



## Nash Mills Parish Council

### Scheme of Delegation & Terms of Reference V6

Adopted	May 2023
Agenda Reference	23/012/ACM
Review Date	May 2025

#### Adoption History

Adopted 8 <sup>th</sup> April 2019
Minute Reference 19/058FPC
Review Date (every 2 years unless legislation changes) APRIL 2021
Back to council September 2019 following changes to committee structure
Adopted 9/9/2019 minute ref 19/108/FPC
Updated 22/10/2019 with working groups terms 19/123/FPC
Updated 9/12/2019 with quorum for policy & Procedure working group updated 19/148/FPC
Updated April 2021 with personnel TOR updates and W/G membership updates
Updated May 2021 to remove Covid delegation arrangements.

#### Applicable statute

Local Govt Act 1972 Section 101,117

Local Government Act 1972 schedule 12a (part 1)

Local Government Act 1972 s102

Data Protection Act 1998

Public Bodies (Admission to Meetings Act) 1960 s2

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## **DISCHARGE OF THE SCHEME**

- 1.1 This Scheme of Delegation forms part of the Council's Financial Regulations and Standing Orders and will be reviewed every two years and when there are staffing changes. Unless a change in law necessitates review.
- 1.2 Those with delegated responsibility are referred to by job title, Parish Clerk.
- 1.3 One of the purposes of the document is to clearly define the parameters within which Officers of the Council can act without reference to Councillors. Where consultation with others is a requirement of the ability to act it is clearly set out with whom that consultation should take place.
- 1.4 Any deviation from this scheme should be reported to Council at the earliest opportunity with an explanation of the circumstances in which the breach occurred.
- 1.5 The other purpose of the document is to capture the various delegated powers throughout the Council, including those delegated by the Council to its committees. This element of the scheme incorporates the Terms of Reference of the committees.

## **2. PRINCIPLES OF DELEGATION**

- 2.1 Section 101 of the Local Government Act 1972 provides:
  - That a Council may delegate its powers (except those incapable of delegation) to a committee; or an officer.
  - A Committee may delegate its powers to an officer.
  - The delegating body may exercise Powers that have been delegated.

- 2.2 Any delegation to a Committee or the Proper Officer shall be exercised in compliance with the Council's Standing Orders, its Financial Regulations and any other policies or conditions imposed by the Council and with the law.
- 2.3 In an emergency the Proper Officer is empowered to carry out any function of the Council.
- 2.4 Where the Parish Clerk is contemplating any action under delegated powers, which is likely to have a significant impact in a particular area, they should also consult the Chairman of the Council and must ensure that they obtain appropriate legal, financial, and other specialist advice before action is taken.

### **3. AUTHORITY TO ACT**

- 3.1.1 It will be appropriate for the Parish Clerk to refer a matter to the Council where the determination of the matter is likely to be particularly controversial or raises issues of policy which it would be appropriate for councillors to determine; or could, by its scale or complexity expose the Council to major corporate risk.
- 3.1.2 The Parish Clerk and Committees have the responsibility to act within the Councils approved policies, procedures, and framework and within the law in conjunction with this delegated scheme.

### **4 CONFLICTS OF INTEREST**

- 4.1 Under the Local Government Act 1972, section 117 the Parish Clerk must make a formal declaration about council contracts where they have a financial interest.
- 4.2 Where the Parish Clerk has a conflict of interest in any matter, he/she shall not participate in that matter unless approved by the Council and this is formally recorded in the Council minutes.

### **5 COUNCIL RESERVED POWERS**

- 5.1 The following matters are only to be resolved by the full Council:
  - Appointment of the Parish Clerk/Responsible Financial Officer and other council officers following a recommendation from the Personnel Committee
  - To adopt and change the Standing Orders, Financial Regulations, Scheme of Delegation and other Council policies
  - To approve and adopt the Policy Framework.
  - To approve and adopt the Budget.
  - To appoint committees and working groups

- To approve membership of all committees and working groups unless delegated below.
- To agree and/or amend the terms of reference for Committees
- To adopt the schedule of meetings for the ensuing year.
- To determine matters involving expenditure for which budget provision is not made or is exceeded.
- To set the Precept.
- To make byelaws.
- To borrow money.
- To annually approve the statutory annual return
- To approve eligibility for the General Power of Competence
- To assess, consider and (if approved) award donations and grants fund to other bodies where lawful and appropriate in accordance with statute and the adopted NMPC Grant & Donation policy.
- To receive, consider and (if approved) ratify recommendations from the Personnel Committee in respect of staff remuneration outside of budget allocation.
- To assess, consider and (if approved) ratify recommendations from working groups.

## **6 DELEGATION TO COMMITTEES - SAFEGUARDS**

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

### **PERSONNEL COMMITTEE**

Appendix 1 - Personnel Committee Scheme of Delegation and Terms of Reference attached

### **LEAD COUNCILLORS**

Appendix 2 – Lead Councillors Terms of Reference attached

### **WORKING GROUPS**

Appendix 3 – Working Groups Template Terms of Reference attached

## **7 DELEGATION TO PARISH CLERK**

### **(a) Parish Clerk**

1. The Parish Clerk is designated and authorised to act as the Proper Officer for the purposes of all relevant sections of the Local Government Act 1972 and any other statute requiring the designation of a proper officer.

2. In the case of an emergency, the Clerk shall have the power to take reasonable steps to secure the Council's assets or position, following consultation with the Chairman (if practicable in the circumstances).
3. The Clerk will have the authority to dispose of the Councils assets (excluding land and building assets) subject to the estimated value of any one tangible; moveable item does not exceed £500. The Clerk is responsible for ensuring any disposal details including the disposal values are recorded in the assets register.
4. Power to authorise relevant training courses provided the expense can be met from approved budgets having taken into account the training needs of the employees/ Councillors
5. The Clerk is the manager for all staff employed by the Council and is given delegated powers to manage the council staff in accordance with the Council's policies, procedures and budget
6. The authority to sanction and authorise payment of overtime so long as the costs can be contained within the parameters of the approved budget. The Clerk shall have the authority to engage casual workers subject to budget and the Clerk shall consult with the Personnel Committee members when such work is to be sanctioned.
7. Power to act immediately on all Health and Safety or emergency issues without waiting for endorsement by the full Council
8. As Proper Officer, to sign all documents on behalf of the Council including the Summons to Elected Members to attend Council Meetings in accordance with paragraph 4 and Schedule 12 of the Local Government Act, 1972
9. To sign and publish the annual public notice that the Audit of Accounts is to take place and has taken place.
10. To receive members' acceptance of declarations of interest and their appointment as a Councillor.
11. Power to release press statements on any activities of the Council subject to prior consultation with the Chairman.
12. Power to act on own initiative to implement the Councils policies and objectives.
13. Power to take appropriate steps to ensure the Council does not exceed its powers.

14. Power to manage all the Council's resources in accordance with the Council's policies.
15. In liaison and after conferring with the Chairman, to make such Civic arrangements as are necessary.
16. The Proper Officer shall have authority to issue written authorisation to individual officers to act as the Council's authorised officers in the performance of their statutory or other duties.
17. The Proper Officer shall be responsible for signing all the Council's Official Notices as set out in the Standing Orders
18. The Parish Clerk to submit all consultee comments approved by full council to the DBC planning department.
19. The Parish Clerk may request an extension to the 21-day planning consultation period should the expiry fall outside of the meeting schedule.
20. The Parish Clerk to call an extra ordinary meeting to discuss planning applications where it has not been possible to extend the consultation period unless an extraordinary meeting is called in line with NMPC Standing orders.
21. The Parish Clerk (following consultation with Councillors via email) to not respond to planning applications and to allow the consultation period to expire if Councillors do not wish to hold a meeting to discuss or offer comment, in line with NMPC standing orders.
22. If required, to register a representative to speak at any Development Management Committee meeting when the agenda includes a planning application for which Council has already voted on its position. If no representative has been allocated it will be deemed that the Lead Councillor Planning or clerk will fulfil that role.  
(Representatives allocated by full council will be encouraged to register themselves via the DBC portal and to notify the clerk if this is not possible).

## **8 Responsible Financial Officer**

1. The Responsible Financial Officer will be responsible for all financial records of the Council and the careful administration of its finances and accounting procedures in accordance with the Accounts and Audit Regulations in force at any given time and with the policies and procedures set by the Council and within the law.
2. The Responsible Financial Officer will have the power to release any financial related report or document to the Council in discharge of the Responsible Financial Officer responsibilities

3. The Responsible Financial Officer shall ensure the approved precept request is issued to the billing authority
4. The RFO will have full powers for purchases up to the expenditure limits as laid out in the adopted financial regulations. This limit may only be exceeded should the RFO deem it necessary (in their dual role as clerk) under sections 7 (1) and 7 (7) listed above. Any such action should be reported to council at the earliest possible opportunity.

## APPENDIX 1 to NMPC Scheme of Delegation. Updated April 2023

### Nash Mills Parish Council – Personnel Committee

#### Terms of Reference

##### Statute

Local Government Act 1972 schedule 12a (part 1)

Local Government Act 1972 s102

Data Protection Act 1998

Public Bodies (Admission to Meetings Act) 1960 s2

##### Status

The Personnel Committee is a standing committee of Nash Mills Parish Council.

The Committee decisions do not require ratification by Council unless a matter is specifically referred up to full council or if there is an issue required by proper practice or law to be discussed by full council. (*see section 5.1 above*)

This Committee is subject to the adopted standing orders, the code of conduct and the financial regulations of NMPC. The Committee is also bound by the adopted management and financial risk assessment.

**Membership** No less than four Parish Councillors

**Quorum** Three Parish Councillors

##### Meetings

As required to ensure that NMPC complies with the requirements of employment law and follows best practise in providing good working conditions for staff.

In accordance with standing order 4(J)vii, The Chair and Vice-Chair of NMPC shall be voting members. The membership of this committee will be determined at the Annual Council meeting, along with the Chair and Vice-Chair of the Committee.

All meetings of The Committee will exclude public and press by resolution should the nature of items being discussed and transacted be deemed confidential under Public Bodies (Admission to Meetings Act) 1960.

All reports from this committee must protect the confidentiality of all parties involved and the implications of the Data Protection Act 1998. Minutes of The Committee may be presented to the Full Council for information, although if the contents are deemed confidential then a report containing the pertinent facts but protecting the confidential information will be provided and the minutes will be held on file.

##### Co-Options

In accordance with section 102 of the Local Government Act 1972, The Committee shall have no powers of co-option.

##### Delegated Powers



## APPENDIX 1

### Delegated Powers

**(Excluding any of the Council Reserved powers listed under section 5 above)**

The Committee will be responsible for the following:

- a) Recruitment of Parish Clerk/ Responsible Financial Officer and other staff as required
- b) Recruitment and selection procedures
- c) Annual staff appraisal and development in line with the adopted council appraisal scheme
- d) Bi-annual pay and budget review (April/Oct)
- e) Assisting the Clerk in the drafting of staffing policies
- f) Review of staff contracts, grievance and discipline policies every two years
- g) Review of staff workload and accommodation of their needs and requirements when necessary.
- h) Management of rights relating to leave, time off, family rights and illness
- i) To ensure that the Clerk has everything required for managing other staff
- j) To ensure the health and safety of all staff and carry out relevant risk assessments
- k) To keep up to date with developments in employment law
- l) The Committee will serve as the disciplinary or grievance panel
- m) To agree the members to sit on an appeals panel to hear appeals against a decision on a grievance
- n) To practise and promote fair and equal treatment of staff throughout the performance of all Council activities and ensure that no discrimination, harassment, or bullying takes place against any member of staff.

### Duties to consider and recommend to Council

- a) A full report shall be provided to NMPC following a meeting of The Committee
- b) Staff remuneration to be considered (in line with budget point below)
- c) A full report must be presented annually.

### Budget

All finance decisions made by The Committee are subject to referral to the Responsible Financial Officer to ensure that expenditure and all pay awards reflect the annual expenditure limits and any impact on the Parish 3-year plan. There is no delegated budgetary allowance for this committee outside of the staffing budget. The responsible Financial Officer will liaise with the Chairman of The Committee to advise of budget limits and statutory pay scales. Any budgetary matters outside of the annual limit must be referred to Full Council for consideration.

## APPENDIX 2

**Nash Mills Parish Council – Lead Councillor Finance**

- This role provides a point of contact and liaison for the Clerk and Council
- Any correspondence must be originated by the Clerk
- This role enables there to be a Councillor who is a 'specialist' in this area
- This is an advisory role with no delegated powers of responsibility or decision making.
- A Cllr acting in this role must not act individually on behalf of NMPC.
- All decisions must be brought to the relevant committee (if applicable) or Full Council for discussion and decision making.
- There is no delegated budget allowance for this role.

**Nash Mills Parish Council-Lead Councillor Planning.**

- This role provides a point of contact and liaison for the Clerk and Council
- Any correspondence must be originated by the Clerk
- This role enables there to be a Councillor who is a 'specialist' in this area
- This is an advisory role with no delegated powers of responsibility.
- A Cllr acting in this role must not act individually on behalf of NMPC.
- All decisions must be brought to the relevant committee (if applicable) or Full Council for discussion and decision making.
- There is no delegated budget allowance for this role.
- If Council has made a decision regarding a planning application then the Proper Officer (under section 8 (20) above has the delegated responsibility to permit the holder of this role to present the Council view at a Development Management Committee meeting- this is for extraordinary circumstances only and may only present a view that has already been discussed and noted to Dacorum Borough Council.

## APPENDIX 3

## Nash Mills Parish Council – Working Groups/Advisory Committees

*Below are the outline terms of reference for NMPC working groups. A list detailing membership and scope is held by the Clerk.*

### Terms of Reference

#### Statute

Local Govt Act 1972 s102 (3)

s102 (4)

s100 (2)

#### Status

The Parish Council as the parent body can form a working group to carry out specific detailed tasks on any matter that falls within its powers. The working group will be appointed to advise the Council on matters relating to the performance of its statutory functions, powers and related responsibilities. The working group will research, investigate, consider and then report back to the Council.

Members of the working group will be appointed by the Full Council. The Full Council will establish the role of the working group and its terms of reference and scope.

The working group is subject to most of the relevant adopted standing orders, the code of conduct and the financial regulations of NMPC. The working group is also bound by the adopted management and financial risk assessment.

The working group is expected to be **time limited**. The continuing need for a working group will be reviewed by the Full Council on an annual basis. When a project finishes the working group will be deemed dissolved.

**Membership** The membership will be no less than 3. The term of membership will be for a period of one year, to the next Annual Meeting of the Full Council or time limited for a specific period. A leader will be appointed by the Parish Council. The leader will be the main point of contact for the Council, Council members and members of the public and must be an elected member of the Council. Non-Councillors may be members.

**Quorum** Three Parish Councillors, co-opted members do not count towards the quorum.

#### Meetings

The Clerk to the Council will be notified of any meeting with at least 3 working days' notice. The working group will arrange its own meetings and schedule of work at its inaugural meeting but should be mindful of the council annual agenda plan when scheduling.

The leader of the working group, if unable to attend a meeting of the Full Council, will nominate another member of the working party to attend and deliver the progress report. Frequency of meetings as required

### **Co-Options**

With the authority of Full Council, the working group can appoint members of the public (lay-members) who have specific knowledge/expertise on the subject to assist the working group.

### **Delegated Powers**

Working groups cannot make decisions on behalf of the Parish Council, and any recommendations made by working parties are subject to approval by Full Council. No one Councillor or member can act as a decision maker on behalf of the Council. All correspondence must be copied to the Clerk.

### **Duties to consider and recommend to Council**

- a) A full report shall be provided to NMPC following a meeting of the working group and reported formally at each meeting of the Council with informal updates to Council members following each meeting.
- b) Shortlisted recommendations should be presented to council with full details to enable council to make an informed decision.
- c) An annual report should be made available for the annual meeting if required.
- d) If appropriate a final report or summary should be provided to the council once any project is completed and the working group dissolved.

### **Budget**

There is no delegated budgetary allowance for this group. All budget requests must be made to full council when the motion is requested. They must be brought to the responsible financial officer in advance of the relevant monthly meeting in line with the timescales laid down in the standing orders.