



**AINTREE VILLAGE PARISH COUNCIL**

**Scheme of Delegation including Terms of Reference**

17<sup>th</sup> September 2018

Minute 6824(1)

Amended 17<sup>th</sup> December 2018

Minutes 6866

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(Note: In this document references to the masculine shall impute the feminine and vice versa)

## **1.0 Introduction**

1.1 This document sets out the manner in which Aintree Village Parish Council will delegate its powers under the new structure, which comes into effect on 1<sup>st</sup> April 2019. Understanding of this is essential for anyone who wishes to know who is legally able to give a decision on any matter. This document is currently one of the three major ways in which the Parish Council will regulate its affairs; the others are its Standing Orders, and Financial Regulations.

1.2 The basic principle used has been to delegate to Committees powers to act within their Terms of Reference. This means that on all matters not reserved for consideration by another Committee, or by the full Council, Committees can **resolve** and thereafter action can normally be taken by the Council Manager and Parish Clerk. However certain matters, such as issuing a precept for a rate, cannot legally be delegated and others, such as deciding major policy, are reserved by the Council to itself. On such matters, committees can only **recommend** a course of action and, in these cases, the Council Manager and Parish Clerk cannot normally carry out the instructions of the Committees until the recommendation has been approved by the Council.

1.3 The intention of the delegation scheme is, therefore, to enable the Parish Council to be more effective and efficient by allowing it to act with all reasonable speed, and by enabling decisions to be taken at the most suitable level. Thus the Council Manager and Parish Clerk is given power over the day to day administration of the Council, Committees to decide matters within their Terms of Reference, and matters of major policy should be **recommended** to the full Council

1.4 It should be noted that wherever reference is made to the Council Manager and Parish Clerk in this document, it shall be understood that other staff employed by the Parish Council can deputise for the Council Manager and Parish Clerk both in his absence and to enable the efficient and effective running of the Parish Council.

1.5 Whilst the Parish Council, through its Scheme of Delegation is determined to become more professional in its conduct of the Parish Council's affairs, it is important to note that it is also striving to be open and accessible to all, including the press, the public, and the community that it serves.

1.6 Under the new Scheme of Delegation the Council Manager and Parish Clerk will report all major decisions taken under delegated powers to the appropriate Committee, the agenda of which will sent to all Members. Should Members wish to raise any question concerning the exercise of delegated or other powers, then they should contact the appropriate Committee Chairman or the Council Manager and Parish Clerk, and if necessary the matter can be raised subsequently at Committee.

1.7 In addition, where Members have a disagreement with the Council Manager and Parish Clerk about their agenda item they then have the choice of either consulting with the Chairman of the Parish Council, or the Committee Chairman, if the item relates to a particular Committee and requesting them to speak to the Council Manager and Parish Clerk to review his decision not to include the item on the Agenda or getting a written agreement of four other Members.

1.8 The Parish Council at its meeting on 17<sup>th</sup> September 2018 (Minute 6824 (1)) reiterated its position that as a matter of policy and for the avoidance any doubt it should be noted and accepted by all Members that the final responsibility for the Agenda rests with the Council Manager and Parish Clerk alone,

## **2.0 Committee Attendance**

2.1 Members are entitled to attend all Committees and sub-Committees for which they are sent an agenda, whether or not they are members of the Committee.

2.2 However, they may not vote and may not take part in any discussions without the consent of the Chairman of that Committee.

### **3.0 Delegation**

3.1 Local Councils may only do what legislation requires or permits them to do. With some particular exceptions, the Council may delegate functions to committees, sub Committees, officers, or other authorities.

3.2 The power to delegate functions by local councils is set out in the Local Government Act 1972 S.101 as follows:-

#### **Local Government Act 1972**

'S. 101 Arrangements for discharge of function by local authorities

- (1) Subject to any express provision contained in this Act or any Act passed after this Act, a local authority may arrange for the discharge of any of their functions:-
  - (a) by a Committee, a sub-Committee or an officer of the authority, or
  - (b) by any other local authority
- (2) Where by virtue of this section any functions of a local authority may be discharged by a committee of theirs, then, unless the local authority otherwise direct, the committee may arrange for the discharge of any of those functions by a sub-committee of the authority, then unless the local authority or the committee otherwise direct, the sub-committee may arrange for the discharge of any of those functions by an officer of the authority.
- (3) Any arrangements made by a local authority or committee under this section for the discharge of any functions by a committee, sub committee, officer or local authority shall not prevent the authority or committee by whom the arrangements are made from exercising those functions.
- (4) Two or more local authorities may discharge any of their functions jointly and, where arrangements are in force for them to do so, they may also arrange for the discharge of those functions by a joint committee of theirs or by an officer of one of them and subsection (2) above shall apply in relation to those functions as it applies in relation to the functions of the individual authorities.
- (5) A local authority's functions with respect to issuing a precept for a rate or borrowing money shall be discharged only by the authority'.

**NB** The operation of this section is subject to any rights of third parties acquired as a result of action taken on a delegated matter. However, in so far as legally binding action had not been taken on a delegated matter, the Council can still act itself regarding that matter. It is desirable that in the interests of certainty in decision making and to avoid lengthy discussions in Council meetings, Standing Orders should discourage, so far as is legally possible, action being taken by the Council after the matter has been 'decided' by a Committee, or sub-Committee. If the Council feel, however, that action is necessary then normally it should refer the matter back to the Committee concerned

## 4.0 Parish Council

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

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

- Approval of Final Accounts.

## 5.0 Proper Officer

5.1 The Council Manager and Parish Clerk to the Council shall be the Proper Officer and carry out the functions of the Proper Officer as provided by the Local Government Act 1972 and as set out in the job description for the post. In his absence the Parish Council may nominate another member of staff to undertake the work of the Proper Officer. The Council Manager and Parish Clerk may delegate to other staff members if appropriate, to undertake functions delegated to the Proper Officer. Delegated actions of the Council Manager and Parish Clerk or other officer shall be in accordance with Standing Orders, Financial Regulations and this Scheme of Delegation and in line with directions given by the Council from time to time.

5.2 The Clerk is specifically authorised to:-

- Receive declarations of acceptance of office.
- Receive and publish Members' Registers of Interest.
- To receive and record notices of disclosing interests at meetings
- Receive and grant Disclosable Pecuniary Interest (DPI) dispensations after consulting with Sefton Council's Monitoring Officer; details of all dispensations received and granted to be reported to the Council at the next available meeting.
- Convene a meeting of the Parish Council if a casual vacancy occurs in the office of the Chairman
- Keep proper records for all Council meetings
- Sign notices or other documents on behalf of the Parish Council
- Receive and hold copies of byelaws made by a principal local authority which affect the Parish Council's area
- Receive and retain plans, notices and documents
- Certify copies of byelaws made by the Parish Council
- Compile and hold a register of Members' interest in accordance with agreement reached with the Monitoring Officer of the Responsible Authority and/or as required by statute.
- hold acceptance of office forms from councillors

5.3 The Proper Officer shall:-

- Include on the agenda all motions in the order received unless the Member has given written notice at least **10 days** before the meeting confirming he intends to move at the same meeting or that he withdraws it.

5.4 At least **3 clear days** before a meeting of the Council, a Committee or a sub-Committee the Proper Officer shall:-

- serve on Members by delivery or post at their residences or by email authenticated in such manner as the Proper Officer thinks fit, a signed summons confirming the time, place and the agenda (provided the councillor has consented to service by email) (Standing Order 60), and

- Provide, in a conspicuous place, public notice of the time, place and agenda (provided that the public notice with agenda of an extraordinary meeting of the Council convened by Members is signed by them),
- Record the names of the members who voted on any question so as to show whether the voted for or against it. If so requested by a Member before moving on the next business.

5.5 In addition, the Council Manager and Parish Clerk is authorised to undertake the day to day administration of the Council, to include:

- Calling extra meetings of the Parish Council or any Committee or sub-Committee as necessary, having consulted with the appropriate Chairman, except those called by the Chairman or Members.
- In conjunction with the Parish Council's Press Officer (Chairman) issuing press releases and statements to the press on the Parish Council's known policies (Minute 6811, Parish Council meeting on 20<sup>th</sup> August 2018)
- Updating and managing the content on the Parish Council's website
- Making arrangements for the maintenance of the IT system.
- Keep record of every planning application notified to the Parish Council
- Arrange for legal deeds to be executed
- Disposal of Parish Council records according to legal restrictions and an agreed retention and disposal policy
- Handling and responding to requests for information under the Freedom of Information Act 2000, the Data Protection Act 1998 and the General Data Protection Regulations 2018.
- In the first instance, acknowledging and handling all complaints regarding the Parish Council (except where the complaint relates to the Council Manager and Parish Clerk)
- Assist in the organisation of, storage of, access to, security of and destruction of information held by the Council in paper and electronic form subject to the requirements of data protection and freedom of information legislation and other legitimate requirements (e.g. the Limitation Act 1980)
- Making arrangements for the routine maintenance of the Parish Council buildings
- Purchasing basic office equipment and supplies
- Arranging emergency repairs to the Parish Council premises (subject to the Parish Council's Standing Orders and Financial Regulations.)
- Taking appropriate action arising from other emergencies (in consultation with the Chairman/Vice Chairman of Council or Committee Chairman as appropriate to the circumstances)
- Managing all employees (not including any variation of employment contracts and not any matters relating to grievances lodged against him/her) of the Council and has the authority to take disciplinary action, excluding termination of employment, under agreed procedures;
- Making arrangements in conjunction with the RFO to pay salaries/wages and expenses to all employees of the Council (subject to the Parish Council's Financial Regulations);
- Preparing the Parish Directory and Year Book for publication (where appropriate).

- Facilitating arrangements for Christmas events, in conjunction with relevant Working Groups.
- Dealing with day to day matters in relation to the Parish Council functions.
- Emergency/necessary expenditure up to £200 whether or not there is budgetary provision for the expenditure (Financial Regs 4.5)

## **6.0 Responsible Financial Officer (RFO)**

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

## **7.0. General Arrangements for Delegation of powers**

7.1 This is applicable to all Committees of the Council

(a) The Council has delegated to every Committee of the Council full powers to act in all matters covered by the Committee's Terms of Reference subject to:-

- (i) the provisions of any Standing Order or Financial Regulation for the time being in force, except where such Order or Regulation has been specifically waived by resolution of the Council.
- (ii) prior Council approval of annual capital and revenue estimates
- (iii) any scheme requiring application for consent to borrow having first been approved by Council, and loan sanction secured.
- (iv) when matters of major policy are involved, the existence of a policy approved by the Council. In the absence of such policy, Committees and sub-Committees may consider the matter and make recommendations to the Council.

Major policy will arise either:-

- (a) on matters of major importance which have not previously been before the Council; or
  - (b) matters which have arisen in other Committees or Sub-Committees but which cannot be resolved by them in the absence of settled Council policy; or
  - (c) in cases of doubt where a major policy is involved, the Chairman of the Council or the Chairman of any other Committee or sub-Committee, or in their absence the appropriate vice-Chairman may, before a decision is taken by the Committee or sub-Committee, state that a matter of major policy is involved.
- (v) prior Council approval to recommendations for the allocation of duties, powers and guidelines to Committees.
- (b) the exercise by committees of the above powers shall be without derogation to the powers of the Council to call for a report on any Committee decision.
- (c) every Committee shall have power to authorise the Council Manager and Parish Clerk, after consultation with the Chairman of the Committee, to take decisions on specific urgent matters falling within its own Terms of Reference as it sees fit.



(d) notwithstanding the powers delegated to committees, the Council retain the right to exercise such powers when necessary, and may disband any or both Committees, or any sub-Committees or Working Groups at any time.

## **8.0 Committees**

8.1 The Parish Council resolved (20<sup>th</sup> August 2018 Minutes 6806) to establish two Committees, namely the Finance and General Purposes Committee, and Park and Amenities Committee.

8.2 Committee Members will be appointed at the Annual Meeting, previous Committee Members may be reappointed. The Parish Council may make further appointments at any time it feels appropriate.

8.3 The Committees are authorised to:-

- Elect a Chairman and a vice-Chairman from the membership of the Committee who will hold office for that Parish Council year. . Previous Chairman and Vice Chairman may be re-elected. In the absence of the Chairman or Vice Chairman (as appropriate) at a meeting the Committee will elect one of its members to take the Chair.
- Approve the Minutes of the last meeting of the Committee
- Spend money from budget headings under the Committee's remit up to the limit of the budget and/or named reserve, in accordance with Standing Orders and Financial Regulations.
- Make recommendations on the budget requirement for the Committee for the coming Financial Year
- Unless the Council determines otherwise, a Committee may appoint a sub-Committee whose terms of reference and Members shall be determined by the Committee.
- The members of a Committee may include non-Councillors unless it is a Committee which regulates and controls the finances of the Parish Council
- Unless the Council determines otherwise, all the members of an advisory committee and a subcommittee of the advisory Committee may be non-Councillors.

8.4 Decisions taken by Committees on delegated matters will not require ratification by the Parish Council as they have been delegated to Committees but minutes (draft minutes) detailing decisions taken must be submitted to the Parish Council for inclusion in the minutes of the Parish Council. The Parish Council can make decisions on matters delegated to the Committee when it deems necessary.

8.5 Both Committees, including any sub-Committees must adhere to the protocols for public attendance, minute taking and notice of meetings that apply to the Parish Council.

## **COMMITTEE TERMS OF REFERENCE**

### **Finance and General Purposes Committee**

#### **1. Membership and frequency of meetings**

The Finance and General Purposes Committee shall consist of 6 Members, the quorum to be half, i.e. 3 Members. It will meet every two months.

#### **2. Terms of Reference**

- i) To co-ordinate, in consultation with the Chairman of the Park and Amenities Committee, the Chairman of the Council, the vice-Chairman of the Council, the Council Manager and Parish Clerk and the RFO, the detailed budget of the Council and to recommend to the Council the annual budget and the annual precept to be levied for the Parish.
- ii) To monitor expenditure and ensure that the Council receives reports at each of its meetings on the progress of actual expenditure compared with budget.
- iii) To be responsible for overseeing the administration and review of day to day financial matters including internal audit of the Council's income and expenditure.
- iv) To conduct an annual review of the effectiveness of Internal Audit and Internal Control procedures.
- v) To arrange for annual review of the Council's insurance policies and to oversee the procedure for risk assessment of all the Council's activities.
- vi) To advise the Council on all aspects of finance and financial policy, including the investment of both operating and capital balances and any transfers into and out of the capital fund.
- vii) To review from time to time the Council's banking arrangements and make recommendations to the Council, when necessary.
- viii) To approve, on behalf of the Council, the transfer of funds from and to particular budget items where the Chairman of the Committee is satisfied that the transfer of funds must take place before the next meeting of the Council. Such urgent transfers of funds must be agreed by the Chairman or Vice Chairman of the Committee affected by the transfer and by the Chairman or Vice Chairman of Council.
- ix) To review the Council's Financial Regulations annually
- x) To deal on behalf of the Council and as instructed by it, with any matters of policy which do not fall clearly within the responsibilities of the other Committees or where there is any conflict between them
- xi) To ensure that appropriate records are kept of all assets and that they are adequately controlled.

- xii) To examine and make recommendations to the Council on all major planning applications; and on national and regional planning policy and the Local Development Framework. A major planning application shall be defined as one which has a significant effect on the Parish as a whole, whether in terms of the environment, infrastructure, the local economy, traffic, or transport.
- xiii) To examine and deal with on behalf of the Council, all other planning applications/tree preservation order matters/footpath creation orders.
- xiv) To examine and make recommendations to the Council on all traffic issues, and new highway facilities, which affect the Parish.
- xv) To consider and make observations on any proposals for the future development of the parish.
- xvi) To receive minutes and reports from sub-committees, working parties and panels established by the Committee
- xvii) To work with residents and local businesses to improve the look and feel of Aintree Village.
- xviii) This committee shall initially deal with matters relating to any issues concerning the employees of the Council. Such issues shall include, inter alia, appointments, disciplinary matters, staffing structures, annual salary reviews etc. The committee will then make recommendations to the Council.
- xix) Review of administration equipment and running of Parish Council
- xx) Review of the Council's and/or staff subscriptions to other bodies
- xxi) Review of the Council's complaints procedure
- xxii) Review of the council's procedures for handling requests made under the Freedom of Information Act 2000, the Data Protection Act 1998 and the General Data Protection Regulations 2018
- xxiii) To act as a focal point for facilitating and engaging with local community groups, including Aintree Community Centre, local schools, Churches, youth and senior citizen clubs to develop plans and policies for recommendations to the Parish Council that would enhance the facilities and wellbeing of local residents that are outside the boundary of the Park.
- xxiv) To draw up and periodically review a procedure for the making of grants and donations, including Section 137 and to consider and make decisions on such requests made to the Council, in accordance with that policy.
- xxv) Progress staff recruitment when required and confirm individual contracts of employment and all terms and conditions
- xxvi) To consider and approve financial budgetary reports, including the monthly payments (routine and non-contentious) presented at its meetings. (Added on 19<sup>th</sup> November 2018, minute 6851)

### **Delegation to the Council Manager and Parish Clerk**

1. The Council Manager and Parish Clerk is given delegated authority to report minor issues such as street lighting and road repairs between meetings subject to any significant issues being reported to the following Parish Council meeting. (28<sup>th</sup> July 2008 Minute 5078)

## **Park and Amenities Committee**

### **1 Membership and frequency of meetings**

The Park and Amenities Committee shall consist of 6 Members, the quorum to be half, i.e. 3 Members. It will meet every two months.

### **2 Terms of Reference**

Subject to any Parish Council policy and available budget, the committee is authorised and delegated to make decisions on behalf of the Parish Council on the management of the Park, and facilities contained within it in such matters as the following:-

- i) To work with the Chairman of the Finance and General Purposes Committee, the Chairman of the Council, the Council Manager and Parish Clerk and the RFO, in developing the detailed budget of the Council and to recommend to the Council the annual budget and the annual precept to be levied for the Parish.
- ii) To receive minutes and reports from sub-committees, working parties and panels established by the Committee
- iii) Security of the Park and buildings
- iv) Health and Safety of Park users, service providers and staff
- v) Purchase of equipment, supplies and contracts within the approved budget below £5,000 (single item).
- vi) Playground equipment maintenance
- vii) General park maintenance
- viii) Groundwork maintenance
- ix) Consideration of applications and annual allocation of football pitches
- x) Consideration of applications and annual allocation of bowling green
- xi) Preparation of the proposed plan of improvements and refurbishment for budget/precept
- xii) Review of inventory of land and assets including buildings
- xiii) In conjunction with the Parish Clerk Task & priority setting for Park staff
- xiv) Consideration of applications and allocation of any other relevant activities within the Park
- xv) Encouraging supporting Christmas festivals and activities within and outside the Park, including consideration of financial support requests

- xvi) To act as a focal point for facilitating and engaging with local community groups, including Aintree Community Centre, local schools, Churches, youth and senior citizen clubs, and other public and private organisations to develop plans and policies for recommendations to the Parish Council that would enhance the facilities and wellbeing of local residents that are within the boundary of the Park.
- xvii) Proactively developing and supporting activities that would encourage greater use of the Park through sport and non-sport events, café/eatery, shows including Fun Fairs, Farmers Markets, and Antique Markets.
- xviii) To market and promote the Park and its facilities
- xix) To consider and develop plans and costings for consideration by the Finance and General Purposes Committee for enhanced utilisation of Parish Council buildings.
- xx) To ensure the implementation of the Flag Flying Policy (16<sup>th</sup> July 2018 Minute 6763)
- xxi) To consider and develop bids for external funding for recommendation to the Parish Council

#### **Delegation to the Council Manager and Parish Clerk**

1. The Council Manager and Clerk is authorised to use his/her judgement to consider and decide on requests for any football matches requested outside the specified dates as detailed in paragraph 15 of the use of football pitch conditions.
2. Under the Flag Flying Policy (Minutes 6792) Flags will not be flown during severe weather. The final decision on what is considered to be severe weather is delegated to the Council Manager and Parish Clerk.

