



Llais Cynghorau Cymuned a Thref yng Nghymru
The Voice of Community and Town Councils in Wales

Practice Development Note 6

Policies and Powers

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OVW Practice Development Note 6

Policies and Powers

A simple guide for Community and Town Councils

Action	Purpose	Timescale	At-a-glance timescale
1. Introduction			
<p>1.1 Community and Town Councils undertake many functions.</p> <p>1.2 Some are duties, which <i>must</i> be discharged. Some are powers, which <i>may</i> be exercised.</p> <p>1.3 This note highlights and explains some of these duties and powers.</p>	<p>Councils must ensure that they comply with all legislative requirements and any associated statutory guidance.</p>	<p>Identify whether the action you are taking is a power or a duty.</p> <p>Make sure you have the powers to act. If necessary, seek advice on available powers from your Development Officer at One Voice Wales :</p> <p>Alun Harris (Mid and West Wales) Paul Egan (Southwest Wales) Maria Mulcahy (Southeast Wales)</p>	<p>Before you begin a project.</p> <p>Take advice if needed:</p> <p>aharries@onevoicewales.wales</p> <p>pegan@onevoicewales.wales</p> <p>mmulcahy@onevoicewales.wales</p> <p>mabowain@onevoicewales.wales</p>

Action	Purpose	Timescale	At-a-glance timescale
		Mel ab Owain (North Wales)	

NB There are many acts, regulations and procedures which govern the activities of Community and Town Councils. It is beyond the scope of guidance such as this to comment on individual circumstances.

Questions relating to individual cases should be discussed with the appropriate Development Officer (see above). Development Officers may provide Councils with the latest version of relevant legal topic notes when they are relevant to an enquiry.

Action	Purpose	Timescale	At-a-glance timescale
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2. Policies and procedures			
<p>2.1 Appendix 1 lists some of the key governance and financial arrangements which Councils should have in place.</p>	<p>To comply with good practice and meet any statutory requirements.</p> <p>Appendix 1 include links to relevant statutory guidance.</p>	<p>One Voice Wales suggests that these are reviewed at the Annual Meeting of the Council.</p>	<p>Annual Meeting of the Council</p>
<p>2.2 There are other policies which you should have in place and review each year. Many are explained in the Practitioners Guide (Governance and Accountability for Local Councils in Wales),</p> <ul style="list-style-type: none"> • Auditors will expect to see your ** Risk Policy and Register. Your Annual Return (Governance 	<p>To comply with good practice and meet any statutory requirements.</p>	<ul style="list-style-type: none"> • The council should review its risk policy and register not less than annually. • For some councils Approve an investment strategy for <i>next</i> year before the end of the current financial year. (See note below) 	<p>Annually, as indicated.</p>

<p>Assertions) will ask about it.</p> <ul style="list-style-type: none"> Councils with long term investments exceeding £500k must prepare an investment policy and an ** Annual investment strategy in accordance with Welsh Government guidance. Other Councils may also wish to do so as good practice. 			
<p>2.3 Community and Town Councils are required to prepare and publish a number of reports –</p> <ol style="list-style-type: none"> <u>Annual Reports</u>, <u>Biodiversity</u> (sometimes referred to as s6 Report) and, for some Councils, <u>Well-being plans</u>. (where income/expenditure budget exceeds 	<p>To comply with statutory requirements and present a cohesive commentary on strategic and operational activity.</p> <p>Councils have a duty to promote and enhance biodiversity.</p> <p>Use your Annual Report to look forward as well as back.</p>	<p>Community and Town Councils must prepare an annual report each year and publish as soon as practical after the end of each financial year.</p> <p>A Biodiversity plan is to be published every three years setting out how the Council proposes to maintain and enhance biodiversity. The first report was due before the end of 2019, with all subsequent reports due for</p>	<p>Every third year from 2019 for Biodiversity.</p> <p>Annually for others.</p>

<p>£200k per annum for 3 years)</p>	<p>You may wish to combine your biodiversity and Wellbeing reports with your Annual Reports to reduce duplication and workload.</p>	<p>publication before the end of every third year after 2019.</p>	
<p>2.4 The Code of Conduct is one of the most important documents to have in place. Further details can be found in Chapter 5 of the <u>Good Councillors Guide</u>, including details of where to find the model code. All Members should receive a copy of the code and receive training (usually within six months of taking office according to your standing orders.) Contact Wendi Patience at One Voice Wales to arrange training.</p>	<p>Councils have a duty to adopt a code of conduct. There is a statutory duty on Members to comply with the code and sign a declaration to that effect.</p> <p>(A model declaration is attached. The model reflects statutory requirements. Appendix 2)</p>	<p>Once the Council has adopted the code, it would be good practice to consider arranging for the Council to confirm the decision to adopt or amend the Code each year</p> <p>All Members should sign a declaration to comply with the code when they accept office after election or co-option, even if they are returning following re-election. (The Chair/Mayor is also required to sign a declaration of office when elected at the Annual Meeting.)</p> <p>Keep the declarations in a convenient place as they may be required for external audit purposes.</p>	<p>Consider adopting the Code annually.</p>

<p>2.5 Review your policy on Reserves each year. The link will show you an example. **</p> <p>2.6 Keep some reserves in place but think about how they can help keep the precept down. Read chapter 22 of the Practitioners Guide.</p>			
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This note this is not a definitive list of all the policies you should have in place. The [Society of Local Council Clerks](#) also produce a helpful list of policies and documentation (especially for smaller councils) if your Clerk is a Member. You can also consult your Development Officer at One Voice Wales if you need specific advice. One Voice Wales can also provide a range of model policies for member councils.

*** Case Studies from other Councils*

Action	Purpose	Timescale	At-a-glance timescale
<p>3. Key powers</p>			

<p>3.1 General Power of Competence (GPOC)</p>	<p>This wide-ranging power allows qualifying Councils to do anything that an individual generally may do. Three criteria must be met though, as explained in the link at 3.1.</p> <p>NB The power of well-being was repealed by the Local Government & Elections (Wales) Act 2021. Anything started under this power may continue until it is completed but nothing new may begin. If the council becomes eligible to use GPOC, this should be used instead.</p>	<p>The Council must pass a resolution to confirm that it meets the criteria to use GPOC. This must be reviewed every year.</p>	<p>Annually, provided the Council continues to meet the criteria.</p> <p>If a Council becomes no longer eligible to use GPOC, then it must record its ineligibility at the next 'relevant' annual meeting of the council (after the ordinary election). Refer to Statutory Guidance published by the Welsh Government.</p>
<p>3.2 Local Government Act 1972 s137.</p>	<p>This general power allows a Council to incur expenditure for certain purposes not otherwise authorised by other legislation. A formula exists to</p>	<p>The Council must pass a resolution <u>every time</u> it wishes to use this power, to confirm that expenditure to be incurred under this power is commensurate with the benefit to the</p>	<p>Whenever the power is used, a resolution is needed first.</p>

	<p>determine how much a Council can spend each year. Welsh Government will write to you to inform you of the amount.</p> <p>If the Council cannot use GPOC, it must look for other specific powers, such as those listed below. If a specific power can't be found, then it could consider Section 137, regarded as the power of last resort. This gives a Council the power to do anything that will benefit the community or inhabitants (or part of it/some of them) where there is no other specific power covering the action.</p>	<p>community (i.e. appropriate to) ; so, there must be a match between the level of money spent and the scale of benefit to local people.</p> <p>Here is a model resolution:</p> <p>“in pursuance of the power conferred by Section 137 of the Local Government Act 1972 (as amended) and being of the opinion that the expenditure satisfies the requirements of that section, expenditure up to £** is approved in relation to the above **.”</p>	
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<p>3.3 Councils have many powers, but few duties. Most, though not all, duties relate to governance, such as the duty to make arrangements for the proper administration of the council's financial affairs and ensure that an officer has responsibility for the administration of those affairs. (S151 of the Local Government Act 1972.)</p> <p>3.4 Other duties include a duty to provide allotments if the council considers that there is demand for them, a duty to consider the impact of decisions on reducing crime and disorder, and an obligation to promote and enhance biodiversity. The Good Councillors Guide contains further details.</p>	<p>To comply with statutory requirements.</p>		
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<p>3.5 Here are some more examples of commonly used statutory powers to allow your Council to take a range of actions for the benefit of the community:</p> <ul style="list-style-type: none"> • Local Government (Miscellaneous Provisions) Act 1976, s.19 gives the power to provide a wide range of recreational facilities. • Local Government Act 1972, s.145 allows the provision of entertainment and support to the arts 			<p>A specific decision is not required to use these powers, though the projects they intend to deliver may require formal approval.</p>

<p>including festivals and celebrations.</p> <ul style="list-style-type: none"> Other powers are in place to allow the provision of Christmas lights, (This power may be appropriate for some councils but not for many small councils when S137 may be appropriate.) community centres and a range of powers which may be used to address or reduce climate change. 			
<p>3.6 Finally, s111 Local Government Act 1972, allows a Council to do anything (whether or not involving the expenditure, borrowing, or lending of money or the acquisition or disposal of any property or rights)</p>	<p>To allow the Council to discharge its functions.</p>	<p>Ad doc</p>	<p>A specific decision is not required to use this power, though any project intended to be delivered may require formal approval.</p>

<p>which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.</p>			
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The above are some commonly used powers but this note this is not a definitive list of all powers available to Councils. A council must be satisfied that it has the power to act.

Similarly, this Practice Development Note cannot offer comprehensive guidance on every piece of legislation mentioned. Clerks/Councils should consult each individual act for a detailed understanding of its provisions.

The [Good Councillors Guide](#) contains an extensive list of available powers. You can also consult your Development Officer at One Voice Wales if you need specific advice. Councillors can also attend our webinars where they will gain a greater insight into the work of Community and Town Councils.

Some key tips:

- In considering whether to take any action or decision, Councils should consider (a) Do we have the money, (b) Do we have the powers and (c) What will be the benefit to the community.

Our [first Practice Development Note](#), published in March 2024, addressed issues around preparing a budget and identifying spending priorities. That will help you decide if you have the money.

This Note will help you decide if you have the powers.

- Also, for decisions of major significance, consider whether you want to consult the public. This can be done generically via, say, a good [Annual Report](#), or as part of a specific project. However, some grant-giving bodies may expect to see evidence of public consultation for your project or agreement from community groups to provide support and volunteers. Think about issues such as [inclusion, access, and participation](#).
- Your Standing Orders and Financial Regulations are crucial. Here are some examples from [Llanelli Town Council](#), along with examples of other key policies.
- Finally, if in doubt, ask.

Nobody knows everything. Experienced Clerks will usually be happy to help new Clerks with advice, examples, and case studies. Councils should encourage the Clerk to join the [Society of Local Council Clerks](#) where support and advice is available. You can also consult your Development Officer at One Voice Wales for advice. Their details are above.

Members should sign up for one of the many [training modules](#) delivered by One Voice Wales. Clerks can also participate.

Note: Case Studies from other Councils included in this note are for your help and guidance only. They may serve to assist Councils review or confirm that their own policies etc. meet statutory requirements.

Arrangements to review annually

- i. Review any delegation arrangements to committees, sub-committees, or staff other Councils.
- ii. Review terms of reference for committees.
- iii. Appoint members to existing committees.
- iv. Appointment any new committees
- v. Review and adoption of appropriate standing orders and financial regulations. Auditors will ask to see these. NB some requirements are statutory, such as the duty to have a standing order with respect to contracts for the supply of goods and materials
- vi. Review of the eligibility criteria for the use of the [general power of competence \(Chapter 1\)](#).
- vii. Review and adoption of the council's [annual report \(Chapter 4\)](#).
- viii. Review and adoption of the council's [training plan \(Chapter 5\)](#)
- ix. Review of arrangements (including legal agreements) with other local authorities, not-for-profit bodies, and businesses.
- x. Review of representation on or work with external bodies and arrangements for reporting back.
- xi. Review of [inventory of land and other assets](#) including buildings and office equipment.
- xii. Confirmation of arrangements for [insurance cover](#) in respect of all insurable risks.
- xiii. Review of the Council's and/or staff subscriptions to other bodies.
- xiv. Review of the Council's complaints procedure.
- xv. Review of the Council's policies, procedures and practices in respect of its obligations under freedom of information and data protection legislation.
- xvi. Review of the Council's policy for dealing with the press/media.
- xvii. Review of the Council's employment policies and procedures.

(Review your pay policy each year. The Local Government Pension Scheme Regulations require employers to publish policies on discretions and keep these under review. The Fund suggests that employers should

review their discretions policies at least every three years. Note that the majority of small councils may not provide for this pension scheme.)

- xviii. Determining the time and place of ordinary meetings of the Council up to and including the next annual meeting of the Council.
- xix. Review of the Council's expenditure incurred under s.137 of the Local Government Act 1972 (if applicable).

Here are some key points to bear in mind for this far-reaching legislation:

- s.137 allows Councils to spend money subject to the statutory limit, as described above. (3.1). Report this figure annually to the Council.
- s.137 cannot be used if there is a more specific statutory on which the Council can rely or to overcome a restriction set by another power. Recommend that your Council notes this. Understand the powers available.
- s.137 cannot be used to do something prevented by another act. For example, s.8(1) (i) and (k) of the Local Government Act 1894, prevents a council from spending money on property relating to affairs of the church or held for an ecclesiastical charity. Recommend that your Council notes this.
- In the absence of a more specific power or other restriction, a Council can rely on s.137 provided it is satisfied that there is a direct benefit to the community or part of the community (not an individual), as described above. The benefit must be commensurate with the expenditure incurred. Recommend that your Council notes this.

Other important points to remember:

- s.137 can be used to support charities but only in the UK, not one operating overseas. Contributions to charities do not have to bring a direct benefit to the Council's area.
- Funds can only be allocated for events in the UK under certain circumstances. Check the act. (s.137(3))
- Keep a separate account of expenditure under s.137. Remember to pass a resolution each time s.137 is used.

Section 83, Local Government Act 1972

Declaration of Acceptance of Office

I ...(1)....having been elected to the office of(2)... of... (3)... , declare that I take that office upon myself, and will duly and faithfully fulfil the duties of it according to the best of my judgement and ability.

I undertake to observe the code for the time being as to the conduct, which is expected of members of ... (4) ... , and which may be revised from time to time.

Signed : Date:

This declaration was made and signed before me,

Signed:

Clerk and Proper Officer of the council. (5)

- (1) Insert the name of the person making the declaration.
- (2) Insert either "member" or "Chairman/Mayor" as appropriate.
- (3) (4) Insert the name of the authority of which the person making the declaration is a member or Chairman/Mayor.
- (5) Where the declaration is made before another person authorised by section 83(3) or (4) of the local Government Act 1972, state instead the capacity in which that person takes the declaration.