

ADVICE NOTE: Meetings - Drafting the Notice, Summons, Agenda and Minutes

The clerk has an important role in ensuring that meetings of the council run smoothly and in accordance with legal requirements. Before a meeting of the council, the clerk must put together an agenda, give notice of the time and place of the meeting to the public and summon the members. During the meeting, the clerk must keep a careful note of every decision taken by the council and may need to advise the council on its legal powers and on matters of procedure, such as the effect of a relevant Standing Order or Code of Conduct provision. After the meeting, it is the clerk's responsibility to produce draft minutes for the approval of the council at its next meeting.

Notice of Meeting

Statute requires that "three clear days" at least before a meeting of a parish or community council notice of the time and place of such meeting has to be displayed in some conspicuous place within the parish or community.¹

The notice is usually prepared by the clerk, but notice of an extraordinary meeting called by members of the council must be signed by the members calling the meeting and must specify the business proposed to be transacted at it.²

"Three clear days" means that the notice of a meeting must allow for three perfect intervening days. That means that you should not include the day of posting the notice or the day of the meeting. A meeting on a Friday requires the notice to be given on the preceding Monday, or sooner. If the meeting is to be on a Thursday, can the Notice be given on a Sunday? Probably not. Sections 243 and 270 of the Local Government Act 1972 will kick in, if the day when you have to do something, or the last day on which you can do something, is a Sunday, part of a bank holiday break (Easter, Christmas or a bank-holiday weekend) or a day of national thanksgiving or national mourning. If the meeting is to be on a Monday, can one of the "three perfect intervening days" be a Sunday? Yes, it probably can.

¹ For councils in England, see Local Government Act 1972, Sch 12, para 10(2)(a): "notice of the time and place of the intended meeting shall be fixed in some conspicuous place in the parish and, where the meeting is called by members of the council, the notice shall be signed by those members and shall specify the business proposed to be transacted at the meeting".

Similarly for community councils in Wales, see Sch 12, para 26(2)(a). But note that if or when the amendments inserted by section 57 of the Local Government (Democracy) (Wales) Act 2013 are brought into force, there will be an additional requirement for community councils to publish electronically (i) the notice of the meeting and (ii) (in so far as reasonably practicable) any documents relating to the business to be transacted at the meeting, unless they relate to business which is likely to be transacted in private session with the press and public excluded.

² ie if members call the meeting, it is the members who sign the public notice (LGA 1972, Sch 12, para 10(2)(a) (in England), or para 26(2)(a)(in Wales)) and the clerk who summons the members.

You (probably) cannot start or finish on a Sunday, but you can (probably) count it as an intervening day.

The law is not as clear as we would like it to be and the only perfectly safe advice the SLCC can give is this:

- Do not hold a local council meeting on a Sunday, on any part of a bank holiday break (Easter, Christmas or a bank-holiday weekend) or on any day of national thanksgiving or national mourning; and
- Do not issue the notice of a local council meeting on a Sunday, on any part of a bank holiday break (Easter, Christmas or a bank-holiday weekend) or on any day of national thanksgiving or national mourning; and
- Do not count as any of the necessary 'three perfect intervening days' any Sunday, any part of a bank holiday break (Easter, Christmas or a bank-holiday weekend) or any day of national thanksgiving or national mourning.

A failure to follow this advice is not necessarily "fatal", because the law is not totally clear, but it would certainly bring a small risk that your notice may be challenged.

Where a meeting is called by members of the council, the notice has to be signed by those members and it must also specify the business to be discussed. Otherwise, as mentioned above, the notice will normally be issued over the clerk's signature.

Many councils have their own public notice board. Other suitable places for posting council notices may include the village post office, a branch library, a church notice board or a village hall notice board. It is good practice to give at least seven days' notice of every meeting.

Failure to give the proper notice to the public may affect the validity of the meeting.

There is a power in the Local Audit and Accountability Act 2014³ for the Secretary of State to make regulations which provide that the notice may or must be given or made available by electronic means. No such regulations have yet been made. Similarly, in Wales, electronic notice will be an additional requirement if the relevant statutory provision is brought into force.⁴

The Summons and Agenda

In addition to the public notice, the clerk (as proper officer) is required to serve upon every councillor a summons to attend the meeting. It should be signed by the clerk, give the date, time and place of the meeting, and specify the business to be transacted.⁵ It is important that members receive the summons with the agenda (including any reports or other documents which form part of it) in good time, so that councillors have the best possible

³ Section 40(4): see the Advice Note: Access to Local Government Meetings and Documents (England)

⁴ See footnote 1 above.

⁵ Local Government Act 1972, Sch 12, para 10(2)(b) and para 26(2)(b). Again, the "three clear days" rule applies.

opportunity of preparing for the meeting. But it should be noted that failure to serve a summons on any particular councillor does not affect the validity of the meeting. This provision takes account of the possibility, for instance, that a summons to a councillor may become lost in the post or otherwise not be delivered to the councillor's home.

The 1972 Act requires delivery by hand or by post. Additionally, for parish councils in England, it is now lawful to send the summons by email.⁶ If the summons is sent in this way, the clerk should ensure that it is 'authenticated' or 'certified'. This means that it is 'signed or otherwise authenticated in such manner as the proper officer thinks fit' (for example, by including council template headings and logos (where used) and an electronic or scanned signature). It should be sent from the council's official email address to avoid problems arising from the recipient not recognising or overlooking the communication. And it should only be sent to the electronic address the member has given for the purpose and only provided he or she has consented (and not withdrawn that consent) to delivery of the summons in this way.

For councils in Wales, where there is, as yet, no statutory provision for sending the summons electronically, some councillors may nevertheless choose to receive the summons⁷ and accompanying agenda by email. Where members agree that this is their preferred way of receiving the summons, the practice is unlikely to be challenged, especially if the council has passed a resolution to this effect. But, should any individual councillor not wish to accept the summons by email, the clerk must ensure he or she continues to receive a hard copy by hand or in the post.

Except where the meeting is "an extraordinary meeting" called by the chairman or by two or more members, the clerk will be responsible for putting together the agenda and in doing so, the clerk will usually consult with the chairman and, where appropriate, with political group leaders. Standing Orders often make provision for motions which individual members may ask to be included on the agenda. These Standing Orders should include some scope for the clerk to correct typographical mistakes etc, and provide guidelines as to when a motion may be rejected at the agenda stage - and deadlines by which proposed motions must be received. Although any member can ask for items to be put on the agenda, it does not follow that an individual member (not even the Chairman) can keep a particular item off the agenda. The clerk works for the entire council and must keep in mind the interests of the council as a whole when deciding what needs to be included on any particular meeting's agenda.

The statutory requirement that members have at least three clear days' notice of the business to be transacted means that no business may be transacted at a council meeting other than that specified in the summons. Some items will require more detail in the agenda than others. For example, a major new project will require at least a line or two (as well as a

⁶ See the Local Government (Electronic Communications) (England) Order 2015, SI 2015/5, amending para 10 of Schedule 12. That paragraph now requires that the summons is sent to every member 'by an appropriate method', which includes sending it electronically to any member who has consented and has provided an electronic address.

⁷ signed by the clerk with an electronic signature in this case

Report), but authorising payment of the electricity bill may require only a few words. It is important that each member can judge from the agenda whether or not he needs to be present for any particular item.⁸

Business conducted without being listed on the agenda (or hidden in another item) may be declared void, if challenged in the Courts.⁹

Some councils like to include an item for 'Any Other Business' at the end of the agenda, but this practice is best avoided and should be discouraged unless it is purely an opportunity for information. Every substantive matter which requires a decision must be on the formal agenda.

Care must be taken to ensure that details of confidential or sensitive matters are not disclosed in the agenda or accompanying reports where this is not in the public interest. See the Advice Note: Admission to Meetings for further details of wording for inclusion on agendas which include confidential items and for which a resolution to exclude the press and public may be necessary.

A brief note of relevant provisions or requirements of your council's Code of Conduct, including provisions about the declaration of interests, may be included on the agenda and may also be helpful for members.

Public Participation Sessions

Many councils give members of the public an opportunity to address the council and to raise issues of local concern. This is a useful way for councillors to hear directly from their local electors and it will often be convenient to hold these sessions immediately before a council meeting. The Clerk should keep a brief note of any key points arising from the session, especially if there are issues which may need to be included on the agenda for a future council meeting. (Notes of a separate public participation session will not form part of the minutes of the council's own meeting.) It may also be sensible to set out in advance some ground-rules as to the time allowed for each contributor to speak and for the whole session.

If councils include public participation sessions within their own meetings, great care must be taken to ensure that members of the public do not appear to be participating in the council's discussion of agenda items or deciding council business. If the public participation session is included in the agenda for the council meeting, standing orders should make it clear that public participation is limited to addressing the councillors and there should be a limit on the time allowed for this activity. If the public participation session is on the council's agenda and therefore part of the meeting, the clerk will have to include a brief note of it within the minutes.

⁸ See, for instance, the words of Peterson J, *Longfield Parish Council v Wright* (1918) as quoted on page 128 of *Knowles on Local Authority Meetings, A Manual of Law and Practice*, (sixth edition, 2012) Deborah Upton with Stephen P. Taylor,

⁹ See *Longfield Parish Council v Wright* (1918) 16 LGR 865; *R v M'Donald* (1913) 2 IR 55; *R v The Corporation of Dublin* [1911] 2 IR 245

Minutes

Whilst the meeting is in progress, the clerk must ensure that he or she has a record of key information which must appear in the subsequent minutes. This will usually include:

- the date and time of the meeting
- names of councillors in attendance
- names of any councillors who arrived late or were absent or who left the meeting early.
- interests declared¹⁰
- a note as to whether any councillor with an interest¹¹ left the meeting whilst the relevant matter was being considered¹²
- the resolutions (decisions) the council made.¹³

To avoid disagreements later, it is important to be clear as to the precise wording of each resolution before the chairman moves on to the next item. Clerks may ask their members to confirm they have noted the resolution correctly by reading it back to them at the time.

It is a legal requirement that the minutes of the proceedings of a local council in England or Wales are recorded and kept in a book for that purpose, usually by the clerk as part of his or her official duties.¹⁴ In the absence of the clerk, the minutes may be taken by a member of the council.

Minutes can be recorded on loose leaves provided that the sheets are consecutively numbered and the presiding chairman initials each sheet at the approval stage.¹⁵

Minutes must be signed at the same or the next following meeting by the presiding chairman. The minutes are signed as to their accuracy. If the minutes are not signed at the same meeting, it is quite possible that some members may be present who were not present at the original meeting and there may be others who were present at the original meeting and are now absent. This is not usually a problem, however, as the decision as to the accuracy of the minutes is a majority decision of the members present and able to vote on the matter at the later meeting.¹⁶

¹⁰ If a meeting is a committee meeting (not the full council), it may include non-councillors with voting rights and (if so) details should be recorded for them, too.

¹¹ See footnote 10 above.

¹² For interests and the restrictions on participation and voting under the Localism Act 2011, see the Advice Note: Standards and Code of Conduct for Parish Councillors in England. In Wales the Local Authorities (Model Code of Conduct) (Wales) Order 2008 (2008/788) applies.

¹³ If a public participation session formed part of the council meeting, the holding of that session should be noted with a brief summary of the points raised. See above on Public Participation Sessions.

¹⁴ See LGA 1972, Sch 12, paras 40, 41, 44

¹⁵ LGA 1972, Sch 12, para 41

¹⁶ Naturally, a member who did not attend the original meeting will not be able to comment on the accuracy of the draft minutes of that meeting, and the decision will be made by the members who were. Note that, once accepted by the council as a true record of the earlier proceedings, the presiding chairman signs the minutes and may do so even though he or she may not have been

It is not permitted to reopen discussion on a decision recorded in the minutes (e.g. under 'matters arising') unless there is a specific item on the agenda relating to that decision, and, subject to standing orders, specifying that it will be reconsidered.

Any minute purporting to be properly signed or initialled by the presiding chairman may be received in evidence in court without further proof. Until the contrary is proved, where the minutes relate to a council meeting, that meeting is deemed to have been duly convened and held, and all members present are deemed to have been qualified. Where the minutes relate to a committee meeting, the committee is deemed to have been properly constituted and to have had power to deal with the matters set out in the minutes.

Note that a minute cannot be changed once it has been approved by the council as a true record. If, for instance, a council has taken a decision on the basis of information which is later found to have been erroneous, the proper course of action is to consider the matter afresh at another meeting¹⁷ and record a new decision. A careful clerk may then add a cross-reference to the later decision against the minute of the original resolution.

Sometimes, councillors will try to alter a decision by proposing amendments to the minute which recorded the decision. Once the minutes have been approved and signed, no alteration can be allowed. Faced with such a request, a clerk might say:

“If the Council resolves tonight to strike some wording from the approved minutes of the last meeting, what will happen is that I shall minute that resolution. But the old minute will still exist and it will still be a correct minute of the last meeting. The very most I can do for you is to add a footnote to the minutes of the last meeting, referring to tonight’s resolution.”

There is no prescribed format for local council minutes and the actual content of minutes will vary as between clerks according to the style to which they have become accustomed. Minutes are formal records of decisions taken and not meant to be a verbatim record of a whole meeting. Some background context of the decision taken may be necessary. If required, the manner of voting for and against an issue can also be recorded. Clerks should be mindful of the Data Protection principles and generally should avoid including personal information about living individuals.¹⁸

Where practicable (and this depends naturally on the facilities available) it is useful to circulate a copy of the draft minutes of the previous meeting with the summons for the next meeting. This avoids the need for the clerk to read out the minutes, it saves time at the meeting and it also affords members an opportunity of reading the minutes and reminding themselves of what took place beforehand. For that reason, some clerks circulate draft minutes shortly after the meeting to which they relate. But the circulation of draft minutes

present at the earlier meeting. This is because the chairman is recording the decision of the council and is not signing in a personal capacity.

¹⁷ and in accordance with the requirements set out in Standing Orders, where relevant.

¹⁸ For more detail, see the Advice Note: Council Minutes and Data Protection Issues

does not give individual members any entitlement to re-write them and substitute their own version. Any points about amendments to the draft minutes should be raised in council before the draft is approved and the decision of the majority must prevail in the normal manner.

It is a legal requirement that the minutes are open to the inspection of any local government elector for the area of the council and such a person may make a copy of or extract from the minutes.¹⁹ In practice, many councils now routinely publish minutes of their meetings on the council's website.

¹⁹ LGA 1972, s 228