Woodbury Parish Council

(serving Exton, Woodbury and Woodbury Salterton)

Protocol Policy

This Policy outlines the roles, duties and responsibilities of the chairman, councillors, clerk and council and protocol at election and the Annual Meeting.

Woodbury Parish Council consists of three wards, Exton, Woodbury and Woodbury Salterton and has thirteen councillors across the parish that represents and serves the whole community.

The Role of the Parish Council

A Parish Council is an elected corporate body in the first tier of local government, a legal entity, and accountable to the local community, supporting the democratic process by holding Elections every four years.

The role of the Parish Council is to represent the interests of the whole community they serve and improving both the quality of life and the local environment.

The Parish Council is a corporate body, and a legal entity, and is accountable to the local community. Its decisions are the responsibility of the whole body and are made collectively by a majority vote.

Parish Councils are of Statute (controlled by Acts of Parliament) and carry out functions and make lawful decisions. They have the authority to raise money through taxation, known as the precept, and a range of powers to spend public money. The Parish Council is an employer with the Parish Clerk working for, and with, the Council to action its decisions.

The Parish Council has duties;

a) elect a chairman;
b) appoint a Proper Officer and Responsible Financial Officer;
c) appoint an independent and competent internal auditor;
d) health and Safety of All Staff (Work Act 1974 s2);
e) hold an Annual Meeting of the Council in May plus at least three other occasions (LGA 1972 s12 p8).

Duties to consider;

a) providing allotments;
b) impact of decisions on reducing crime & disorder in the parish;
c) adopting a church yard when it is closed, if asked to do so.

Responsibilities;

a) council must act in statutory law except LGA 1972 s137 which gives limited power to incur certain purposes not otherwise authorised for the benefit of the community;
b) adopt a Code of Conduct;
c) responsible of spending public money; achieving best value;
d) risk Assessments;
e) hold an Annual Parish Meeting between 1st March – 1st June;
f) can delegate to officers / committees;
g) can work with other organisations or in partnership;
h) cannot make decisions if not on an agenda or if membership is not quorate (Full Council five / Committees three members)

A duty is something a council must do or consider by law, a power is something the council can consider but is not compulsory.

Role of Chairman

The Council must appoint a chairman by law (Local Government Act 1972 s15).

The Chairman's main role is to ensure that;

a) they preside at the meeting, if present and ensure it runs smoothly by managing it;
b) effective and lawful decisions are taken at council meeting, assisted by the clerk;
c) responsible for involving all councillors in discussion and ensuring that councillors keep to the point;
d) summarises the debate and facilitates the making of clear resolutions and declares the result, are responsible for keeping discussions moving and point of order;
e) responsible to liaise with the clerk and consulted on the agenda, the clerk has the final say and the legal signatory, the chairman signs the minutes as a true record;
f) calls the Annual Parish Meeting and signs the agenda;
g) may claim an allowance, expenditure recorded;
h) councillor resignations must be sent to the chairman in the first instance;
i) retiring chairman chairs the meeting until the new chairman is elected and has signed their Declaration of Acceptance of Office;
j) can convene extraordinary meetings of the council; although this can also be called by two councillors by written request to the chairman who has 7 days to call this meeting, otherwise they can call it themselves.
k) correspondence to and from the council should normally be dealt with by the clerk, but in their absence will be the most appropriate person to deal with it.

The Chairman has a casting vote. (LGA 1972 sch. 12 pVI39(2). Their first vote is a personal vote as a member of the council. If there is a tied vote, the Chairman can have a casting vote.
The Chairman cannot legally make a decision on behalf of the council.

The Chairman will often be the public face of the council and will represent the council at official events. They may be asked to speak on behalf of the council and, in such circumstances, should only express the agreed views of the council and not give their personal views.

The Chairman is elected by the members of the Parish Council at the Annual Meeting of the Council in May and serves for twelve months under section 15 (1) of the Local Government Act 1972. Unless they resign or become disqualified, the Chairman continues in office until their successor becomes entitled to act as chairman at the next Annual Meeting of the Council.

Both the Chairman of the Council and Vice Chairman serves for twelve months and at the next Annual Meeting of the Council they can be re-elected for a further twelve-month term. The subsequent twelve-month term a different Councillor must be elected for these roles; the vice chairman does not automatically reside as Chairman, but can be elected for the role.

A previous Chairman / Vice Chairman can re-stand after the third year, but cannot hold the position for more than twenty-four months in anyone period. They can also be 'ex officio' on committees (councillor not elected on a committee, but instead serves as an advisory capacity due to their position on the Council, no voting rights).

The Chairman of the Council should not be the Chairman of Committees unless it is the last resort. They can be a Vice Chairman.
Committee Chairman / Vice Chairman are elected annually, and can be re-elected under the same terms of Chairman of the Council, although under special circumstances they can stay in post for subsequent 12-month terms as required. They have similar duties and responsibilities of the chairman of the council with regards to their committee.

The Role of Parish Councillors

Parish Councillors are democratically elected representatives of the electorate, not volunteers or employees, and serve for a four-year term, unless co-opted or elected in a by-election when they serve until the next election. There appointment is in accordance with the LGA Act 1972 s14-33. They must apply the law and comply with the Code of Member Conduct and behave in an ethical way and set the budget and strategic direction of the council, and ensure that the community's priorities are identified and delivered.

A Parish Councillor has a duty to;

a) attend meetings otherwise they must send their apologies;
b) prepare for meetings, study the agenda and raise any questions with the clerk prior to the meeting so that they are fully informed to allow them to debate constructively on matters, vote and enable the Council to make a decision;
c) represent and respond to the views of the whole community within the parish, listens to, and understands, the views and needs of the differing groups within the community;
d) listen/support the chairman, other councillors and the clerk;
e) sign declaration of acceptance of office and register their interests. At the beginning of a meeting they must declare an interest on any relevant agenda item; any dispensation must be requested prior to the meeting;
f) no individual councillor can make a decision, act ultra vires, or be predetermined.

As a Councillor, there is a responsibility to be well-informed, especially in relation to any diverse local views. Councillors cannot assume they represent the interests of electors without consulting with them.
Collectively as a body, the council makes the decisions not the chairman or individual councillors and can't act "Ultra Vires"(beyond the powers). Councillors must accept the collective decision of the council even if they do not agree with it.

Role of Clerk

The clerk is employed by the council (under section 112 (1) of the Local Government Act 1972) and provides full administrative support and gives clear guidance and professional advice for the council's activities and is accountable to the council for the effective management of all its resources, also it is their duty to minute any of their advice that has not been heeded. Any other staff, although employed by the council, answer to the clerk who is their manager. 'Proper officer' is a title used in statute. It refers to the appropriate officer for the relevant function; the proper officer is normally the clerk who is the 'engine' of an effective local council. In financial matters, the proper officer is known as the Responsible Financial Officer who deals with the proper finance administration including the budget, precept, insurance, income/expenditure accounts, Annual/VAT Returns, PAYE.

The clerk's primary responsibility is to advise the council on whether its decisions are lawful and to recommend ways in which decisions can be implemented. To help with this, the Clerk may be asked to research topics of concern to the council and provide unbiased information to help the council to make appropriate choices; and takes instructions from the council as a body. The clerk has a wide range of other responsibilities and tends to be the first contact for parishioners to raise ideas/concerns and makes decisions outside the parish council when given delegated powers to act. (LGA1972 s101).

The clerk is not answerable to any individual councillor – not even the Chairman. The Council must be confident that the clerk is, at all times, independent, objective and professional.