

Stalmine-with-Staynall Parish Council Guide to a Council's Powers and Duties

What are powers and duties?

Duties are legal obligations – actions that a council must take by law.

A council must:

- appoint a chairman of the council
- appoint officers as appropriate for carrying out its functions
- appoint an independent and competent internal auditor
- appoint a responsible financial officer (RFO) to manage the council's financial affairs (The RFO is often the clerk, especially in smaller councils)
- hold a minimum number of four meetings per year, one of which must be the Annual Meeting of the Council
- consider the provision of allotments if there is demand for them from local residents and it is reasonable to do so
- hold an annual Parish / Town meeting
- comply with its obligations under the Freedom of Information Act (2000), the Data Protection Act (1998) and the Equality Act (2010), General Data Protection Act (GDPR) and the Localism Act 2011
- comply with employment law
- consider the impact of their decisions on reducing crime and disorder in their area
- have regard to the protection of biodiversity in carrying out their functions
- decide whether to adopt a churchyard when it is closed, if asked to do so by the Parochial Church Council
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Powers are contained in legislation and permit actions to be taken at the council's discretion.

- A council may do only what the law requires it to
- A council may do only what the law says it may
- A council cannot do anything unless permitted by legislation
- The good news is that local councils have a wide range of powers.
- A useful list is provided below, examples provide and maintain bus shelters, street lights, provide recreational facilities and support Citizens Advice

Below is an indicative list of powers and functions to help you appreciate the wide range of activities covered by Acts of Parliament (see also Governance and Accountability). It is a useful reference when you need to know if the local council has permission to act but note, no list can be totally comprehensive.

Function	Powers and Duties	Statutory Provisions
Allotments	Power to provide allotments <i>Duty to provide allotment gardens if demand unsatisfied and if reasonable to do so</i>	Smallholdings & Allotments Act 1908, s.23
Administration of the council.	<i>Duty to undertake the following: - Appoint a chairman of the council; Appoint officers as appropriate for carrying out its functions; Appoint a responsible financial officer (RFO) to manage the council's financial affairs; the RFO is often the clerk especially in smaller councils; Appoint an independent and competent auditor; Hold a minimum number of 4 meetings per year, one of which must be the Annual Meeting of the Council.</i>	Local Government Act 1972, s.15(2) Local Government Act 1972 s 112 (1) Local Government Act 1972, s151 Local Government Act 1972, schedule 12 p8 (1)
Annual Parish meeting	<i>Duty to hold an annual parish meeting.</i>	Local Government Act 1972, s12 para 23
Borrowing money	Power for councils to borrow money for their statutory functions or for the prudent management of their financial affairs	Local Government Act 2003 Schedule 1 para 2
Baths (public)	Power to provide public swimming baths and washhouses.	Public Health Act 1936 s.221
Bio-Diversity	<i>Duty to consider in decision making</i>	Natural Environment and Rural Communities Act 2006 s.40
Burial grounds, cemeteries and crematoria	Power to acquire and maintain	Open Spaces Act 1906,
	Power to provide	Sections 9 and 10 Local Government Act 1972, s.214
	Power to agree to maintain monuments and memorials	Parish Councils and Burial, Authorities (Miscellaneous, Provisions) Act 1970, s.1
	Power to contribute towards expenses of cemeteries	Local Government Act 1972, s.214(6)
Bus shelters	Power to provide and maintain bus shelters	Local Government (Misc. shelters Prov.) Act 1953, s.4
Byelaws	Power to make byelaws in regard to pleasure grounds	Public Health Act 1875, s.164
	Cycle Parks	Road Traffic Regulation Act 1984, s.57(7)

	Baths and washhouses	Public Health Act 1936, s.22
	Open spaces and burial grounds	Open Spaces Act, 1906, s.15
	Mortuaries and post-mortem rooms	Public Health Act 1936, s.198
Charities	<i>Duties in respect of parochial charities Power to act as charity trustees</i>	Charities Act 1993, s.79 Local Government Act 1972 s. 139(1)
Clocks	Power to provide public clocks	Parish Councils Act 1957, s.2
Closed churchyards	Powers to maintain and a <i>Duty to decide whether to adopt a closed churchyard, if asked to do so by the Parochial Church Council.</i>	LGA 1972 s.215
Commons and Common pastures	Powers in relation to enclosure, regulation and management and provision of common pasture	Enclosure Act 1845 Small Holdings and Allotments Act 1908, s.34
Community centres	Power to provide and equip buildings for use of clubs, having athletic, social or educational objectives Power to acquire, provide and furnish community buildings	Local Government (Miscellaneous Provisions) Act 1976 s.19 Local Government Act 1972, s.133
Conference facilities	Power to provide and encourage the use of facilities	Local Government Act 1972, s.144
Crime prevention	Power to spend money on various crime prevention measures. <i>Duty to do what it can do to prevent crime and disorder.</i>	Local Government and Rating Act 1997, s.31 Crime and Disorder Act 1998 s.17
Drainage	Power to deal with ponds and ditches	Public Health Act 1936, s.260
Employment	<i>Duty to comply with Employment Law</i>	Employment Act 2002 Employment Relations Act 2004 Employment Act 2008 The Work & Families Act 2006 Equality Act 2010, s.149 and schedule 19 Human Rights Act 1998 s.6
Entertainment and the Arts	Provision of entertainment and support of the arts	LGA 1972, s.145

Environment	Power to issue fixed penalty notices for litter, graffiti and offences underdog control orders	Clean neighbourhoods and Environment Act 2005, s.19 s.30 Part 6
The "Free Resource"	Power to spend a sum of money for the benefit of some or all of the parishioners. The expenditure must be commensurate with the benefit.	Local Government Act 1972 s.137
Freedom of Information	<i>Duty to comply with its obligations under the Freedom of Information Act and Data Protection Act.</i>	Freedom of Information Act 2000 Data Protection Act 1998
General Power of Competence	Power for an eligible council to do anything subject to statutory prohibitions, restrictions and limitations which include those in place before or after the introduction of the general power of competence.	Localism Act 2011, s.1-8
Gifts	Power to accept gifts	LGA 1972, s.139
Highways	Power to repair and maintain public footpaths and Bridleways	Highways Act 1980, ss. 43,50
	Power to light roads and public places	Parish Councils Act 1957 s.3 Highways Act 1980, s301
	Provision of litter bins	Litter Act 1983, ss.5,6
Highways	Power to provide parking places for vehicles, bicycles and motor cycles	Road Traffic Regulation Act 1984 s.57, 63
	Power to enter into an agreement as to dedication and widening	Highways Act 1980 ss.30, 72
	Power to provide roadside seats and shelters	Parish Councils Act 1957 s.1
	Consent of parish council required for ending maintenance of highway at public expense, or for stopping up or diversion of highway.	Highways Act 1980, ss.47,116
	Power to complain to district council about the protection of rights of way and roadside waste	Highways Act 1908, s.130
	Power to provide certain traffic signs and other Notices	Road Traffic Regulation Act.1984, s.72
	Power to plant trees etc. and maintain roadside verges	Highways Act 1980, s.96
Honorary Titles	Power to admit to be honorary freemen/freewomen of the council's area persons of distinction and persons have, in the opinion of the authority rendered eminent services to that place or area.	Local Government Act 1972, s.249
Investments	Power to participate in schemes of Collective investment	Trustee Investment Act 1961 s.11

	Power to acquire land by agreement, to appropriate land and to dispose of land	LGA 1972, ss.124, 126 & 127
Land	Power to accept gifts of land	LGA 1972, s.139
Litter	Provision of receptacles	Litter Act 1983, ss.5,
Lotteries	Power to promote lotteries	Gambling Act 2005 s.252, 258
Markets	Power to establish or acquire by agreement markets within the council's area and to provide a market place and market buildings	Food Act 1984 s.50
Minutes	<i>Duty to keep minutes</i>	Local Government Act 1972, s12 p41(1)
Mortuaries and post-mortem rooms	Power to provide mortuaries and post-mortem rooms	Public Health Act 1936, s198
Newsletters	Power to provide information relating to Matters affecting local government	LGA 1972 s.142
Nuisances	Power to deal with offensive ponds, ditches and gutters	Public Health Act 1936, s.260
Open Spaces	Power to acquire and maintain land for public recreation	Public Health Act 1875 s.164
	Power to acquire and maintain land for open spaces	Open Spaces Act 1906, s.9-10
Parish property and documents	Powers to direct as to their custody	Local Government Act 1972, s.226
	<i>Duty to deposit certain published works in specific deposit libraries</i>	Legal Deposit Libraries Act 2003, s.1
Public buildings and village halls	Power to acquire and provide buildings for public meetings and assemblies	LGA 1972, s.133
Precept	Power to set the precept	Local Government Act 1972, s.41(4)
Public conveniences	Power to provide public conveniences	Public Health Act 1936, s. 87
Recreation	Power to acquire land or to provide recreation grounds, public walks, pleasure grounds and open spaces and to manage and control them Power to provide a wide range of Recreational facilities Provision of boating pools	Public Health Act 1875, s.164 Local Government Act 1972, Sched. 14 para 27 Public Health Acts Amendment Act 1890 s.144 Open Spaces Act 1906, ss. 9 and 10 Local Government

		(Miscellaneous Provisions) 1976 s.19 Public Health Act 1961 s.54
Town and Country Planning	Right to be notified of planning applications if right has been requested	Town and Country Planning Act 1990. Sched 1, para 8
Tourism	Power to contribute to encouragement of Tourism	LGA 1972, s.144
Traffic calming	Power to contribute financially to traffic calming measures	Local Government and Rating Act 1997 s.30
Transport	Powers to spend money on community transport schemes	Local Government and Rating Act 1997, s.26-29
War memorials	Power to maintain, repair, protect and adapt war memorials	War Memorials (Local Authorities Powers) Act 1923, s.1 as extended by LGA 1948 s.133
Water supply	Power to utilise any well, spring or stream for obtaining water	Public Health Act 1936 s.125
Websites	Power for councils to have their own websites <i>Duty on smaller authorities to publish specific information on a website.</i>	LGA 1972, s.142 Transparency Code for Smaller Authorities 2014.