

# WORCESTERSHIRE COUNTY ASSOCIATION OF LOCAL COUNCILS

## BEST PRACTICE GUIDE : Powers and Duties

### POWERS AND DUTIES OF PARISH/TOWN COUNCILS

27 July 2006

#### The law

A host of legislation allows parish/town councils to carry out over 50 powers. Every Council needs to be aware of WHICH PARTICULAR power they are using when spending money. Councils are 'creatures of statute' and must justify every expenditure with legislation. The main piece of legislation appertaining to constitution and administration of Parish and Town Councils is:

#### The Local Government Act 1972: a summary

Section 1-16	Lays down the constitution of parish councils and parish meetings
Section 79-100	Covers qualification and disqualification, duty to sign declaration of office, resignation
Section 101	Allows a principal authority to ask any other authority to discharge a function on its behalf
Section 102 - 109	Provides for committees, standing orders and for parish meetings to have powers
Section 111	Subsidiary powers for a local authority to do anything which helps it to discharge its functions
Section 112-119	The appointment of staff and insurance
Section 123-131	Governs land transactions
Section 133	Provision of community buildings
Section 134	Parish council can use a school building
Section 135	Standing Orders for making contracts
Section 136	Power for one authority to contribute to another for concurrent functions
Section 137	Power to provide things not otherwise authorised for the benefit of some or all of its parishioners
Section 139	Power for council to accept goods, property or money
Section 140	Power to provide insurance for members' accidental cover
Section 141	Power for councils to carry out research (village appraisals)
Section 142	Power to produce info: newsletters, citizens advice bureau
Section 143	Subscriptions to local government associations (i.e. CALC, NALC)
Section 144	Power to attract tourists and visitors (village signs/ Christmas lights)
Section 145	Power to promote entertainment and the arts, village celebrations
Section 151	Duty to appoint a Responsible Financial Officer
Section 222	Power to prosecute, appear at or defend legal proceedings/public inquiries
Section 228	Right of public to inspect certain documents
Section 245	Power to adopt town status
Schedule 12	Procedures and meetings
Schedule 13	Financial arrangements including power to borrow money
Schedule 26	Crematoria and cemeteries

**NB: Exclusion of the public & press** at meetings for discussion of confidential items is covered by the public Bodies (Admission to Meetings) Act 1960. LGA 1972 Schedule 12A does NOT apply to Parish /Town Councils. Certain sections of the LGA 1972 have been superceded by legislation in such areas as access to information and Councillors' allowances and expenses.

If in doubt, Clerks should contact Worcestershire CALC.

Other Acts in addition to the LGA 1972 stipulate certain powers and duties of Parish and Town Councils as set out in the table below. A **power** is something that the Parish / Town Council **may** choose to do but it is not compulsory. A **duty** is something that the Parish/Town Council **must** carry out.

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### POWERS AND DUTIES OF PARISH COUNCILS

<b>FUNCTION</b>	<b>POWERS AND DUTIES</b>	<b>STATUTORY PROVISIONS</b>
Access to information	Duty to provide information on receipt of written request.	Freedom of Information Act 2000
Accounts	Duty of financial management, appointment of independent and competent Internal Auditor, external audit process, publication of accounts, right of public access	Accounts & Audit Regulations 2003 & 2006
Allotments	Power to provide allotments. Duty to consider provision of allotment gardens if demand unsatisfied	Small Holdings and Allotments Act 1908 ss 23, 26 & 42
Appointment of paid officers	Duty to appoint paid officers on merit.  Duty NOT to appoint Councillors to paid posts	Local Government & Housing Act 1989 s7 Local Government Act 1972 s 116
Baths & Washhouses	Power to provide public baths and washhouses (i.e. launderettes)	Public Health Act 1936 ss 221,222,223 & 227
Burial Grounds, Cemeteries and Crematoria	Power to acquire and maintain. Power to provide.  Power to agree to maintain monuments and memorials  Power to contribute towards expenses of cemeteries	Open Spaces Act 1906 ss 9&10; Local Government Act 1972 s214.  Parish Councils & Burials Authorities (Misc. Provisions) Act 1970 s 1  Local Government Act 1972 s 214 (6)
Bus Shelters and seats	Power to provide roadside seats and shelters	Local Government Misc. Provisions Act 1953 s 4 Parish Councils Act 1957 s1
Bus Services	Power to make grants of money (though not of a capital nature) for bus service appearing to be for the benefit of people living in the council's area or community bus service (mini buses run on non-profit basis & catering for social and welfare needs of one or more communities.	Local Government Rating Act 1997
Byelaws	Power to make Byelaws in regard to: Public walks and pleasure grounds Baths and Wash houses  Open Spaces & Burial Grounds Mortuaries & Post Mortem Rooms  Hiring of pleasure boats  Cycle Parks	Public Health Act 1875 s 164 Public Health Act 1936 s 223 &231 Open Spaces Act 1906s 15 Public Health Act 1936 s 198 Public Health Acts Amendment Act 1907 s 44(2) 1936 s 198  Road Traffic Regs Act 1984 s 57(7)

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Car Sharing Scheme	Power to establish and maintain, or to assist others, in car-sharing scheme for benefit of persons in council's area. Schemes whereby private cars are made available for use on journeys where one or more passengers may be carried at separate fares	Local Government and Rating Act 1997
Chairman's Allowance	Power to pay the chairman reasonable allowance	Local Government Act 1972 s 15(5) and 35 (5)
Change of use of land	Power to use land by a parish council for another purpose other than what it was acquired for.	Local Government Act 1972 s 126
Charities	Power to appoint trustees of parochial charities Duty of parochial charity to supply annual report and accounts	Charities Act 1993
Citizen's Advice Bureau	Power to assist bodies such as CABs in advising individuals and by making or receiving communications or by providing representation to or before any body or person in asserting an individual's rights or obligations	Local Government Act 1972 s 142
Clocks	Power to provide public clocks	Parish Councils Act 1957 s 2
Closed Churchyards	Powers to maintenance	Local Government Act 1972 s 215
Code of Conduct	Duty of Council to adopt the code of conduct	Local Government Act 2000 ss 51 & 52
Commons & Common Pastures	Powers in relation to inclosure as to regulation and management and as to providing common pasture	Enclosure Act 1845; Local Gov Act 1894 s 8 (4); Smallholdings & Allotments Act 1908 s 34
Community Centres & Village Halls	Power to provide and equip buildings for use of clubs having athletic, social or educational objectives	Local Gov (Misc. Provisions) Act 1976 s19
Conference facilities	Power to provide & encourage the use of facilities	Local Gov Act 1972 s 144
Compulsory Purchase	Power to ask district council to compulsory purchase on behalf of the parish council if it is unable to acquire land by agreement	Local Govt Act 1972 s 125
Councillors Allowances and travelling expenses	Power to pay Basic Allowance and mileage for approved duties	Local Authorities (Members Allowances) Regulations 2003
Crime Prevention	Power to install and maintain equipment with view to preventing and detecting crime in own area; may make grants of money to police authorities.	Local Govt Rating Act 1997
Drainage	Power to deal with ponds and ditches	Public Health Act 1936 s 260
Entertainment & the Arts	Power to provide entertainment and support of the arts	Local Government Act 1972 s 145
Flagpoles	Power to erect flagpoles in the highways	Highways Act 1980 s 144
Gifts	Power to accept gifts	Local Government Act 1972 s 139

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Highways	Power to repair and maintain public footpaths and bridleways. Power to light roads and public places Provision of litter bins Power to provide parking places for vehicles, bicycles and motor cycles Power to enter into agreement as to dedication and widening. Power to provide roadside seats and shelters and omnibus shelters Power to complain to district council as to protection of rights of way and roadside waste. Consent of parish council required for ending maintenance of highway at public expense, or for stopping up or diversion of highway. Power to provide traffic signs and other notices	Highways Act 1980 ss 43 50  Parish Councils Act 1957 s3 Highways Act 1980 s 301 Litter Act 1983 ss 56 Road Traffic Regulations Act 1984 ss 57, 63  Highways Act 1980 ss 30, 72  Parish Councils Act 1957 sl  Highways Act 1980 s 130
Highways (cont.)	Power to plant trees etc and to maintain roadside verges. Power to fund traffic calming measures	Highways Act 1980 ss 47, 116  Road Traffic Reg Act 1984 s 72  Highways Act 1980 s 96  Local Government and Rating Act 1997, s 30
Interests	Duty of Councillors to register and declare interests	The Parish Councils (Model Code of Conduct) Order 2001
Investments	Power to participate in schemes of collective investment	Trustee Investments Act 1961 s 11
Investigation and publicity	Power to investigate the need for public passenger transport; the use and need for roads; the management and control of traffic	Local Government Rating Act 1997
Land	Power to acquire land by agreement, to appropriate, to dispose of Power to accept gifts of land.	Local Govt Act 1972 ss 124, 126, 127 Local Govt Act 1972 s 139
Lighting	Power to light roads and public places	Parish Councils Act 1957 s3 Highways Act 1980 s301
Litter	Provision of receptacles	Litter Act 1983 ss 5,6
Lotteries	Power to Promote	Lotteries and Amusements Act 1976 s 7
Markets	Power to run markets	The Food Act 1984 s50
Mortuaries/ post mortem rooms	Power to provide mortuaries and post-mortem rooms	Public Health Act 1936 s 198
Newsletters	Power to provide information relating to matters affecting local government such as parish newsletters	Local Government Act 1972 s 142
Nuisances	Power to deal with offensive ditches	Public Health Act 1936 s 260
Open Spaces	Power to acquire land for, and maintain, open spaces	Public Health Act 1987 s 164; Open Spaces Act 1906 ss 9&10
Parking facilities	Power to provide parking places for motor vehicles and bicycles	Road Traffic Regulation Act 1984 ss 57 & 63

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Parish Property and Documents	Power to direct as to their custody	Local Government Act 1972 s 226
Planning	Right to be notified of planning applications and certain amendments	Town & Country Planning Act 1190 para 8 sch 1
Prosecution/defending legal proceedings	Power to prosecute or defend or appear in any legal proceedings. May institute civil proceedings in parish council name. May represent the community at public enquiries.	Local Government Act 1972 s 222
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
Public inspection of documents	Duty to provide public access to certain documents	Local Government Act 1972 s 228
Recreation	Power to acquire land for or to provide recreation grounds, public walks, pleasure grounds and open spaces and to manage and control them.  Power to provide gymnasiums, playing fields, holiday camps  Power to provide boating pools	Public Health Act 1875 s 164; Local Govt Act 1972 Sched 14 para 27; Public Health Acts: Amendment Act 1890 s 44; Open Spaces Act 1906 s 9 & 10  Local Govt (Miscellaneous Provisions) Act 1976 s 19  Public Health Act 1961 s 54
School Governors in Local Primary Schools	No longer a straightforward right of appointment but parish council may nominate a community representative to the governors of a school in its area	
Staff	Power to appoint staff under reasonable terms and conditions	Local Government Act 1972 s 112
Subscriptions to CALC, NALC and other associations	Power to subscribe to local government associations	Local Government Act 1972 s143
Subsidiary Powers	The power to do anything which is coincidental to the discharge of the council's functions.	Local Government Act 1972 s 111
Taxi fare concessions	Power to make arrangements with licensed taxi or hire car operator whereby he/she is reimbursed for giving fare concessions to persons resident in council area eligible to receive travel concessions under scheme established by County or District under Transport Act 1985	Local Govt Rating Act 1997
Town/County Planning	Right to be notified of planning applications	Town and County Planning Act 1990 Sched 1 para 8
Tourism	Power to encourage, or contribute to organisation encouraging, tourism	Local Gov Act 1972 s 144
Traffic calming works, speed cameras, CCTV cameras etc	Power to contribute to expenditure by highway authority (principally County Council) in constructing, removing or maintaining traffic calming works, if it will be of benefit to the area.	Local Govt Rating Act 1997

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Village Greens	Power to maintain, make bylaws for and prosecute for breach	Open Spaces Act 1906 s15 Enclosure Act 1857 s12 Commons Act 1876 s29
Village Signs	Power to make and erect ornamental village signs under the power to encourage visitors to the locality	Local Gov 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 133
Water Supply	Power to utilise well, spring or stream and provide facilities for obtaining water therefrom	Public Health Act 1936 s 125.