



Local councils **EXPLAINED**

by Meera Tharmarajah



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by **Meera Tharmarajah**, Solicitor

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PART ONE

How Local Councils work

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establishes the policy for the development and use of land in a local council's area for a certain period, which is not prescribed. An NDP is the vision of the future landscape of the area subject to what the local government electors in a local council's area want. It can, for example, confirm where new homes, offices, schools and shops should be built, and where there should be green open spaces for recreation. The statutory neighbourhood planning process can also result in the creation of a neighbourhood development order (NDO), which effectively grants planning permission for certain types of development that the local government electors want to see go ahead. An NDO would permit, for example, new homes, offices, schools and shops to be built without developers having to first obtain planning permission. A local council's statutory role in neighbourhood planning is to initiate, contribute to and facilitate the outcomes of a statutory neighbourhood process. It does not decide what will be included in an NDP or NDO. This is subject to an independent examination and a referendum in which more than 50% of the local government electors in the area must vote to support the proposals. An NDP or NDO must also generally conform to the planning authority's local development plan.

The 2011 Act also enables local councils in England to nominate premises in its area that have community value¹⁹. These are premises (except residential and certain other premises) whose current or recent past use furthers the social well-being or social interests of the local council's community. Such premises may include, for example, a park, village shop, community centre, tennis courts, post office, pub, church, library or car park. Once an asset of community value has been included on a list, which is administered by the district or unitary authority, its owner cannot sell the premises without notifying the district or unitary authority or for a fixed period of time thereafter. The district or unitary authority will give public notice of the proposed sale of the premises. A local council has an opportunity to organise its finances and to submit an offer to purchase the premises. Unless a council's offer reflects the market value of the premises, the owner of the premises is unlikely to accept it.

In addition, the 2011 Act introduced the general power of competence²⁰ in England for local councils that have met certain conditions²¹ and other local authorities. This power permits a council to do anything an individual can do unless specifically prohibited by the general power or by other legislation. An eligible local council that wishes to exercise the general power of competence is still subject to the statutory limitations, restrictions or prohibitions that were in place before the introduction of the general power of competence or implemented after. By example, the general power of competence does

on the circumstances, to the Adjudication Panel for Wales. They will then decide if the councillor has broken his council's code of conduct and, if so, what sanction to impose on the councillor. The maximum sanction that a standards committee can apply is suspension from office for six months and the maximum sanction that a tribunal of the Adjudication Panel can apply is five years' disqualification from office.

What do councillors do?

There is no statutory description for the role of a councillor. A councillor's main role is to influence and contribute to the formal decisions of his council, known also as resolutions. As described in Chapter 1, a local council may make decisions about all sorts of matters. The obvious examples are about prioritising areas of spend, deciding the precept, setting and working within budgets, provision of its services and facilities, partnership working and management of staff.

A councillor's main responsibilities are to:

- raise matters that the council can consider and formally decide to take action about at meetings;
- attend council meetings;
- make informed contributions which influence the debate on the business that needs to be decided at those meetings;
- participate in his council's decision-making process, which in itself is subject to strict rules; and
- represent his council externally.

Councillors are not expected to possess the knowledge, skills or experience that are required for all aspects of their council's work. At a formal meeting of the council, committee (including joint-committee) or sub-committee (including joint sub-committee) councillors are expected to make informed decisions based on the consideration of relevant information. If councillors find themselves unable to make informed decisions because they lack information or understanding, or because they consider their council would benefit from the input of experts or professional advice, they should defer making decisions until this is made available to them.

Voting at a meeting should take place only after councillors have had an opportunity to consider and debate the issue to be decided among themselves. Councillors should use

In a community with a separate local council the expenses of the community meeting (including the expenses of a poll) must be paid by the community⁹⁷.

Councillors' surgeries

Councillors' surgeries fall into two categories. Firstly, there are surgeries which the council has decided to run, often involving several councillors and reliant on light staff support. The purpose of these surgeries is to explain decisions or promote the proposals of the local council and to obtain the views of and information from residents. The council will decide who is required to attend each surgery. Where councillors are members of different political parties, then ideally councillors representing the different parties on the council should be present. This will mean that a resident who wants to discuss a matter with a councillor from a particular party can do so. Where a particular political party has a very small number of councillors, it may not be possible for that party to be represented at every surgery. Advance public notice of names of the councillors who will be present at each surgery will mean that residents can attend (or not attend) in full knowledge of which councillors they will be able to speak to. A local council will designate the premises for the surgeries to take place. The meeting could be held at the council's premises, or at any other suitable and convenient location. While there is no ban on holding a surgery in licensed premises, it is sensible to avoid this. The information gained in this type of surgery will be council information and subject to the council's obligations under the Data Protection Act 1998 and the Freedom of Information Act 2000. See Chapter 4.

Secondly, there are surgeries run by individual councillors independently of the council. As explained in Chapter 2, a councillor is permitted to undertake some activities in his official capacity as a councillor independently of the council. For example, a councillor representing a ward may organise surgeries to deal with residents' interests and complaints specific to his ward. For this category of surgery, the council has no formal role. The council may decide, at the request of the councillor, to publicise the date and venue for his surgery. Information obtained by the councillor is not information held by the council and statutory responsibility for holding and using personal data rests with the individual councillor. See also Chapters 2 and 4.

In order to maximise attendance, surgeries of either type should be held outside normal working hours (i.e. in the evening or at the weekend) and publicised. The surgeries should only be concerned with discussions which are a "parish affair" or, in Wales, a "community affair" which would be relevant to a parish or community meeting.

a council should not hesitate to call extraordinary meetings when necessary. If a local council has appointed a Vice-Chairman to the council, its standing orders may permit the Vice-Chairman to convene an extraordinary meeting in the Chairman's absence⁴⁹.

If the Chairman of a council (or, subject to standing orders, a Vice-Chairman of a council) fails or refuses to call an extraordinary meeting of the council within seven days of having been requested to do so by two councillors, any two councillors may convene a meeting of the council⁵⁰. The public notice giving the time, place and agenda for such a meeting must be signed by the two councillors who called the meeting⁵¹.

What happens at a meeting?

There are accepted conventions and practices as to what happens at a meeting and the order in which they happen. Below is a guide to the basic sequence of events at a meeting:

1. The names of councillors present and absent are noted for inclusion in the minutes of the meeting.
2. The Chairman formally opens the meeting, and may make short announcements about the meeting that are appropriate or merely procedural (e.g. a reminder that recording devices are not permitted or that there will be a part of the meeting from which the public will be excluded). See Chapters 5 and 9.
3. If a councillor is unable to attend a meeting and prior to this he has formally sought approval for his absence, his request will be considered. If granted, a resolution approving his absence will be included in the minutes of the meeting.
4. Certain interests of councillors in agenda items are, as appropriate, disclosed and minuted. See Chapter 2.
5. Subject to standing orders⁵², dispensation requests made by councillors may be considered and granted (England only). See Chapter 2.
6. The accuracy of the minutes of the last meeting is formally approved. See Chapter 9.
7. Subject to standing orders⁵³, the public are permitted to speak about items of business on the agenda. Public participation is explained in Chapter 5. In Wales, councillors with a prejudicial interest in an item of business on the agenda may also speak during the part of the meeting in which the public may participate.
8. Updates to resolutions from the last meeting are received.
9. Motions or other items of business on the agenda are considered and resolved. See Chapter 8 for guidance on the formal procedure for the debate of a motion.

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