



Public Rights



This is written as a Blog, not as a Public Information article of “fact”, as it is based on a personal understanding of the “facts” as they are known to me and includes comments.

My intentions are to create improved awareness, or perhaps debate, by the mutual engagement which is the essential element in a healthy democracy.

Included therefore are aspects where the public may not have full awareness. This is of some concern as a potential limitation on the expectation of openness and transparency, required in a healthy democracy.

Parish councils are independent legal entities not under any jurisdiction or in any hierarchy and act under their "general power of competence" and the various Acts of Parliament covering Local Government.



Councillors are elected, ideally, by vote in the ballot box - but can be 'elected' by a "no contest" election or by co-option in the event of a vacancy. I say "Ideally" as being the opportunity to assess candidates on their ability to "represent" the electorate under our form of democracy.

On taking "office" they are duty bound to submit to council "laws" such as codes of conduct and terms of reference, under unspecified sanctions in the event of non compliance.

But, their primary duty is the representative role.

In the event of not being able to carry out that duty, for whatever reason, it seems to me that their first duty is to their electors as there is no other authority within the Parish Council - the Clerk "reports" to each Cllr individually and "in Council" - the Chair is merely to act in managing meetings of Council [and perhaps, in combination with the Clerk setting the meeting agendas] but has no disciplinary role other than conduct at meetings.

Whilst the SHBC has no jurisdiction over the PC there is agreement that the SHBC Monitoring Officer will advise (only) on disciplinary matters.

For concerned members of the public / electors wishing to question any matters, there are limited opportunities as follows;

Electors do not have a formal "duty" of oversight over a Parish Council, but they do have significant rights and powers that may enable them to hold the council and its councillors to account. This should in practice/ in theory provide a vital check-and-balance in local governance - but does the structure actually inhibit that theory in practice?

Rights and powers of electors:

They have the fundamental right to vote in local elections for parish councillors who are elected for four year terms - most recently in May 2023. If a Councillors seat becomes vacant, a by-election can be held if requested by at least 10 electors or there may be co-option.

Electors have the legal right to inspect the Parish Council accounts, as well as related books, deeds and other documents, during a 30-working-day public rights period each year. This must include the first 10 days of July, in 2025 for example, the latest dates to comply with this statutory requirement were 1st July to 11th August. The AGAR (Annual Governance & Accountability Return) must be approved and published before the inspection dates. This year Notice was given on the 2nd of June on the Council website and on notice boards.

During the public rights period, electors can ask the council's appointed external auditor questions about the accounts. This must relate to a specific item in the accounts - the auditor is not obligated to answer if the question requires an investigation beyond their remit.



If an elector believes that an item in the accounts is unlawful, they can formally object in writing to the external auditor. The auditor will then decide whether to apply to the courts for a declaration that the item is contrary to law. Objecting to accounts is intended for matters of legality, not for general complaints.

All council meetings are open to the public - they are meetings in public not public meetings - but have a dedicated period for public participation, allowing electors to raise questions, concerns or comments on agenda items, directly with councillors. A period of 20 minutes is allowed during which 3 minutes is the limit for individual direct participation or no more than 150 words for submissions made in writing to be read out at the meeting.

A parish poll (or local referendum) on any parish issue can be demanded by a specific number of electors at a parish meeting. Whilst the result is not binding, it is advisory and can be a powerful way to express public opinion.

Electors can start the process for a Community Governance Review to be run by the Principal council (Borough/District/Unitary) which can review and change parish arrangements - by submitting a valid petition signed by a mandatory number of local electors.

The most direct method of oversight is through local elections, where electors should be able to make an informed assessment of their council's performance and vote for candidates they believe will deliver the best outcomes in terms of public engagement in democratic principles, management of assets and delivery of agreed services.

But for electors there is another opportunity, a parish can hold more than the mandatory one Parish (Not PC) meeting per year.

The Local Government Act 1972 mandates that every parish with a council must hold an Annual Parish Meeting between March 1 and June 1, however, additional meetings can be convened throughout the year as needed, on the same basis and as follows:

They can be called by:

The Chair of the Parish Council or

Two Parish Councillors OR by

Six members of the Parish Electorate / residents.

To convene a meeting, proper notice must be given at least seven clear days in advance. The notice must specify the meeting time, place and business to be transacted - the agenda being set by whoever calls the meeting.

Past experience of Annual Parish Meetings must not be considered as a reason for not conducting such meetings as there has been no rigorous review of the outcomes with the electorate / parishioners whose meeting it is.

If you have comments, opinions or corrections we want to hear from you at windlesham.life

