occur. For example, it could be hazardous if councillors, clerk and chair:

- are unsure of their respective roles, duties and responsibilities;
- don't work as a team or share mutual respect;
- don't communicate with each other;
- concentrate on point-scoring.

Furthermore, the council could have difficulty if it:

- allows one person or a small group of councillors to dominate;
- allows any single councillor (including the chair) to make decisions on its behalf;
- doesn't listen to and communicate with its community, other community and town councils, county and county borough authorities and outside bodies;
- ignores or antagonises the press;
- doesn't have contracts of employment for staff and doesn't pay staff for the hours they work at recommended rates of pay;
- doesn't keep its records in order and lacks a robust system of financial control;
- doesn't manage meetings effectively;
- is not well-informed on topics to be discussed.

Everyone in the team is responsible for checking that the council avoids these dangers and ultimately the council is liable. By contrast, well-prepared and well-informed councillors avoid difficulties and devote their energies to serving the community.

## 17 IMPORTANT DOCUMENTS

Always know where your important documents are kept so you can refer to them when necessary.

You are advised to have your own copy of:

- a schedule of meetings for the coming year;
- the council's standing orders;
- the council's financial regulations;
- the code of conduct adopted by your council;
- contact details of councillors and the clerk (but note, only contact the clerk during dedicated working hours);
- the budget for the current year;
- the minutes of meetings that took place during the previous year.

You will also find it useful to refer to the following (if they exist), normally kept by the clerk:

- a map of the community;
- the community action plan;
- the council's strategy, action plan or business plan;
- the design statement;
- the community strategy produced by the county or county borough council;
- the county or county borough council's adopted development plan;
- your community council's development control policy;
- policies for equal opportunities, and health and safety;
- processes for handling emergencies and working with the media;
- grievance procedures;
- the council's Welsh Language Scheme;
- the council's publication scheme for the Freedom of Information Act;
- risk assessment policy;
- assets register (list of property);

- register of councillor's interests;
- lease agreements;
- insurances;
- the cash book for recording receipts and payments;
- schedule of council charges and fees for services and facilities;
- partnership agreements.

You might also need to know:

- the size and composition of the population of the community and its electorate;
- how much an average household pays in council tax to the community or town council;
- contact details of county and county borough authority councillors;
- contact details of local organisations.

Don't worry if your council doesn't have all this information. It can be assembled over time - except for essential items such as the financial regulations which must exist already.

## 18 SOURCES OF ADVICE

Always start by asking your clerk. It is the clerk's job to receive information from other bodies and keep up-to-date on your behalf. As a council you should monitor the clerk's workload to ensure that there are sufficient hours to carry out the tasks required by the council. Your clerk (and the council) benefit if the clerk is a member of the **Society of Local Council Clerks** (SLCC). The Society provides legal, financial and other advice, a useful training pack and considerable support and guidance from the clerks' network. Your council is strongly advised to pay the clerk's subscription to the SLCC.

### Organisations

The next stop for advice on legal matters, policy and councillor training, will probably be **One Voice Wales** or its area committee. Your council will need to be a member in order to benefit from its services and keep abreast of changes affecting community and town councils.

Most areas have an organisation such as a **Council for Voluntary Service (CVS)** or Voluntary Action offering advice on local service delivery, funding and community projects.

**Planning Aid Wales** ([www.planningaidwales.org.uk](http://www.planningaidwales.org.uk)) is an independent source of advice on all types of planning issues. It is of considerable value to local communities engaging in the planning process.

## Publications

Your clerk or the adviser representing One Voice Wales will help you find the following publications. One Voice Wales disseminates information and provides help and advice for councillors.

*The Parish Councillor's Guide* by Paul Clayden, the 20th edition was published in 2009 by Shaw and Sons. It is a quick and readable guide to the law and practice of town, parish and community councils with topics in alphabetical order.

*Standing Orders for Local Councils* was published by the National Association of Local Councils in 2010. It explains law and procedures for councils and contains model standing orders. It can be obtained at a charge through One Voice Wales

*A Community and Town Councillors' Handbook: The Land Use Planning System in Wales (2005)* provides useful guidance on how to interact with the planning system [www.planningaidwales.org.uk/how-paw-can-help/information/publications](http://www.planningaidwales.org.uk/how-paw-can-help/information/publications)

*Research Study into the Role, Functions and Future Potential of Community and Town Councils in Wales* produced by the University of Wales, Aberystwyth in 2003. The report can be found on the Welsh Government's website [www.wales.gsi.gov.uk](http://www.wales.gsi.gov.uk). You might also find it useful to look at Community and Town Councils Survey 2010 Findings Report, again from the Welsh Government.

For the councillor seeking detailed knowledge of law and procedures, a valuable book is *Local Council Administration* by Charles Arnold-Baker and Paul Clayden; 8th edition published in 2009 by LexisNexis. It is essential that the council has a copy of the latest edition, often known as the 'clerk's bible', as it gives detailed advice and extracts from relevant legislation.

*Governance and Accountability for Local Councils in Wales: A Practitioner's Guide (2011)*, published by One Voice Wales and the SLCC, is a useful tool for RFOs and for councillors seeking detailed knowledge of financial management. It explains statutory 'proper practices' for financial management.

*Being a Good Employer* is an extremely useful guide published by the National Training Strategy (England). It takes you through all stages of the employment process from recruitment to departure.

*LCR* (formerly Local Council Review), the quarterly magazine produced by the National Association of Local Councils and available through your contact at One Voice Wales; alongside this is the free (to LCR subscribers) weekly updated LCR Online ([lcronline.org.uk](http://lcronline.org.uk))

The Direct Information Service is a fortnightly new bulletin produced by the National Association of Local Councils, also available as an electronic bulletin - DIS Extra.

*The Clerk*, the journal of the Society of Local Council Clerks is published every two months.

*The Community Planning Handbook* by Nick Wates (published in 2000 by Earthscan) is a useful and concise source on public involvement in planning and action.

## Training

The council should have in place arrangements for induction - introducing new councillors to the work and procedures of the council. This guide will be part of an induction tailored to the work of the specific council. The clerk, perhaps co-ordinating with the chair, is often in a good position to carry out induction.

In partnership with the Welsh Government, One Voice Wales and the Society of Local Council Clerks are concerned with the provision of training to community and town councils in Wales. Your council should advise One Voice Wales or the Society of Local Council Clerks what it needs in terms of training.

One Voice Wales ([www.onevoicewales.org.uk](http://www.onevoicewales.org.uk)) offers an annual training programme covering seven modules: The Council, The Councillor, The Council as an Employer, Understanding the Law, The Council Meeting, Understanding Local Government Finance and Community Engagement. In addition a module on The Planning Process is delivered by Planning Aid Wales on behalf of One Voice Wales. Events can be held in suitable locations throughout Wales and can be delivered in either English or Welsh. One Voice Wales also delivers bespoke courses for councils with specific training needs where possible. Councils are encouraged to make provision for training both clerks and councillors in their budgets. For councils with low income bursaries funded by the Welsh Government may be available.

*Working With Your Council* is published by the Society of Local Council Clerks in partnership with the University of Gloucestershire. It is a useful home study course and reference guide. It includes sections on Roles and Responsibilities, Law, Procedures, Finance, Planning and Community Action. If you study this course you have support from the SLCC. The course was written for both clerks and councillors. It is available in both English and Welsh. For further information see [www.slcc.co.uk](http://www.slcc.co.uk).

There are two nationally recognised qualifications tailored precisely to the needs of the community council sector. The entry-level qualification is CiLCA (Wales). This tests competence for the role of council clerk. 'Working with Your Council' provides a core induction package helping clerks prepare their portfolio for assessment. The University of Gloucestershire is responsible for a distance learning course in Community Engagement and Governance leading to an advanced qualification suitable for both officers and councillors. The course includes single modules, a Certificate of Higher Education, a Foundation Degree or a BA Hons degree. Further information can be obtained from the SLCC.

Continuing Professional Development (CPD) is the process by which employees can track, record and plan learning. A structured CPD programme has been developed by the SLCC in partnership with NALC as a National Training Strategy product. It offers a framework for an employee to assess skills prior to setting annual development plans based around learning needs. Employees then record a range of learning activities to meet those needs. The CPD scheme is also the vehicle by which members of the Institute of Local Council Management (ILCM) can progress through the ranks of membership. A copy of the CPD booklet including the skills audit, development plan and record can be downloaded from the SLCC website with information on how to join the ILCM.

## List of legal powers

Finally the list below is an indicative list of powers and functions to help you appreciate the wide range of activities covered by Acts of Parliament and Measures or Acts of the National Assembly for Wales. It is a useful reference when you need to know if the community council can act but note, no list can be totally comprehensive.

It is hoped that you find this guide useful and, most importantly, that you enjoy your work as a councillor making a difference in the community that you serve.

Activity	Powers & Duties	Statutory Provisions
Annual meeting	Duty to hold	Local Government Act 1972, Schedule 12, paragraph 23
Allotments	Powers to provide allotments Duty to consider providing allotment gardens if demand unsatisfied	Small holdings and Allotments Act 1908, s.23
Baths and Washhouses	Power to provide public baths and washhouses	Public Health Act 1936, ss. 221, 222, 223 and 227
Burial grounds, cemeteries and crematoria	Power, as a burial authority, to acquire, provide and maintain Power to agree to maintain monuments and memorials Power to contribute towards expenses of cemeteries	Open Spaces Act 1906, ss. 9 and 10 Parish and Town Councils and Burial Authorities (Miscellaneous Provisions) Act 1970, s.1 Local Government Act 1972, s.214
Bus Shelters	Power to provide and maintain shelters	Local Government (Miscellaneous Provisions) Act 1953, s.4

Activity	Powers & Duties	Statutory Provisions
Bye Laws	Power to provide byelaws for:  Pleasure grounds  Cycle parks  Baths and Washhouses  Open spaces and burial grounds	Public Health Act 1875, s.164  Road Traffic Regulation Act 1984, s.57(7)  Public Health Act 1936, s.223  Open Spaces Act 1906, s.15
Charities	Duties regarding parochial charities	Charities Act 1993, s.79
Christmas Lights	Power to provide to attract visitors	Local Government Act 1972, s.144
Citizens Advice Bureau	Power to support	Local Government Act 1972, s.142
Clocks	Power to provide public clocks	Parish Councils Act 1957, s.2
Closed Churchyards	Powers to maintain	Local Government Act 1972, s.215
Commons and common pastures	Powers in relation to enclosure, regulation and management, and providing common pasture	Inclosure Act 1845  Local Government Act 1894, s.8  Small holdings and Allotments Act 1908, s.34
Community centres	Power to provide and equip community buildings  Power to provide buildings for use of clubs having athletic, social or educational objectives	Local Government Act 1972, s.133  Local Government (Miscellaneous Provisions) Act 1976, s.19

Activity	Powers & Duties	Statutory Provisions
Community meetings	Power to convene Duty to convene	Local Government Act 1972, Schedule 12, paragraphs 30, 30D and 30E
Community planning	Duty to collaborate with the county/ county borough council in developing and implementing a community strategy for the area	Local Government (Wales) Measure 2009, ss.37-47
Community polls	Duty to consider and take action	Local Government Act 1972, Schedule 12, paragraphs 26A and 29A
Conference facilities	Power to provide and encourage the use of facilities	Local Government Act 1972, s.144
Co-option of members	Powers to co-opt persons to fill vacancies Duty to advertise	Representation of the People Act 1985, s21 Local Elections (Parishes and Communities) (England and Wales) Rules 2006 Local Government (Wales) Measure 2011, s.116
Crime prevention	Powers to spend money on various crime prevention measures	Local Government and Rating Act 1997, s.31
Drainage	Power to deal with ponds and ditches	Public Health Act 1936, s.260

Activity	Powers & Duties	Statutory Provisions
Entertainment and the arts	Provision of entertainment and support of the arts including festivals and celebrations	Local Government Act 1972, s.145
Gifts	Power to accept	Local Government Act 1972, s.139
Highways	<p>Power to repair and maintain public footpaths and bridle-ways</p> <p>Power to light roads and public places</p> <p>Power to provide parking places for vehicles, bicycles and motorcycles</p> <p>Power to enter into agreement as to dedication and widening</p> <p>Power to provide roadside seats and shelters</p> <p>Power to complain to the highway authority regarding protection of rights of way and roadside wastes</p> <p>Power to provide traffic signs and other notices</p> <p>Power to plant trees etc. and to maintain roadside verges</p>	<p>Highways Act 1980, ss.43, 50</p> <p>Parish Councils Act 1957, s.3</p> <p>Road Traffic Regulation Act 1984, ss.57</p> <p>Parish Councils Act 1957, s.1</p> <p>Highways Act 1980, s.130 (6)</p> <p>Road Traffic Regulation Act 1984, ss.72</p> <p>Highways Act 1980, s.96</p>
Investments	Power to participate in schemes of collective investment	Trustee Investments Act 1961

Activity	Powers & Duties	Statutory Provisions
Land	Power to acquire by agreement, to appropriate, to dispose of land	Local Government Act 1972, ss.124, 126, 127
	Power to accept gifts of land	Local Government Act 1972, s.139
Litter	Provision of receptacles in public places	Litter Act 1983, ss.5.6
Lotteries	Powers to promote	Lotteries and Amusement Act 1976, s.7
Mortuaries and post mortem rooms	Powers to provide mortuaries and post mortem rooms	Public Health Act 1936, s.198
Newsletters	Power to provide information relating to matters affecting local government	Local Government Act 1972, s.142
Nuisances	Power to deal with offensive ditches	Public Health Act 1936, s.260
		Public Health Act 1875, s.164
Open Spaces	Power to acquire land and maintain	Open Spaces Act 1906, ss.9 and 10
Property and documents	Powers to direct as to their custody	Local Government Act 1972, s.226
Public buildings and village halls	Power to provide buildings for offices and for public meetings and assemblies	Local Government Act 1972, s.133
Public conveniences	Power to provide	Public Health Act 1936, s.87

Activity	Powers & Duties	Statutory Provisions
Parks, pleasure grounds	Power to acquire land or to provide recreation grounds, public walks, pleasure grounds and open spaces and to manage and control them	Public Health Act 1875, s.164 (Local Government Act 1972, Sched.14 para 27)  Public Health Acts Amendment Act 1890, s.44  Open Spaces Act 1906, ss.9 and 10
Recreation	Power to provide a wide range of recreational facilities  Provision of boating pools	Local Government (Miscellaneous Provisions) Act 1976, s.19  Public Health Act 1961, s.54
Town and Country Planning	Right to request the local planning authority for notification of planning applications	Town and Country Planning Act 1990, Sched.1, para.8
Tourism	Power to contribute to organisations encouraging tourism	Local Government Act 1972, s.144
Traffic Calming	Powers to contribute financially to traffic calming schemes	Local Government and Rating Act 1997, s.30
Transport	To spend money on community transport schemes	Local Government and Rating Act 1997, s.26-29
Village Signs	Power to use decorative signs to inform visitors	Local Government Act 1972, s.144
War memorials	Power to maintain, repair, protect and adapt war memorials	War Memorials (Local Authorities' Powers) Act 1923, s.1; as extended by Local Government Act 1948, s.33

Activity	Powers & Duties	Statutory Provisions
Water	Power to use wells, springs or streams for obtaining water therefrom	Public Health Act 1936, s.125
Wellbeing	Power to do anything which the council considers likely to achieve the promotion or improvement of the economic, social or environmental wellbeing of the area, without limit on expenditure	Local Government Act 2000, s.2
Youth Representatives	Power to appoint up to two youth representatives (aged 16 to 25) to represent the interests of young people who live, work or receive education or training in the area	Local Government (Wales) Measure 2011, ss.118-121

## 19 GLOSSARY

Accounts	These are financial papers including receipts and payments records, statements of income and expenditure and the balance sheet.
Agenda	The agenda is the list of items to be covered during a meeting. In law it identifies the “business to be transacted”.
Annual Community or Town Meeting	This is a meeting of the electorate, not a meeting of the council. It can be used as a form of community engagement, debate or celebration. Unlike in England, it is not required by law.
Annual Meeting of the Council	This is a meeting of the council usually held in May where the chair is elected. The council might elect a vice-chair, and will also appoint committee members and representatives to other bodies. It might also be known as the Annual General Meeting.
Annual return	The annual return is a form completed and signed by responsible parties as part of the external audit.
Budget	The budget is the plan for income and expenditure over the next year. Working papers are designed to help you decide what the budget will be for the next financial year; they should include comparisons with the previous and current financial years and forms the basis for precept calculations.
Business plan	A business plan usually covers the four-year term of a community council. It shows how the council will raise and spend money over this longer period to achieve its goals.
Chair’s allowance	This is a small sum of money allocated to the chair to help pay for activities undertaken in the role of chair such as attendance at civic events and gifts for visitors.
Code of conduct	This is the formal code adopted by your council to guide the behaviour of councillors. It must be signed by you at your first meeting.

Communities First	This is a regeneration programme for specified communities where poverty and disadvantage are major issues, set up by the Welsh Government.
Co-option	Co-option occurs when there are not enough candidates for seats at an election or when the electorate doesn't call for an election after a seat has fallen vacant. The council chooses someone from a list of volunteers.
Community action plan	This is a plan drawn up by the community and based on the results of consulting local people. It sets out a vision and action plan for the next few years tackling all aspects of the community's social, environmental and economic well-being.
Community strategy	This strategy covers the whole area of a county or county borough council and is developed with partners through the Local Service Board. The community council is a statutory consultee. Community strategies will form part of Single Integrated Plans by April 2013.
Corporate body	A corporate body has a legal existence separate from that of its individual members. It can be taken to court and, as a body, is responsible for its actions.
County and county borough councils	These are other local government bodies in Wales. Some of these authorities call themselves city councils.
Declaration of acceptance of office	This is the formal procedure by which you accept the office of councillor. You should sign this declaration at or before your first meeting.
Delegation	Delegation is the act of handing over the power to make a decision to an officer, a committee, a sub-committee, or another council. Delegation must be formally agreed by the full council.
Development control	This is the formal name for the control of development through the planning permission process.
Duties	Duties are actions that a council must take by law.
External auditor	The external audit is where the Government's appointed auditor makes the final check using the annual return.

Internal auditor	The internal auditor is independent of the council and has an appropriate level of competence. The internal audit is a review of the council's system of internal control.
Internal control	Internal controls are the checks and balances that ensure that the council's business is carried out properly.
Local development plan	This is a spatial plan relating to a unitary council's area - the area served by a county or county borough authority or by a National Park authority.
Local Service Board	LSBs are non-statutory bodies which provide collective public service leadership in an area. Their membership is for local determination but usually consists of the leaders and chief executives of the local authority, local health board, police, county voluntary council and others. Their purpose is to agree the priorities in the Single Integrated Plan and ensure these priorities are executed in the corporate plans of their member organisations.
Material considerations	These are matters that are material (or relevant) in planning law to an application.
Monitoring Officer	This is an officer at the county or county borough authority who oversees the ethical framework in the county (or county borough) council and in the community and town councils in the area. The ethical framework is the legislation and statutory guidance designed to maintain proper standards of behaviour for people serving in local government. A breach in behaviour is referred to the standards committee at the county or county borough council.
National Association of Local Councils	At present, NALC, which represents parish and town councils in England, negotiates pay with the Society of Local Council Clerks for England and Wales.
One Voice Wales	One Voice Wales is the national representative body for community and town councils in Wales.
Parochial Church Council	This is the organisation that manages the church in your parish.

Personal interests	Personal interests are financial or other interests as defined in your council's code of conduct.
Planning Aid Wales	Planning Aid Wales is an independent charity helping communities to engage effectively with planning. It provides a range of services including a telephone advice helpline (02920 625 000), easy-to-read guidance publications ( <a href="http://www.planningaidwales.org.uk">http://www.planningaidwales.org.uk</a> ) and effective training on all types of planning issues. Planning Aid Wales has worked with community and town councils across Wales and offers a range of publications and training courses specifically designed to meet their needs.
Planning authority	The local planning authority is the county or county borough council or a National Park Authority. It is responsible for all development planning and development control decisions.
Powers	This is shorthand for the power given by an Act of Parliament, or a Measure or Act of the National Assembly for Wales to a local authority to act and carry out its functions.
Precept	The precept is determined by the community council and represents its share of the council tax. The precept demand goes to the billing authority (the county or county borough council) which collects the tax and distributes it to the community council.
Prejudicial interests	A prejudicial interest is a personal interest that is so significant that a knowledgeable member of the public might consider that it prejudices your judgement on the matter.
Procedures	These are the guidelines for operating a community or town council within the law.
Procurement procedures	The process by which the council purchases goods and services. It includes asking for tenders and treating tenders with transparency and fairness. It also includes setting up proper contracts.

Proper officer	This is a term used in law to mean the officer appropriate to the task. In community and town councils this officer is normally the clerk.
Public Services Ombudsman for Wales	The Ombudsman is an independent office holder who considers complaints of maladministration by councils and alleged breaches of the code of conduct by councillors.
Publication scheme	The Freedom of Information Act 2000 requires a council to publish a scheme to clarify what information is available and how and at what cost (if any). There are core classes of information that must be made available and optional classes of information. Your council's scheme is probably based on the model provided by Government.
Quorum	The quorum is the number of people who must be present before decisions can be taken. If enough people are present then the meeting is said to be quorate. A quorum is one third of the full membership, or three - whichever is the greater.
Register of interests	This is the registration of your personal interests that might affect your decisions as a councillor. Your registration of interests is lodged with the Monitoring Officer at the county or county borough authority and must be kept up to date. Dispensations cannot be awarded unless interests have been formally registered in advance.
Resolutions	When a proposal has been agreed, it becomes a resolution.
Responsible financial officer	The RFO is the officer responsible for administering the council's finances. The RFO is often the clerk.
Single Integrated Plan	From April 2013 all local authority areas will have a Single Integrated Plan that identifies the most important priorities for improving the wellbeing of people and communities in the area. It replaces the community strategy and separate plans for children and young people, health social care and wellbeing and community safety.

Society of Local Council Clerks	This is the organisation that provides advice, support and training for clerks (see Part Five).
Standards Committee	This is a committee of the county or county borough council established to monitor and manage issues arising from the ethical framework in relation to county as well as community and town councillors.
Statute	A statute is an Act of Parliament or a Measure or Act of the National Assembly for Wales. It is the law and must be followed. It includes legal regulations to be observed in implementing the law. Community and town councils are statutory bodies; this means they are established by statute. Acts and Measures control the activities of community and town councils.
Supplementary planning document	A supplementary planning document is produced by a community or town council and has been adopted by the local planning authority. It informs decisions on planning applications.
Three clear days	This is a term in law. It does not include the day on which the agenda was sent out, nor the day of the meeting. It also excludes Sundays, bank holidays and days of the Christmas and Easter breaks.
Voluntary body	A voluntary body is established by volunteers; but it may raise money and employ staff to do its work. Local charities and the Council for Voluntary Service are examples.

## Further Copies

Further copies of this document are available from:

Claire Sanderson  
Democracy, Ethics and Partnership Division  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

Telephone: 029 2082 1500

E-mail: [claire.sanderson@wales.gsi.gov.uk](mailto:claire.sanderson@wales.gsi.gov.uk)