

# SLAUGHAM PARISH COUNCIL

Villages of Handcross, Warninglid, Slaugham & Pease Pottage

Clerk to the Slaugham Parish Council Miss S Mclean

Email [clerk@slaughampc.co.uk](mailto:clerk@slaughampc.co.uk) Website: <http://www.slaughampc.co.uk>

Tel: 01403 733881



## Scheme of Delegation to the Clerk of the Council

### Introduction

The powers and duties set out in this scheme are delegated to the Parish Clerk. The Parish Clerk may delegate these duties and powers to other Officers within the Council.

The Parish Clerk is also the Council's Responsible Financial Officer and the Proper Officer and responsible for the management of the Council.

### Delegation of Power - Section 101 of the Local Government Act 1972 provides

[https://www.legislation.gov.uk/ukpga/1972/70/pdfs/ukpga\\_19720070\\_en.pdf](https://www.legislation.gov.uk/ukpga/1972/70/pdfs/ukpga_19720070_en.pdf)

- 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.

Any delegation to the Proper Officer shall be exercised in compliance with the Council's Standing Orders, any other policies or conditions imposed by the Council and within the law.

The Proper Officer may nominate another named Officer to carry out any powers and duties, which have been, delegated to that Officer.

In an emergency the Proper Officer is empowered to carry out any function of the Council.

Where officers are contemplating any action under delegated powers, which is likely to have a significant impact in a particular area, they should also consult a minimum of two Members, and must ensure that they obtain appropriate legal, financial and other specialist advice before action is taken.

The following items may not be delegated to the Clerk:

- To appoint the Chairman and Vice-Chairman in May each year
- To sign off the Governance Statement by 30th June each year
- To set the precept
- To appoint the Head of Paid Service (Clerk)
- To make byelaws
- To borrow money
- To consider any matter required by law to be considered by Council

### To the Proper Officer LGA 1972 s101

The Council's Scheme of Delegation authorises the Clerk to the Council to act with delegated authority in the specific circumstances detailed:

#### To take action:

- a) To take action on any issue that cannot wait until the next Parish Council meeting; as a temporary measure the Proper Officer is empowered to take any and all decisions that would normally be taken by Full Council, or a committee or a working group, having consulted a minimum of two Members. Consultation may be by email or by telephone or by virtual meeting, followed by a confirmation email.
- b) If circumstances do not permit the input of at least two councillors, the Clerk would normally be expected to consult the Chairman or Vice Chairman if the Chairman is unavailable and take his/her view into account.

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1. All delegated functions shall be deemed to be exercised on behalf of and in the name of the Council.
  - 1.1. The Parish Clerk. will exercise these powers in accordance with:
    - approved budgets
    - the Council's Financial Regulations
    - the Council's Contract Procedure Rules
    - the Council's Procurement Strategy
    - the Council's Policy Framework and other adopted policies of the Council
    - all statutory common law and contractual requirements
  - 1.2. The Parish Clerk may do anything pursuant to the delegated power or duty, which it would be lawful for the Council to do including anything reasonably implied or incidental to that power or duty.
  - 1.3. Provided that such authorisation is not prohibited by statute the Parish Clerk to whom a power, duty or function is delegated may authorise another Officer to exercise that power, duty or function, subject to:
    - such authorisations being in writing
    - only be given to an Officer below the delegating officer in the organisational structure
    - only being given where there is significant administrative convenience in doing so
    - the Officer authorised by the Parish Clerk acting in the name of the Parish Clerk such authorisation not being prohibited by statute.
  - 1.4. A delegation to a subordinate Officer shall not prevent the Parish Clerk from exercising the same power or duty at the same time.

## **General Matters**

2. The Parish Clerk is authorised to:
  - 2.1. Sign, or where appropriate, have sealed on behalf of the Parish Council, any Orders, Deeds or Documents necessary to give effect to any of the matters contained in reports or in any resolution passed by the Parish Council.
  - 2.2. Take any proceedings or other steps as may be necessary to enforce and recover any debt owing or other obligation due to the Council.
  - 2.3. Institute and appear in any legal proceedings authorised by the Council.
  - 2.4. To appear or make representation to any tribunal or public inquiry into any matter in which the Council has an interest (in its own right or on behalf of the residents of Slaugham).
  - 2.5. Alter the date or time of a Council Committee, Working Group, Panel or Working Group meeting but, before doing so, shall consult the Chair of the Council, or Vice Chairman of the Chair of the relevant Committee or Working Group concerned about the need for the change to convenient alternative dates and times.
  - 2.6. Decide arrangements for the closure of the Council offices in the Christmas/New Year period, subject to consultation with the Chair/Vice Chair.

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2.7. Manage all the Council's current services including the following:

- Tourism and events
- Neighbourhood planning
- Provision of street furniture
- Services agreed under contract for other authorities and bodies
- Website

2.8. To act as the Council's designated Officer for the purposes of the Freedom of Information Act 2000.

2.9. To apply for planning consent for the carrying out of development by the Council.

2.10. To respond to consultations on planning applications in conjunction with the Planning Committee decided over email with the members of the Planning Committee in order to meet the necessary deadlines.

2.11. Under the Regulation of Investigatory Powers Act 2000 to authorise directed surveillance or the use of a human intelligence source.

2.12. To respond to complaints made under the Council's complaints procedure and to make such ex gratia payments in settlement of such complaints as are considered justified.

2.13. To manage, monitor and review the Council's internal control procedures.

2.14. To manage, monitor and review the Council's Risk Management Strategy.

## **Planning Matters**

3. The Parish Clerk is authorised to:

3.1. Planning applications will be received by the Clerk and responses determined by the Clerk following consultation with a minimum of two Members who are currently members of the Planning Committee.

3.2. The Planning Committee delegate authority to the Clerk to request any application be referred to Maidstone Borough Council Planning Committee for decision.

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## Financial Matters

4. The Parish Clerk is authorised to:
  - 4.1. Be the Responsible Financial Officer for the purposes of Section 151 of the Local Government Act 1972.
  - 4.2. Operate the Council's banking arrangements.
  - 4.3. Incur expenditure up to a maximum of £1000 on any item for which provision is made in the appropriate revenue budget provided that any action taken complies with any legislative provisions and the requirements of the Council's Constitution and Financial Regulations.
  - 4.4. Pay all accounts properly incurred to include staff salaries.
  - 4.5. Pay all subscriptions to organisations to which the Council belongs.
  - 4.6. Make all necessary arrangements for the provision of an internal and external audit service for the Council.
  - 4.7. Negotiate settlements in connection with claims made by and against the Council in consultation with the Council's insurers where appropriate.
  - 4.8. Incur expenditure on revenue items within the approved estimates and budgets under their control.
  - 4.9. Incur expenditure on capital schemes within the Council's approved programme
  - 4.10. Use the Repairs and Maintenance Budgets for the maintenance, replacement or repair of existing assets or equipment.
  - 4.11. Accept quotations or tenders for work supplies or services (where tenders are required by the Council's Financial Regulations), subject to:
    - the cost not exceeding the amount approved estimate
    - the tender being the lowest price or the most economically advantageous to the Council according to the criteria set out in the tender documentation
    - all the requirements of the Council's Financial Regulations being complied with.
  - 4.12. Compile, approve or vary lists of approved contractors subject to the requirements of the Council's Financial Regulations.
  - 4.13. Carry out virement of sums between cost centres in accordance with the Council's Financial Regulations.

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- 4.14. Manage investments and raise and repay loans as appropriate and obtain such other sources of credit as are required in accordance with the Financial Regulations.
  - 4.15. Authorise action for the recovery of debts.
  - 4.16. Write-off debts up to the level set by the Council.
  - 4.17. Maintain a Register of Assets and Inventory of Equipment.
  - 4.18. Determine the Parish Council's insurance requirements on the Council's behalf.
  - 4.19. Make all necessary arrangements for the Council's insurances.
  - 4.20. Determine Community Grant applications up to a value of £1000 subject to approval by Full Council.
  - 4.21. Determine Small Grants up to a value of £250.

## **Staffing Matters**

5. The Parish Clerk is given delegated powers to manage the Council staff in accordance with the Council's policies, procedures and budget, including:
  - 5.1. Appointments to posts including apprentices.
  - 5.2. Employment of temporary employees.
  - 5.3. Preparation of the job description and person specification, placing of the advertisement and short-listing of applicants.
  - 5.4. Management of staff performance.
  - 5.5. Control of discipline and performance, including the power of suspension and dismissal.
  - 5.6. Exercise of disciplinary and grievance procedures in accordance with the Council's procedures.
  - 5.7. Determine approved duties for the payment of travel and subsistence expenses to Members and Officers where they represent the Council outside of the Parish Council area.
  - 5.8. Approve payment of overtime.
  - 5.9. Agree minor variations to the condition of employment.
  - 5.10. Approve changes to the establishment structure.

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- 5.11. Implement and monitor the arrangements for annual leave, flexi time, sickness absence, maternity and paternity leave in accordance with the Council's policies.
  - 5.12. Authorise training in line with the Council's policies.
  - 5.13. Authorise the provision of uniforms or protective clothing.
  - 5.14. Approve payment of claims from employees for compensation for loss of or damage to personal property.
  - 5.15. Negotiate and agree settlements on behalf of the Council in relation to any proceedings in the Employment Tribunal.
  - 5.16. Agree to premature retirement on the grounds of duly certified ill health.
  - 5.17. Terminate employment during probation and to review salary on completion of probationary periods.
  - 5.18. Commission legal and professional advice on staffing matters.

## **Property Matters**

6. The Parish Clerk is given authority to manage the land and property of the Council including:
  - 6.1. Agreeing the terms of any lease, licence, conveyance or transfer.
  - 6.2. The granting or refusal of the Council's consent under the terms of any lease.
  - 6.3. Variations of restrictive covenants of a routine nature.
  - 6.4. The granting of easements, wayleaves and licences over Council land.
  - 6.5. Initiating legal action or proceedings against unauthorised encampments or encroachments on Council land.
  - 6.6. Directing the custody of Parish Council property and documents in accordance with the provisions of Local Government Act 1972 S226.
  - 6.7. Exercising responsibility for the safe custody and maintenance of the civic regalia.

## **Urgency**

7. The Parish Clerk is authorised to act on behalf of the Council in cases of urgency or emergency. Any such action is to be reported to the next meeting of the Council or relevant Committee or Working Group. The Chair, (if appointed) of the Council and the Chairman of any relevant Committee or Working Group are to be consulted where possible before such action is taken.

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## Emergency Planning

### The Parish Clerk is authorised to:

8. Implement the Council's Emergency Plan and to incur any necessary expenditure. Any such action is to be reported to the next meeting of the Council, or relevant Committee or Working Group. The Chair of the Council (if appointed) and/or the Chairman of any relevant Committee are to be consulted where possible before such action is taken. In the event that there are not available the Clerk will contact 3 members from the Committee assigned (*see Item 11*).

## Procedural

### The Parish Clerk can:

9. Authorise Officers to exercise statutory powers of entry and inspection for the purposes of any function under their control.
  - 9.1. Serve requests for information as to ownership occupation and other interests in land for the purposes of any function under their control.
  - 9.2. Appoint consultants and other professionals to carry out any function and provide any service under their control.

## Health and Safety at Work Act 1974

10. To oversee the discharge of the Council's responsibilities under the Act.

## Legal Proceedings

### The Parish Clerk is authorised to:

11. Take and discontinue legal proceedings in any Court or at any Tribunal.
  - 11.1. Take Counsel's advice or instruct Counsel to represent the Council.
  - 11.2. Seek injunctions and commence proceedings for the purposes of:
    - enforcement in accordance with the Council's policies
    - recovering money due to the Council
    - recovering or otherwise preserving possession of the Council's land or property
    - defending the interests of the Council
    - appealing against a decision affecting the interests of the Council and responding to appeals against action taken by the Council.
  - 11.3. Represent the Council at Court or any Tribunal or to make arrangements for appropriate representation.
  - 11.4. Negotiate and settle the terms of documents to give effect to a decision of the Council or any of the Committees or of any Officer acting under delegated powers.



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- 11.5. Apply the affixing of the Common Seal of the Council to documents in accordance with Standing Orders.
  - 11.6. Be the responsible Officer for the co-ordination and operation of the legal requirements under the Data Protection Act and the Freedom of Information Act.
  - 11.7. Serve Requisitions for Information.
  - 11.8. Prepare a draft budget for consideration by the Council.
  - 11.9. Prepare the final accounts for each financial year.
12. In line with *Item 7* the Clerk will coordinate all decisions via email to the relevant Committees for endorsement. These will be recorded and reported to full Council. For further reference those committees and their responsibilities are:
- 12.1. Finance -
    1. To exercise general supervision and control over the finances and assets of the Council and to arrange for the proper auditing of all accounts of the Council as detailed in Appendix 1, Financial Regulations.
    2. To arrange for the periodical review of the following:
      - a) The Council's Financial Regulations.
      - b) The Council's Risk Assessments.
      - c) The Council's Business Plan
    3. To arrange for the investment of any Council funds, subject to the requirements of law.
    4. To arrange where appropriate for the insurance against damage or loss of the Council's property of whatever nature and to be responsible for effecting and maintaining all such other policies of insurance which is desirable or necessary to maintain in respect of liabilities which may be incurred by the Council, its members or officers.
    5. To be responsible for the appointment of Council staff, and for the Terms and Conditions of their employment.
    6. To be responsible for the provision of the Council's offices, office equipment and furniture.
    7. To exercise general supervision of wages and salaries paid to Council employees and to recommend to Council thereon.
    8. To keep under review Standing Orders in the Council and constitutions for each Standing Committee and to recommend to Council thereon.
    9. To consider in every year the annual estimates of income and expenditure on revenue and capital account and to recommend to the Council the precept necessary to meet the expenditure of the Council.
    10. To keep under review the staffing and services of the Council and to recommend to Council thereon.

*This is not an exhaustive list of responsibilities.*
  - 12.2. Recreation -

To be responsible for the proper regulation and management of the Council's parks, recreation grounds, woodlands, open spaces set aside for purposes of leisure, recreation or bio-diversity and picnic grounds and amenities areas.

    2. To be responsible for regular review and updating of risk assessments for items or activities relevant to this committee.
    3. To be responsible for regular inspections relating to the health and safety of all trees owned by the Council and for any works recommended in an inspection report.
    4. To be responsible for the provision and maintenance of childrens' playgrounds and equipment and for their regular inspection.
    5. To review the provision of, and to be responsible for the regular maintenance and occasional replacement of the Council's seats in childrens' playgrounds and on the main recreation ground, and for the Council's life buoys by the river.
    6. To exercise the Council's responsibilities relating to the provision and promotion of leisure and recreational facilities within the Parish.
    7. To exercise the powers and duties of the Council relating to allotments.
    8. To achieve the most beneficial use of the Council's recreation facilities by the proper allocation of sports facilities.

*This is not an exhaustive list of responsibilities.*
  - 12.3. Planning -
    1. Review planning applications and make recommendations to the Planning authority.
    2. Review street closure applications
    3. To exercise general control of that street lighting owned by the Parish Council.
    4. To be responsible for the general supervision of the clearing of highways, footways etc. within the Parish.
    5. To consider any matter relating to protection of highways, footways, footpaths or bridleways within the Parish and to report any problems or recommendations to the appropriate authority.
    6. To consider any matter relating to public transport facilities within the Parish and to report any problems or recommendations to the appropriate authority.
    7. To review the provision of and to be responsible for the regular maintenance and occasional replacement or other work on the following items of Council property:

*This is not an exhaustive list of responsibilities.*
  - 12.4. Neighbourhood Planning -

To develop a Neighbourhood Plan, for a sustainable and vibrant thriving rural community, driven by the needs and aspirations of the people in Slaugham Parish.

    1. Develop a shared vision for the Neighbourhood
    2. Choose potential locations where new homes, shops offices and other developments should be built, should they be part of the plan outcome
    3. Influence policy on new buildings design and features
    4. Identify and protect important local green spaces
    5. To consider all potential sites identified for development relating to the Parish and to comment thereon to the District Council as part of the Neighbourhood Plan
    6. Identify a clear communications strategy
    7. Facilitate sub-committees/working steering groups which will enable a community, including both residents and businesses, to achieve different things and so communities should consider what they want to achieve first, and then decide which mechanism will best enable them to do this.
    8. The Group financially appraised the project and set budget – to operate within initial budget of 10k and to report to the Parish Council the status of expenditure on a regular basis.
    9. Carry out planning and NHP Consultation to assist in the productions and publication once the above consultation process is complete to ensure it is a robust document and will withstand a referendum.

*This is not an exhaustive list of responsibilities.*

**Date of Adoption 27<sup>th</sup> May 2021**

**Signed: Cllr Julia Elliott Sally Mclean The Clerk \_\_\_\_\_ Print: 27<sup>th</sup> May 2021**

**This Scheme of delegation was reviewed and adopted by Council 27<sup>th</sup> May 2021**