GOOD PRACTICE NOTE

SETTING UP COMMITTEES AND WORKING PARTIES OF PARISH AND TOWN COUNCILS AND THE PROCEDURES TO BE FOLLOWED BY COMMITTEES

Appointment and Delegation of Functions

Councils may appoint executive committees and sub-committees to exercise delegated functions under the power conferred by section 102 of the Local Government Act 1972. An executive committee can appoint a sub-committee, unless the Council expressly forbids it to do so.

Councils may also appoint advisory committees. An advisory committee may only create a sub-committee, if its terms of reference allow it to do so.

Delegation Arrangements

All delegation arrangements must be evidenced by a formal resolution. Documenting a delegation to a council employee is explained below (Delegation to Employees). There is no standard or mandatory form of wording for the terms of reference for a committee or a sub-committee. The only requirement is that the terms of reference decided by the appointing body should be written and clear in meaning.

Terms of reference should record the statutory functions, powers and/or responsibilities being delegated and specify any restrictions or limitations which are applicable. For example, if a council does not want a committee to further delegate the exercise of the powers or responsibilities conferred on it to a sub-committee or to an employee, both the council’s resolution appointing the committee and the terms of reference for the appointed committee should confirm this.

Terms of reference that are too broad and vague can cause confusion and may result in one body or person making decisions on matters which have been delegated to another.

Terms of reference for a committee or sub-committee which are drafted too narrowly may:

(i) fail to accommodate every aspect of work expected to be undertaken, and
(ii) inadvertently restrict responsibilities.

Care should be taken to ensure terms of reference of different bodies do not overlap. Clarity in terms of reference ensures that the members of a committee and a sub-committee are clear as to the responsibilities conferred on them.

Committees and sub-committees may be mandated to make the final decision on all or some of the matters within their terms of reference. Alternatively, they may be mandated to consider and to merely advise and make recommendations upon matters which are within their terms of reference.
The minutes of a committee or sub-committee meeting serve as an accurate and legal record of such a meeting and will ultimately be reported back to the appointing body. See also paragraph (I) in Section 10 of the Standing Orders (Chairing Meetings).

The order, conduct and execution of business at a committee or sub-committee meeting is similar to a meeting of full Council. For guidance in respect of the structure of a committee and sub-committee meeting, see paragraphs (s) and (t) in section 8 of the Standing Orders (Council Meetings).

**Delegation to Employees**

A delegation relating to the exercise of the whole or part of a statutory function to a council employee or employees must, as appropriate, be documented in:

(i) their employment contract and/or job description;
(ii) minutes;
(iii) terms of reference relating to committees and sub-committees; and
(iv) standing orders.

From time to time, a local council or committee or sub-committee may require an employee (whether or not this is the same employee who is clerking the meeting) to undertake work consistent with his employment contract but not specified in it. The minutes of the meeting should record instructions to employees and make clear if it is a formal delegation of the exercise of a statutory power under section 101(1) of the Local Government Act 1972.

A delegation to an employee arising from a meeting of a committee or sub-committee must be one that falls within the terms of reference of that committee or sub-committee; it cannot be made if it is prohibited by the appointing body. Instructions to employees, that are undocumented or unclear, inevitable lead to uncertainty as to the extent or remit of their role.

Except when the delegation of the exercise of a council’s statutory functions to an employee is prohibited by legislation, functions that require little or no input from councillors and/or functions that are largely administrative in nature, can be undertaken by employees. Proportionate and documented delegation arrangements should equip staff to undertake the responsibilities expected of them.

It is helpful to delegate to relevant employees the power to incur expenditure up to a limited amount and for specific purposes, subject to a council’s financial regulations. Any dissatisfaction or complaint by a member of the public or a third party in respect of a decision, act, service or facility which a council employee is responsible for, should be handled in accordance with the council’s complaints procedure. If a council upholds a complaint lodged by a member of the public or a third party it may, if appropriate, pursue any concerns it has regarding the conduct and capabilities of an employee or the quality of work undertaken by that employee by using its informal or formal disciplinary processes.

**Membership**

Membership of committees is controlled by section 13 of the Local Government and Housing Act 1989, which states:

1. An advisory committee need have no councillor members at all and a non-councillor can preside over its committee meetings.

2. There is no restriction on the number of non-councillors on executive committees, but
a) Only councillors can be members of a committee regulating or controlling the finance of the Council;

b) Where the committee has delegated powers to act on behalf of the Council, only councillors may vote and the chair person at any meeting must be a councillor;

c) In a few instances non councillors do have voting rights as set out in Article 3 of The Parish and Community Councils (Committees) Regulations 1990 (SI 1990/2476), these are:
   ▪ the management of land owned or occupied by the council;
   ▪ the functions of the council as a harbour authority (as defined in s. 57(1) of the Harbours Act 1964);
   ▪ any function under s. 144 of the 1972 Act relating to the promotion of tourism;
   ▪ any function under s. 145 of the 1972 Act relating to the management of a festival.

3. There is no restriction on the age of non-councillor members on executive committees.

Members of a committee who were councillors on appointment to the committee, shall cease to be members of the committee on ceasing to be a member of the council, unless they are immediately re-elected.

**Term of Office**

Members of committees and sub-committees may hold office for the period fixed by the appointing body. The term of office can exceed one year, but cannot be greater than the lifespan of the council.

**Meetings**

A notice of the time and place at which committee meetings, which are open to the public, are to be held must be posted at the Council’s offices at least three clear days before the meeting.

Notice of a committee meeting need not include the agenda or summons sent to members.

Meetings of both the Council and committees it has appointed must be open to the public, unless a resolution is passed which specifically excludes the public for a specific item.

The press have no special status with regard to entry, although they are entitled to copies of the agenda, upon request.

The provisions relating to notice and openness do not apply to sub-committees, but the National Association recommend that it is good practice that notice of their meetings and that they are open to the public. A sub-committee is appointed by a committee.

**The Council**

The Council may itself exercise functions, which it has delegated to a committee, regardless of the terms of delegation.

As the appointment, membership and terms of reference of a committee are a matter of internal administration, the Council may alter them at will.

**WORKING PARTIES/SUB-COMMITTEES**
Many councils use working parties to cut down the length of full council meetings, which are appointed on an annual basis. They can discuss matters and make recommendations for decisions at full council meetings and carry out an advisory role only. The National Association are of the opinion that in law, working parties are equivalent to sub-committees. A sub committee is a committee appointed by a committee. If working parties are appointed on this basis then the meetings of a working party do not have to follow the same statutory requirements for a committee, that is: they maybe convened without public notice and the public have no statutory right to attend the meetings, although both of these actions are good practice.

Official minutes of the meetings of working parties are not required, so there is no need for the clerk to the council to attend their meetings. However, a written report from the working party including its recommendations will assist the council in making decisions.

**NOTE:** Decision-making should be open to scrutiny by the electorate.

**GREATER DETAIL IS AVAILABLE IN THE FOLLOWING NALC LEGAL TOPIC NOTES**

Legal Topic Note 1  Councils’ Powers to Discharge Their Functions
Legal Topic Note 7  Non Councillor Members of Committees