

# Update

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## THE CHIEF'S BRIEF

By Danny Moody, Chief Executive, Northants CALC

We've had a big couple of months at Northants CALC and the team has been out and about supporting member councils across the county, providing a wealth of training courses and events, and acting as the bridge between the unitary councils and parish and town councils.

We have also been reflecting on the state of the sector and been wondering if there is a bit of a post-Covid, post-Local Government Reorganisation lull going on. In fact, it's not just councils, it's society itself. A recent report from the National Council for Voluntary Organisations (NCVO) says "*Over the past four years the world has seen unprecedented change. While in many ways people have returned to a pre-pandemic life, the repercussions of lockdown continue to*

*impact communities.*" One of the changes noted in the report is that the "*number of people organising or helping to run an activity*" in communities has dropped by a half, from 14% to 7%. Clearly, parish and town councils are not voluntary organisations, but the ethos is the same because most councillors give their time freely. The cost-of-living crisis and external events like the Russian invasion of Ukraine

have meant that some people are necessarily focusing on themselves and their families, rather than on helping others through voluntary action or public service. At the Northants CALC Board Away Day held in mid-June, the directors felt that the Association should focus positively on the future and help member councils to remain proactive and optimistic. There is more about the Away Day below.

We have been working very closely with the unitary councils in recent months and – dare I say it – things are starting to show early signs of improvement. North Northamptonshire Council (NNC) and West Northamptonshire Council (WNC) have both had a challenging time with staffing since Vesting Day (1 April 2021) with staff turnover being far higher than was ever predicted or planned for. Consequently, there has been a lot of uncertainty and flux, with a plethora of short-term appointments, contractors, and interims used. Now, senior officers are

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*"...While in many ways people have returned to a pre-pandemic life, the repercussions of lockdown continue to impact communities."*

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in place, teams are beginning to solidify, and positions are being made permanent and this stabilisation should start to produce dividends in terms of teams being more efficient and effective. NNC and WNC are not immune to the financial difficulties faced by all principal councils in England and so the challenging operational environment will continue, but a council – any council – is only as good as its people, so if that element is starting to improve, the whole thing should improve.

We've been working with Northamptonshire Police too and at the end of June held the 3<sup>rd</sup> Annual Police Liaison Representative (PLR) Conference with the Chief Constable and sixty PLRs in attendance. There's more about the conference and the PLR Scheme generally at <https://www.northantscalc.com/plr>.

There have also been opportunities to celebrate. In early July we celebrated the inaugural Local Council Clerk Week, organised by the Society of Local Council Clerks (SLCC). The week aimed to build awareness and celebrate the work of parish and town clerks and help to raise the profile of the profession. Following on from Local Council Clerk Week, there is an article below reflecting on the role of the clerk and where the balance lies between the clerk and the councillors. In mid-July mayors and chairs from parish and town councils across West Northamptonshire and beyond were invited by Cllr John Shephard, Chair of West Northamptonshire Council to join him for a Civic Service at All Saints Church in Northampton. The service celebrated public service and included an Act of Commitment for councillors and officers *"to serve the administration of the district"* and *"make every effort to serve well those who have entrusted us with this task."*

At the end of July our team of intrepid internal auditors gathered together to debrief the 2023 audit work and identify common issues arising. Northants CALC's panel of auditors provides internal audit to over 170 parish and town councils in Northamptonshire and consequently is well-placed to assess how councils are doing in terms of governance and accountability. By and large the standards in Northamptonshire are high, but there are always one or two councils every year that struggle with the Annual Governance & Accountability Return (AGAR). There is a roundup of the common issues below.

I wish all parish and town council clerks and councillors in Northamptonshire a good summer. Please do continue to get in touch with your queries and questions... that's what we're here for!

## “COMMUNITY LED HOUSING” – IS IT FOR YOU?

Article by Martin Field, Senior Facilitator, East Midlands Community Led Housing

People may well have come across the phrase ‘**community led housing**’, but not been sure of what it signifies or means: it can be understood as a description of many different kinds of local housing projects that have been started by local communities to meet the needs they have identified themselves.



As Northamptonshire communities are well aware, the kind of local needs that local people want to be met could be many and varied, and the range of local motivations behind ‘community-led’ projects is certainly varied. There are often however, some common ambitions behind what such projects look to achieve and these include:

- building new homes for local people - families, single people and groups
- providing ‘affordable’ housing, especially homes for sustainable rent
- renovating empty dwellings and other disused property
- building ‘low-impact’ properties, to high environmental standards
- designing mutually-supportive neighbourhoods
- helping households ‘downsize’ into more appropriate accommodation
- reshaping local housing management and maintenance services
- securing a long-term ‘stewardship’ of local facilities
- stating a preferred outcome for sites within Neighbourhood Plans

What matters is that the central ideas for such projects have arisen from within local communities themselves and are driven forward by the engagement and commitment of local people to create the kinds of new homes that seem to be lacking. Such projects may start with local discussions had amongst a few concerned parishioners, or from local groups raising ideas with their Parish or Town Council, or within the initial scoping of Neighbourhood Plans, or even from

local landowners keen to see a local site used to provide new homes for local people.

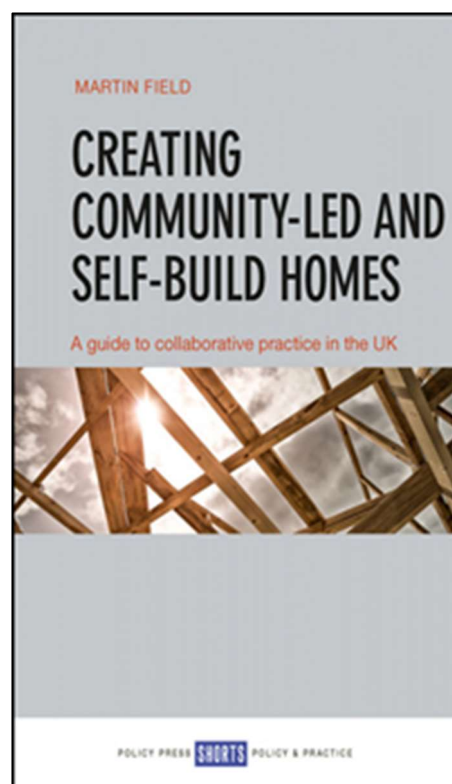
How local communities embark on turning initial ideas into firm reality, and who might be the partners they in turn need to support them in such ambitions, well that can also be many and varied, and is bound to be an eye-opener to those less used to advocating for new provisions where existing policies can seem somewhat inflexible! Yet, when looking at what emerges from a local determination to overcome such obstacles, such local outcomes are frequently recognised as being extremely innovative and more than a few are award-winning and exemplary examples of community action and success.

One local community body that exists to support such community-led housing initiatives is East Midlands Community Led Housing (EMCLH). We are an independent, not-for-profit Community Interest Company that functions as a one-stop shop for providing comprehensive advice, advocacy and associated services that can assist local communities deliver the kind of high-quality homes and neighbourhoods that local people want.

A recent 'CLH Roadshow' event organised by EMCLH in the Guildhall in Northampton was extremely well received – one attendee stating afterwards it was *“the most worthwhile morning I have spent since lockdown ended...”* (!) - and copies of the information shared on this date is available via EMCLH's website [www.emclh.co.uk](http://www.emclh.co.uk).

So, if there is an interest from any Northamptonshire Councils to discuss ideas for potential new projects, EMCLH will be happy to be contacted and arrange some first conversations. We can supply an initial response at zero-cost, and then work to a fee-paying basis thereafter.

The contact details are: Phone: 07976 546532 / 07598 176353 or Email: [martinf@emclh.co.uk](mailto:martinf@emclh.co.uk) or [patriciam@emclh.co.uk](mailto:patriciam@emclh.co.uk).



## ADMINISTRATOR, MANAGER, OR BOTH?

The inaugural Local Council Clerk Week (LCCW), organised by the Society of Local Council Clerks (SLCC), was celebrated from 10 to 14 July 2023. The point of LCCW was to shine a spotlight on the clerk's profession and raise awareness within and beyond local government of a role that for most of the public has hitherto been shrouded in mystery and misunderstanding. Ask the average person in the street, particularly in an urban area that does not have a parish or town council, what a Parish Clerk does, and the response is likely to be "*Dunno... organise the vicar's diary?*".

Those in the know, which is seemingly limited to those in the parish and town council sector (and even then, it is not universal!), appreciate just how varied and all-encompassing the role of clerk is. But is it an administrative role, or a managerial role, or both?

Management and administration are terms that are often used interchangeably, but there are some key differences between the two. Management is the process of planning, organising, directing, and controlling the activities of a council in order to achieve its goals. Administration is executing the internal operational aspects of a council, such as its finances, personnel, and records. The key differences between management and administration are:

<b>Management</b>	<b>Administration</b>
Focuses on achieving the council's goals	Focuses on the day-to-day operations of the council
Deals with the big picture	Deals with the details
Is more strategic	Is more tactical
Is more concerned with the future	Is more concerned with the present

Managers are required to be skilled in planning, organising, directing, and controlling. A good manager should be able to think strategically and be able to see the big picture. Administrators should be skilled in managing finances, budgets, personnel, and records. They must be able to handle the details and be able to focus on the present.

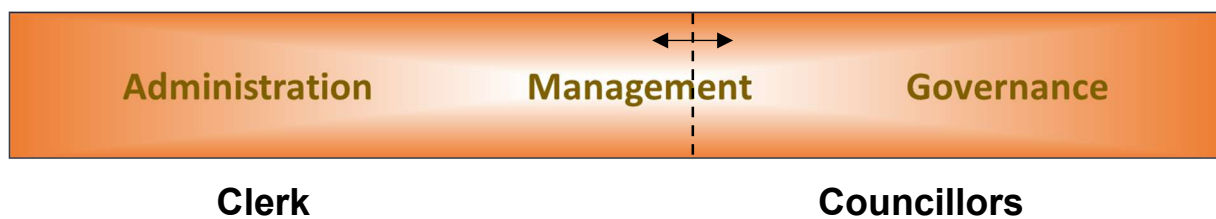


So now we have defined “management” and “administration,” which does the clerk’s role fit into? Well, both (and neither!).

Clearly in a council where the clerk is the only employee, they are the administrator, but what about achieving the council's goals, the big picture, the strategic future? Perhaps the management function is part of the councillor’s role? No, it is not. Or at least it shouldn’t be. In such a council, the lone clerk is both a manager and an administrator. The councillors perform a governance function, so they might set the council’s goals, but it is the clerk who is responsible for managing the council so that it achieves its goals. And in certain aspects that also involves managing the councillors!

In most parish and town councils the division between management and governance is not clear and obvious; there are fuzzy edges and movable boundaries. Councillors often make decisions at council meetings that are really management decisions. The sector is set up that way.

Imagine that administration, management, and governance are on a continuum with a slider in the middle separating the clerk’s role and the councillors’ role:



Where the slider is placed is a matter for each council to consider and agree and it might depend on a variety of factors. Larger town councils, with a full-time clerk and a large staff, might place the slider quite a long way to the right, maybe even nudging into the governance area. Smaller councils might have the slider more to the left, leaving a clerk with all the administration but only a little bit of management. But size of council is not the only factor. It might depend on the calibre and character of the clerk, or even how long they have been in post, starting with the slider more to the left and gradually moving to the right as the clerk gains more experience and proves their worth.

So, the clerk’s role is both administrative and managerial, and if a clerk is only discharging the administrative function, either because that’s what they think the job is, or its what they’ve been told the job is, then the council is missing a trick.

## SHINING A SPOTLIGHT ON RURAL COMMUNITY NEEDS

Northamptonshire Community Foundation exists to create long term, sustainable funding for the voluntary and community sector. It is the leading independent grant-making charity in Northamptonshire, having awarded over £20 million in grants to local charities and community groups since its formation in 2001.



Nearly a third of the county's population resides in rural communities, encompassing rural towns and villages. Throughout 2023 and 2024, NCF is shining a spotlight on rural community needs; through an appeal, it aims to build a dedicated fund of £200,000 to support vital projects in rural towns and villages, to ensure rural communities across Northamptonshire receive their fair share of funding.

NCF is delighted to have £100,000 to kickstart the effort and to create a match fund appeal, thanks to the generous support of the Constance Travis Charitable Trust. This means that every pound donated up to this amount will be doubled, further boosting grant awards to rural community projects.

NCF has partnered with Local Insights (OCSI) and Northamptonshire ACRE to produce a Rural Poverty Report, to shed light on the critical issues of rural poverty, food insecurity, and limited access to essential services, highlighting stark statistics such as more than 14,000 people in rural Northamptonshire identified as income deprived in the Indices of Deprivation 2019 Income domain.

Dean Jones, NCF's Head of Giving and Development, is available to meet with parish and town councils and their respective local rural communities over the summer and autumn to discuss the campaign in more detail. To arrange a meeting with Dean, please email [dean@ncf.uk.com](mailto:dean@ncf.uk.com).

Whilst parish and town councils are not eligible for this grant directly, they might wish to work with community groups and organisations on projects, or even just to make them aware of the fund. For more details, please see the dedicated page at <https://www.ncf.uk.com/our-work/shining-a-spotlight-on-rural-community-needs>.



## ARTIFICIAL INTELLIGENCE

In the May/June edition of *eUpdate* we considered the impact of Artificial Intelligence (AI) on parish councils. It was an introductory article, written entirely by AI. It predicted that *“AI can be used to improve efficiency, transparency, and communication. It can also be used to better understand the needs of residents and to provide more targeted services.”*

Every day since that edition there has been a new announcement on the ever-increasing capabilities of AI, from detecting signs of cancer in mammograms far more accurately and efficiently than a doctor can, to AI developing new algorithms to make the computers AI runs on faster. The developments are leading inexorably to “Artificial General Intelligence” (AGI), defined as *“an autonomous system that surpasses human capabilities in the majority of economically valuable tasks.”*

Slightly closer to the world of parish and town councils, Lord Londesborough said in the House of Lords at the end of July that peers could be replaced by “peerbots” with *“deeper knowledge, higher productivity and lower running costs”* than the human version. He said *“I was briefly tempted to outsource my AI speech to a chatbot and to see if anybody noticed. I did in fact test out two large language models. In seconds, both delivered 500-word speeches which were credible, if somewhat generic.”*

At the Northamptonshire Larger Councils Partnership (NLCP) meeting held on 5 July 2023 there was a presentation on *“Artificial Intelligence (AI) and parish and town councils.”* It showed that the concept of AI has been around since 1947 when Alan Turing proposed *“a machine that can learn from experience”* and that the term AI was coined in 1955. But it is the global usage of AI “large language models” since early 2023 that has catapulted AI into the limelight. The presentation predicted that *“AI won’t replace clerks. Clerks using AI will replace clerks.”* meaning that in the short term at least the job of clerk will not be displaced entirely, but that clerks who embrace the technology and



*A council meeting in the future?*

leverage its benefits will soon have a strategic advantage in the recruitment market.

Some parish and town councils in Northamptonshire are already using AI to generate text and images for reports and web site content, to generate or manage social media posts, or to summarise council meeting transcripts and notes. And soon all clerks will be able to benefit from an AI plug-in from Microsoft called Co-pilot (think of the Microsoft paperclip on steroids!) when it is rolled out this November.

The challenge is to think of something in the world of parish and town councils that is currently performed by humans that could not be performed by AI and robotics in the future. Try it! It's actually quite difficult and will quickly have you disappearing down a rabbit hole of what it means to be human. If you come up with anything, do email it to [info@northantscalc.com](mailto:info@northantscalc.com) and we'll respond with why you're mistaken! Sure, there are things that AI and robotics cannot do YET, but we are struggling to come up with anything that couldn't be possible in the future.

At the NLCP meeting it was proposed that Northants CALC convenes an AI Task Group to:

- Consider the risks of AI to parish and town councils.
- Identify the opportunities AI offers.
- Identify and disseminate good practice to all member councils.
- Collaborate with the unitary councils on AI.
- Inform and feed into any similar national initiatives (i.e., from the National Association of Local Councils (NALC) or the Local Government Association (LGA)).

If you might be interested in being on the AI Task Group, particularly if you have any expertise in the area, or are a complete Luddite (which will be useful for grounding), please send an email to [dmoody@northantscalc.com](mailto:dmoody@northantscalc.com). The first meeting of the AI Task Group will be held on Zoom, 0930 to 1030 on Wednesday 20 September 2023.

*"AI is not about replacing humans. It is about augmenting our abilities and helping us to achieve more than we ever could on our own."* - Yann LeCun

## D-DAY 80

6 June 2024 marks the 80th Anniversary of the D-Day landings and parish and town councils are encouraged to take part by lighting a Beacon on that day representing the 'light of peace' that emerged from the darkness of war.



The King's Pageantmaster, Bruno Peek, has produced a Guide to Taking Part and this, along with the official logo for the event, and the Certificate of Grateful Recognition, can now be downloaded from [www.d-day80beacons.co.uk](http://www.d-day80beacons.co.uk). Page 3 of the guide includes a message from the Prime Minister encouraging communities to take part, with the Introduction to D-Day 80 on pages 5 - 6, along with the International Tribute on page 18, to be read out as Beacons are being lit that evening. A "beacon" can be anything from a small bonfire to a gas or even laser display.

*Admiral Sir Ben Key, First Sea Lord and Chief of Naval Staff said "On 6 June 1944, Operations Neptune and Overlord unfolded. Meticulously planned over the course of years, they set the stage for one of humanity's most audacious military campaigns as the Allies sought to retake Western Europe from the Nazis. In planning and execution, the synchronised movements of hundreds of thousands of personnel and millions of tonnes of steel by sea and air onto the land, paved the way for extraordinary success. In 2024 we will gather to celebrate the 80th anniversary of D-Day. The numbers of those who remain grow fewer every year, but their deeds remain as inspiring as ever. They sailed offshore, flew overhead, and stormed the beaches, facing down incredible odds with unwavering resolve. Their footsteps are forever etched in history's sands and their bravery reflects the highest of human courage and determination."*

All parish and town councils are requested to have an item on their next available agenda "To consider taking part in the D-Day 80 commemorations". Please consider is see the Guide to Taking Part (link above) for all the details.

## COMMON ISSUES ARISING AT AUDIT TIME

As mentioned in the Chief's Brief above, the fourteen internal auditors on our Northants CALC Internal Audit Service (IAS) panel were busy in April, May, and June carrying out end-of-year internal audits for over 170 parish and town councils across Northamptonshire.

Every parish and town council and financially active parish meeting is required by law to appoint an internal auditor who is "independent" and "competent." "Independent" means separate from the financial management of the council, and "competent" means capable of conducting the internal audit of a parish council (for example, if a would-be internal auditor has never heard of Section 137, they are not "competent" within the meaning of the legislation). The internal auditor completes the Annual Internal Audit Report (AIAR) section of the Annual Governance & Accountability Return (AGAR).

The IAS team met on 20 July 2023 to debrief the audit year and here is a selection of the common issues that were identified:

1. Councils not providing full or any information upon which to base the internal audit. Internal auditors should be afforded unfettered access to all the council's documents and records, but the audit can only be based on the information provided at the time.
2. AGAR submitted to external auditor **before** the internal audit had taken place! The AGAR is not complete and cannot be submitted unless and until the internal auditor has completed their section.
3. No Internal Controls Councillor appointed by the council and therefore no quarterly check of the financial records maintained by the Responsible Finance Officer (RFO).
4. Failure to maintain up to date bank mandates and a sufficient number of signatories causing bank accounts to be inaccessible and the making of payments impossible, particularly after a clerk and/or councillors have just resigned.

5. Clerks and/or councillors making purchases on behalf of the council using their own credit card. This is prohibited in financial regulations.
6. All grants made by the council being made under Section 137 powers. It is an urban myth that when a council makes a grant it is done under the Section 137 general power. In fact, there will be a specific power for almost all grants, and councils eligible to use the General Power of Competence (GPoC) would use that for grants.
7. Unlawful budgeting processes by starting from a desired precept or Band D figure and working backwards. For example, a council says it wants to keep the precept or Band D tax rate the same as the previous year and so works out a budget that would achieve that. This is technically unlawful and leaves the council open to a risk of legal challenge.
8. Councils not approving the AGAR by 30 June. The 30 June is a **hard** deadline for completing the AGAR and resolving in a council meeting that it be signed and submitted. The submission deadline, which is normally in the first week of July, is set by the external auditor and is a slightly flexible date if you ask them nicely. But whatever the submission deadline, the approval deadline of 30 June is fixed in law and **cannot** be changed. If a council misses the deadline, it is liable to additional fees and charges and a Qualified Audit Opinion (QAO).
9. Councils not following PKF's instructions properly to publish the whole AGAR on the council's web site by the relevant due dates (1 July for Section 1 and 2, and 30 September for Section 3). The instructions and forms should be read carefully every year because there are always slight changes.
10. Exempt councils thinking that the AGAR process doesn't matter anymore because they are "exempt". Exempt councils are exempt from routine external audit, but still need to complete the appropriate AGAR and submit it to the external auditor.

The AGAR process is complex but not complicated. If clerks/RFOs read and follow the guidance and instructions, then all the issues above can be easily avoided. And if in doubt, ask, ask, ask!



## JAMS TODAY!

JAMS (the Junari Association Management System) is our new software system. On 28 June 2023 invitations to log into the JAMS portal were sent to all member clerks. To date, 117 (52%) of clerks have logged in and we've already had some fantastic feedback.

If you haven't received your email invitation it may have gone into your spam folder or if you still can't find it, please email Sophie Harding, Business Support Manager, at [sharding@northantscalc.com](mailto:sharding@northantscalc.com).



Once logged in, the JAMS portal allows clerks to update their council details to include their councillors, members of staff and any assets or services the council provides or has in their area. This information is going to help us target the right training and information to our member councils so if you haven't already, please log in and update these details.

In the portal there is also a user guide for the new website as well as a Knowledge Base. At the moment, you will find various sample and model policies and documents, The "Good Councillor's" series of guides, and past editions of the bi-monthly *eUpdate*. This is a new feature which is only available when logged into the portal and we will be expanding and evolving it as we use JAMS and receive your feedback.

There is a new section on the website for training where you will find details of our training programme as well as the CiLCA course and our newly released Officer Development Framework (ODF), the Councillor Development Framework (CDF) and Local Council Award Scheme (LCAS). Training courses, dates and (now) places can be viewed by all but it will only be the clerk who is able to book places when logged in. If you're not logged in or you don't have the right permissions, you'll get the following message "*You do not currently have permission to book this event.*". When training bookings are made, the attendee will receive a confirmation email and reminders a week before and a day before the course.

We are very excited about JAMS and the many features and benefits it's going to bring to our member councils. If you have any feedback about using JAMS or the new website front end (good or bad) please email [sharding@northantscalc.com](mailto:sharding@northantscalc.com).



## PARISH LIASON AT WNC

West Northamptonshire Council (WNC) is forging ahead in its efforts to engage with the one hundred and sixty-five parish and town councils and parish meetings in its area. Central to the engagement plan was the appointment in January 2023 of a dedicated Parish Council Liaison Officer, Alan Burns, who was appointed to implement the vision developed in 2022 by Seb Greene, WNC's Strategic Relationship Manager working in partnership with Northants CALC.



In 2019, Northants CALC published “**Building Communities**”, which set out a vision for the role of parish and town councils in the context of unitary local government and suggested that “*With the right support and investment from the unitary councils, parish and town councils can play a vital role in building stronger and safer communities. They can be a bridge between communities and the unitary councils and help people feel that they can influence decisions that affect their area. They can provide important local services and facilities, helping the unitary councils to focus on strategic public services.*”

Our publication said that “*Establishing good communications is fundamental to building an effective and respectful relationship and this will require conscious and deliberate planning.*” It would be fair to say that both unitary councils have struggled to establish good communications with parish and town councils over the past two years, but things are gradually improving.

Central to our proposals was that each unitary council “*establishes a Community Partnerships Office (CPO) to act as a first point of contact between the unitary council and the parish and town councils in its area. The CPOs would deal with enquiries directly or forward them to the appropriate officer and/or elected member... The CPO staff would quickly become very well-known and trusted officers!*” Neither unitary council has yet gone as far as to create a Community Partnerships Office, but WNC has at least made a start with Alan’s appointment, and he has certainly already become very well known to parish councils.

Every parish and town council in West Northamptonshire has Alan’s contact details and can use him as a first or last resort. If a clerk already knows which

department or officer to contact, then that can continue of course, but if they don't, or they have contacted an officer and not received a response, they can now contact Alan.

Part of Alan's work is recognising that a one-size-fits-all approach rarely works with parish and town councils, which are hugely diverse. In West Northamptonshire, the largest town council has 90,000 electors. The smallest parish meeting has 9 electors. Clearly then different approaches are required for different parishes. Consequently, a Larger Councils Operational Focus Group (LC-OFG) has been set up to provide a forum for the clerks of the thirteen largest parish and town councils in West Northamptonshire who between them represent over 70% of the population. It will meet quarterly in person, with monthly online catchups in between. The LC-OFG initiative recognises that these larger councils have different strategic needs to medium and smaller parish councils but in due course appropriate engagement mechanisms will be established for all parishes in West Northamptonshire.

Alan is also exploring thematic Operational Focus Groups (OFGs) which will include representation from all sizes of councils. It's early days, but Northants CALC is discussing with Alan plans for a Highways OFG and a Planning OFG, those being the two areas of greatest operational interest to parish and town councils.

The groups and forums are backed up with the monthly Parish Briefing, which is circulated electronically to all parish and town councils (and is itself a work in progress), and a dedicated section on the WNC web site (<https://www.westnorthants.gov.uk/resources-parish-and-town-clerks>), which Alan is using as a depository for all the resources he is uncovering at WNC, or is being asked by clerks to provide.

In addition, Northants CALC meets formally every month with Alan, sometimes with other officers joining depending on the topics under discussion. There is frequent email contact in between the monthly meetings. Northants CALC is able to advise on what might work and what might not.

Engagement and communication between WNC and parish and town councils is not yet perfect, and there have been some spectacular own goals from WNC, but things are improving fast. In Alan we trust/hope/expect!

## PRIVATE AND CONFIDENTIAL

A parish or town council is a public body. It conducts its business at a meeting, which is held in public and members of the public and press have a legal right under the Public Bodies (Admission to Meetings) Act 1960 to attend. The same rule applies to meetings of the full council and any committees.



There are limited and normally rare circumstances when it may be desirable to exclude members of the public and press where their presence at the meeting is prejudicial to the public interest because of the confidential nature of the business to be transacted. Section 1(2) of the Act provides that a council “*may, by resolution, exclude the public from a meeting... (whether during the whole or part of the proceedings) whenever publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or of the proceedings; and where such a resolution is passed, this Act shall not require the meeting to be open to the public during proceedings to which the resolution applies*”.

The chair should explain to members of the public and press the broad reason for the exclusion but must ensure that in doing so they do not disclose the confidential or sensitive information.

Note that the decision to exclude members of the public or press is made by resolution of the council (or committee). No individual, including the chair or clerk, has the right to order members of the public to leave; it must be a resolution of the council, proposed, seconded, and voted on in the usual way. The normal practice would be to have an agenda item “To exclude members of the public and press on the grounds that the following item is confidential because [it will consider sensitive commercial information].” The bit in brackets should be a very short, bland, reason for the exclusion. If the council resolves to exclude members of the public and press, then at that point the chair should ask them to leave quietly. It makes sense therefore for the confidential business to be at the end of the agenda, so that members of the public and press can go home at that point, rather than hanging around outside the meeting waiting to be called back in. Once all

members of the public and press have left, the chair can continue to the confidential item.

Note that the confidential part of a council meeting cannot be filmed or recorded, so councils should take reasonable steps to ensure that any recording devices have been switched off. Given the prevalence of smart phones, and other concealable recording devices, members of the public and press should be asked to take bags, coats, and any other personal possessions out with them.

The three broad categories for excluding members of the public and press are:

1. Personal information (of staff or councillors)
2. Commercially sensitive information
3. Legal disputes and certain complaints

Note that embarrassment and awkwardness are not included in the list above! There are all sorts of situations that councillors may find highly embarrassing to talk about in public, but unless it falls into one of the categories above, the embarrassment is not sufficient reason for taking away the legal right of a member of the public or press to be in the meeting.

Any business to be transacted that is confidential is probably only confidential in part. Imagine for example that a parcel of land comes up for sale in the area that the council is interested in purchasing for a new play area. The fact that the council is interested, what the plans are for the site, and how it might be funded (precept, grant, or borrowing) are all of public interest and should be discussed publicly. How much the council is going to bid for the land is commercially sensitive and should not be discussed publicly. So, in this example there might be three related agenda items: one to discuss the general elements of the business, one to exclude members of the public and press, and one to discuss the confidential elements of the business.

Any papers for a confidential item should be tabled in hard copy at the meeting. Councils should take a view of the risk of circulating the confidential papers electronically to councillors in advance, but they certainly should not be published on the council's web site. If the matter is highly confidential or sensitive, copies of the report tabled at the meeting should be collected in by the clerk and securely destroyed.

Any confidential business must still be minuted, and if the confidentiality remains after the meeting, the minutes should be kept separately and should not be published. The main minutes should just show that “A minute of the decisions made under this item is kept separately.”

Confidential normally has an expiry date, which can range from minutes to years. For example, if the reason for confidentiality was that the council was receiving legal advice, but the outcome was that no action will be taken, then the confidentiality probably expires at the moment the resolution is made. After that, whatever the matter was and the fact that the council has decided that no action will be taken are of public interest. In contrast, using the example above of purchasing a parcel of land, the amount that the council is willing to pay remains confidential until the land sale is concluded. If the council was the successful bidder, how much it paid for the land is a matter of public interest, and if it is not the successful bidder, how much it was prepared to pay is also of public interest. It is always wise for councillors to treat confidential business as confidential unless and until the clerk indicates in writing to councillors that the confidentiality has been lifted.

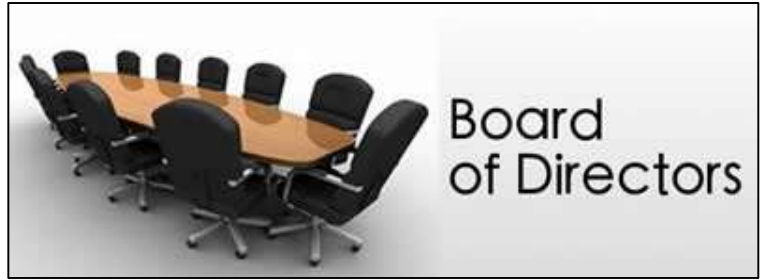
Transacting business having excluded members of the public and press should be a rare occurrence. Parish and town councils are public bodies and extinguishing the legal right of the public and press to attend meetings and observe proceedings should be treated as a last resort when proceeding in public would be impossible. There are too many occasions when councils have excluded the public and press when there were no reasonable grounds for doing so.

Transacting business in closed session carries risk because there is nothing more likely to pique the interest of the public and press than confidential business! Attempts may be made by members of the public and press to find out what is happening and what is going to be or has been discussed. Requests under Freedom of Information are likely unless the council has given a broad indication of what the business is and has adequately explained why the business is confidential.

If there is any doubt about whether or not an item should be transacted having excluded members of the public and press, or any question about when a confidential item might cease to be confidential, then please contact Northants CALC and we would be very happy to advise.

## THE BOARD OF DIRECTORS

The board of Northants CALC comprises of eight unremunerated directors who are all parish and town council clerks or councillors in Northamptonshire.



Currently there are two clerks and six councillors. Five are male, three are female. Five are from larger councils, three are from smaller councils. Four are from councils in North Northamptonshire, four are from councils in West Northamptonshire. The board operates a composition and diversity policy, and the current makeup is pretty close to optimum, although if there was a vacancy, we would probably be looking for a female clerk to a small council in North Northamptonshire!

The directors are selected through a recruitment process. When there is a vacancy, it is advertised in the *eUpdate* to all member councils and interested parties are invited to apply. Assuming there are more applicants than vacancies (which has always been the case hitherto) interviews are held by an Appointments Panel comprising of the Association's President, chair, and CEO. The candidate who best matches the composition and diversity policy and the needs of the Association at the time is chosen.

The term of office for directors is one year but they may be reappointed, which happens as part of the business at the AGM. The current average tenure is 7 years, with a range from 2 years to 12 years. You can read more about the current directors at <https://www.northantscalc.com/board-of-directors>.

The board meets ten times per year and the June meeting is designated as the annual Board Away Day. Unfortunately, the budget does not stretch to an all-expenses paid jolly to a prestigious European resort, but nevertheless a trip to a local venue and a sandwich still provides an opportunity for the board to take time to think wider and higher than the routine business of board meetings usually allows.

This year's Board Away Day was held on 15 June at the Collingtree Sports Pavilion, kindly offered to the Association for the day by Collingtree Parish



Council. Each director did a short presentation on their views of the current and future state of the parish sector. There was a lot of discussion about the unitary councils and how we need to work in partnership for the good of communities in Northamptonshire. Directors reviewed progress against the Strategic Plan and looked at the future of the local council support sector, including how the National Association of Local Councils (NALC) works with the forty county associations in England and what needs to be done to ensure the sector support is fit for purpose for the next twenty years.

The directors give their time freely for the benefit of the Association and for the good of all member parish and town councils across Northamptonshire. The board of directors provides the governance and strategic vision of the Association and holds the Chief Executive to account for implementing the vision and ensuring that member councils receive an excellent service.

It is valuable and valued work being a director at Northants CALC!

## SITUATIONS VACANT



All parish and town council officer vacancies in Northamptonshire are posted at <https://www.northantscalc.com/council-vacancies>.

There are vacancies currently at Spratton Parish Council (Clerk/RFO, 15 hrs/wk) and Syresham Parish Council (Clerk/RFO, 16 hrs/wk). The deadline for applications for both positions is 5pm on 11 August 2023.

Raunds Town Council has two vacancies, one for a full time (37 hours per week) **Open Spaces and Facilities Supervisor** (deadline for applications 12 noon on 4 August 2023) and one for an **Operations Manager** - Saxon Hall (zero hours, 10 – 20 hours per week anticipated) (deadline for applications 12noon on 11 August 2023).

If you or anyone you know might be looking for a clerkship and there isn't one on <https://www.northantscalc.com/council-vacancies> that fits the bill, please email [dmood@northantscalc.com](mailto:dmood@northantscalc.com) to receive details of potential future opportunities.

## A CAUTIONARY TALE

Members of the public with a beef against a parish council often resort to the Freedom of Information Act (FOIA) and use it as a weapon to beat the council over the head with. An FOI request is supposed to be a way for reasonable members of the public to obtain information from public bodies. It was never really intended to be weaponised.

There are exemptions that attempt to create a reasonable balance between a requester and the public body and one such exemption is provided by Section 14(1) of FOIA (vexatious requests). Treating a request as vexatious is tempting, because it means that the information requested does not have to be disclosed.

So, what does vexatious mean? Case law draws attention to four broad themes:

- the burden (on the public authority and its staff).
- the motive (of the requester).
- the value or serious purpose (of the request); and
- any harassment or distress (of and to staff).

However, the Information Commissioner's Office (ICO) warns not to use these four broad themes as a checklist, and that they are not exhaustive: "...all the circumstances need to be considered in reaching what is ultimately a value judgement as to whether the request in issue is vexatious in the sense of being a disproportionate, manifestly unjustified, inappropriate or improper use of FOIA".

A parish council in Leicestershire relied on Section 14 when responding to an FOI request for detailed copies of its accounts. The council described having received over thirty questions via email and in council meetings during 2021 and that the requester had placed a "significant burden" on the council.

A complaint made by the requester to the ICO was upheld. The ICO said that "*Part of the test for the appropriate application of section 14 is to balance the public value of the information requested against the burden which would be placed upon the authority in responding to the request for information.*" and "*Given the public value of the requested information, balanced against the burden of responding to the request, the Commissioner is satisfied, that the complainant's request was not vexatious in this instance.*"

The Commissioner required the council to issue a fresh response to the complainant that did not rely on Section 14(1). The council was given thirty-five calendar days to comply and warned that “*Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to Section 54 of the Act and may be dealt with as a contempt of court.*”

It is tempting to treat almost any FOI request as vexatious, but a council needs to be sure that the request is vexatious in the legal sense.

Receiving FOI requests is usually a symptom of much deeper governance and accountability issues. Taking a simplistic view, there are only two types of information that a council holds: public information and confidential information. All the public information should be proactively published on the council’s web site so that a member of the public does not have to request it under FOI in the first place. And confidential information should not be disclosed under FOI because it is, well, confidential!

Parish and town councils in Northamptonshire that receive FOI requests should never feel alone in responding to them. Lesley Sambrook Smith at Northants CALC has developed significant experience and knowledge over the past five years in the area and would be pleased to point any member council in the right direction.

## **TRAINING AND DEVELOPMENT FOR LOCAL COUNCILS**

We are running more courses than ever before. There is lots of training available to you as a clerk or councillor in Northamptonshire. See our dedicated web page <https://www.northantscalc.com/training-and-events> for details of all courses.

### **Northants CALC Training and Events**



See our website for the latest courses available [www.northantscalc.com/training-and-events](https://www.northantscalc.com/training-and-events)

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