

## PLEASE NOTE THE VENUE AND TIME

### SWANWICK PARISH COUNCIL

Clerk to the Council

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12<sup>th</sup> December 2019

You are summoned to attend the **FULL COUNCIL MEETING** to be held at **Meeting Rooms, rear of Baptist Church, Derby Road, Swanwick** on **Thursday 19<sup>th</sup> December 2019 at 7.00pm.**

Members are asked to sign the attendance sheet for the meeting and to complete the Declarations Sheet (if appropriate), both available at the meeting.

#### Clerk to the Council

### AGENDA

#### 1. Apologies

Members are reminded to give their apologies direct to the Clerk, these must be made **well in advance** (barring last minute emergencies) of the meeting giving the Clerk enough time to cancel if there is a prospect of the meeting not being quorate.

#### 2. Variation of Order of Business

#### 3. Declarations of Interest

Members must fill out the Declaration of Interests Forms for submission. Members are requested to declare any personal or prejudicial interest they may have in any item of the evening's business, and to explain the nature of that interest.

Where a member indicates that they have a prejudicial interest, but wish to make representation regarding the item before leaving the meeting, they must do so under item 4D of Public Participation.

#### 4. Public Participation

**A) Public Attendance & Speaking:** Residents wishing to speak need to book in with the Clerk, preferably prior to the meeting by email/phone or immediately prior to the start of the meeting.

**Whether wishing to speak or not, each member of the public is required to indicate whether or not they consent to have their name and/ or organisation recorded and published in the minutes of the meeting. Minutes are published on the Parish Council website and are available to the public under the Freedom of Information Act 2000.**

At the start of the meeting a period is available for members of the public to ask questions, make representations or submit comments. This is **LIMITED TO THREE MINUTES PER PERSON** – at the sole discretion of the Chair.

**B) Parish Council Members' observations will be taken alongside Reports from any Borough and County Councillors attending.**

**C) Police Matters**

Information is on the following web pages [www.police.uk/derbyshire/NR06/](http://www.police.uk/derbyshire/NR06/)

**D) Representations or Evidence from Members Declaring a Prejudicial Interest**

Members indicating that they have a prejudicial interest in an agenda item and who wish to make a representation before leaving the meeting shall do so at this stage.

**5. Minutes of Full Council**

**5.1 To receive the Minutes of the Meeting held 21<sup>st</sup> November 2019**

**6. Planning Matters**

**6.1 Planning Applications for comment:** All applications can be viewed at [www.ambervalley.gov.uk](http://www.ambervalley.gov.uk) click on Planning and then click on Planning Applications and use the AVA reference number to search.

**7. Clerk's Report**

- 7.1** Vacancies in the Office of Parish Councillor
- 7.2** Councillor Attendance record 2019/20
- 7.3** Banking Update
- 7.4** Gardening Maintenance Tender
- 7.5** Swanwick Recreation Grounds Chapel Street

**8. Chair's Report (Verbal Report)**

**8.1** Budget 2020-21 – to determine budget for 2020-21 (papers to follow).

**9. Councillors' Updates**

Website Activity & Social Media  
Village Hall Working Group  
Defibrillator Working Group  
Civic Service 2019  
Armed Forces Covenant

**10. Correspondence & Circulars (copies are available on the website)**

- 10.1** DALC 12 - 2019
- 10.2** DALC 13 - 2019

**11. Accounts**

**11.1 To approve urgent payments made to the following:**

Date	Cheque	To Whom Payable	Reason	Amount £
18.11.19	DD	Haven Power	Electric Utility	14.00
11.11.19	3893	mh-p internet	SPC.org.uk Yearly Subs	588.00
22.11.19	BACS	Clerk Expenses	Laptop Update	75.00
22.11.19	BACS	G Soudah	Chair's Allowance 2nd Half 2019-20	400.00
26.11.19	BACS	British Legion	40 lamppost poppies and wreath	140.00
26.11.19	BACS	The Pantry	Civic Service Catering	654.50
02.12.19	DEBIT CARD	Post Office	DCC Signed For	2.26
02.12.19	DEBIT CARD	Toolstation	Cable Ties	16.49

02.12.19	DEBIT CARD	Toolstation	Turnbuckles	4.28
02.12.19	DEBIT CARD	O2	Clerks Mobile Phone Oct 2019	17.22
02.12.19	DEBIT CARD	Help the Heros	Flugelhorn Donation Rem Sunday 2019	50.00
02.12.19	DEBIT CARD	Tesco	Civic Service Drinks etc	157.73
02.12.19	DEBIT CARD	Range	Civic Service Plates etc	16.96
02.12.19	DEBIT CARD	Amazon	Printer Cartridges	23.70
			<b>Total</b>	<b>2160.14</b>

### 11.2 To approve payments to the following:

To Whom Payable	Payment Ref	Reason	Amount £
Staff	BACS	Mth 9 Year End 2020 Salaries	2817.09
HMRC	BACS	Mth 9 Tax & NI Contribution Year End 2020	759.14
NEST	D/D	Mth 9 Pension Deduction & Employer Contribution Year End 2020	240.64
Iansprint	BACS	Dec 2019 Newsletter Printing	225.00
Cllr M Barnett	CHQ	Honorarium Qtr 4	80.00
LITE	BACS	Christmas lights installation 2019 including new lights for The Gate and Steampacket	12804.00
Clerk	BACS	Working from Home Expenses Dec 2019 to Nov 2020	300.00
		<b>Total</b>	<b>17225.87</b>

### 11.3 Income Received:

Date	Remittance	Amount £
	<b>Total</b>	<b>0.00</b>

## 12. Bank Reconciliation

### Cash Book Reconciliation

#### 02.12.19

Opening Balance 01.04.19	181,054.23	
Receipts to 02.12.19	530,288.05	
Sub Total		711,342.28
Payments to 02.12.19	147,880.45	
Unpresented cheques 2018/19	0.00	
Sub Total		147,880.45
Closing Balance 02.12.19		563,461.83
Bank Balance at 02.12.19		563,461.83

## 13. Exclusion of Press & Public

'That pursuant to section 1(2) of the Public Bodies (Admission to Meetings) Act 1960, the press and public be excluded from the meeting for Agenda Item(s) below by reason of the confidential nature of the business to be transacted'.

## 14. Items for the next Agenda

Items are invited for inclusion in next month's agenda

- 15. Date of Next Meeting: 7.00pm 16<sup>th</sup> January 2020 at the Meeting Room at the rear of the Baptist Church, Derby Road.**

**SWANWICK PARISH COUNCIL  
MINUTES OF THE PARISH COUNCIL MEETING  
THURSDAY 21<sup>st</sup> November 2019 at 7pm**

**Present:** Cllrs Goodier, Grant, King, Payne, Soudah, Trenear & Clerk C Miles

**Members of the Public:**

**Members of the public listed waived their right to anonymity under the Data Protection Act:**

Cllr D Wilson (left at 7.13pm), J Briggs, E Brown & A Wildgoose

**754/2019 APOLOGIES**

Cllr Barnett, Chidlow & Webster

**755/2019 VARIATION OF ORDER OF BUSINESS**

None

**756/2019 DECLARATION OF INTEREST**

Members were requested to declare any personal or prejudicial interest they may have in any item of the evening's business, and to explain the nature of that interest.

Cllr. Soudah declared interest in item no.11.1

The Councillor remained in the meeting.

**757/2019 PUBLIC PARTICIPATION**

**757.1/2019 Public Speaking –**

**Cllr Wilson** informed the Council that a green area on Ashton Close had been damaged by a vehicle and this had been reported to the Authorities.

**757.2/2019 Members' Observations**

**Cllr Allen King –**

Mentioned that Cray's Hill had been given a Green Flag for 2019

**Cllr Cathryn Goodier –**

Reported mud on the pavement/road near the Village Hall site, the Clerk will speak to the contractors.

**757.3/2019 POLICE MATTERS**

None reported and all can be viewed online.

**757.4/2019 REPRESENTATIONS OR EVIDENCE FROM MEMBERS  
DECLARING A PREJUDICIAL INTEREST**

None

**758/2019 MINUTES OF FULL COUNCIL**

**RESOLVED:**

Minutes of Full Council held 17<sup>th</sup> October 2019 be received as correct account of the meeting. The minutes were signed by the Chair.

**759/2019 PLANNING MATTERS**  
**759.1/2019 Planning Applications**

None

**760/2019 CLERK'S REPORT**

The Clerk's report was presented by the Clerk.

**760.1/2019 Vacancies in the office of Parish Councillor**

Members noted the update.

**760.2/2019 Councillor Attendance Record**

Members noted the update.

**760.3/2019 Banking update**

Members noted the update.

**760.4/2019 Lamp Post Poppies**

Members noted the update.

**760.5/2019 Minster Way Entrance**

Members noted the update and the Clerk noted to look into future insurance

**760.6/2019 Winter Planting**

**RESOLVED:**

To authorise the Clerk to proceed with the winter planting as per the quote and to look into the options of a feature on the Pentrich Road Roundabout.

**760.7/2019 Double Yellow Line Parking**

Members noted the update and the Clerk will look into getting lines on High Street repainted.

**761/2019 Chair's Report**

The Chairs comments are reported under Councillors Updates.

**762/2019 Councillor Updates**

**762.1/2019 Website activity & Social Media**

Analysis of website activity as follows –

Facebook reached over 460.

SPC Website had 245 visits.

**762.2/2019 Village Hall Working Group**

No meeting this month, Cllr Chidlow & the Clerk attended a Village & Community Halls Conference run by Rural Action Derbyshire and found it very informative and the VHWG Funding Group are now reaching out to a couple of contacts made that day.

**762.3/2019 Defibrillator Working Group**

There hasn't been a meeting and a donation of £50 has been promised by The Swanwick Crematorium.

**762.4/2019 Remembrance Sunday 10th November 2019**

A good attendance and everything went well.

## 762.5/2019 Civic Service Monday 9<sup>th</sup> December 2019

Everything else has been sorted.

## 762.6/2019 Swanwick Recreation Ground

A draft report has been received from Chris Potter AVBC. The Chair with the Clerk has commented on the draft despite the fact that it has been published in advance of the AVBC Cabinet meeting to be held on 4<sup>th</sup> December 2019

## 763/2019 Correspondence & Circulars

None

## 764/2019 Accounts

### 764.1/2019 RESOLVED: To approve urgent payments

Date	Cheque	To Whom Payable	Reason	Amount £
04.10.19	BACS	UKDMO - PWLB	Loan No 509437	10,350.05
17.10.19	DD	Haven Power	Electric Utility	14.00
24.10.19	BACS	G Soudah	Chairs Phone & B/band	60.00
24.10.19	BACS	G Soudah	100th birthday card flowers etc x 2	55.00
25.10.19	BACS	Swanwick Baptist Church	Room Hire July-Sept 2019	60.00
28.10.19	BACS	Grasstrack	Gardening Maintenance Sept 19	896.00
28.10.19	BACS	Platinum Electrical	Stress Testing Oct 2019	688.80
31.10.19	DEBIT CARD	Tesco	1 <sup>st</sup> Class Stamps	8.40
31.10.19	DEBIT CARD	Card Factory	Get Well Card - Staton	0.99
31.10.19	DEBIT CARD	Tool Station	Cable Ties	2.51
31.10.19	DEBIT CARD	O2	Clerks Mobile Phone Sept 2019	17.22
31.10.19	DEBIT CARD	O2	Clerks Mobile Phone credit 2019	-4.00
31.10.19	DEBIT CARD	Rontec	Caretakers Fuel	30.67
			<b>Total</b>	<b>12179.64</b>

### 764.2/2019 RESOLVED: To approve the following payment

To Whom Payable	Payment Ref	Reason	Amount £
Staff	BACS	Mth 8 Year End 2020 Salaries	2720.09
HMRC	BACS	Mth 8 Tax & NI Contribution Year End 2020	691.44
NEST	D/D	Mth 8 Pension Deduction & Employer Contribution Year End 2020	230.14
Ground Support Services	BACS	Final payment for Grouting Works	37440.00
		<b>Total</b>	<b>41081.67</b>

### 764.3/2019 Income Received Noted

Date	Remittance	Amount £
	<b>Total</b>	<b>0.00</b>

## **765/2019 Bank Reconciliation**

### **Noted:**

#### **Cash Book Reconciliation**

**31.10.19**

Opening Balance 01.04.19	181,054.23	
Receipts to 31.10.19	530,288.05	
Sub Total		711,342.28
Payments to 31.10.19	123,358.64	
Unpresented cheques 2018/19	0.00	
Sub Total		123,358.64
Closing Balance 31.10.19		587,983.64
Bank Balance at 31.10.19		587,983.64

## **766/2019 Exclusion of Press & Public**

None.

## **767/2019 Items for the next agenda**

Budgets.

## **768/2019 Date & Time of Next Meeting**

Date of Next Meeting: 7.00pm 19<sup>th</sup> December 2019 at the Meeting Room at the rear of the Baptist Church, Derby Road.

## **Meeting closed at 20.10**

Signed:

Date:



# 7. Clerk's Report to Swanwick Parish Council Meeting 19<sup>th</sup> December 2019

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## **7.1 Notice of vacancy in the office of Parish Councillor**

There are now a total of two vacancies for Parish Councillors. I urge members to increase the effort to persuade any resident to consider applying to be co-opted as a Parish Councillor.

## **7.2 Councillor Attendance record 2019-20**

Members are reminded to notify the Clerk of any apologies (barring emergencies) well in advance of the morning of the council meeting. This is to ensure that the Clerk is aware that the meeting is quorate or needs to be rearranged if not quorate.

## **7.3 Banking update**

To discuss with Members.

## **7.4 Gardening Maintenance Tender**

Invitation to tender for the gardening maintenance contract for 2020-21 will shortly be sent out to the current contractor and to any contractors, who have recently made inquiries. Notices will also be placed on our website and Facebook.

## **7.5 - Swanwick Recreation Grounds Chapel Street**

The Council has been advised that the AVBC Cabinet accepted the recommendations set out in the Cabinet report and the draft minutes will be published shortly.

## Councillor Attendance Record May 2019 – April 2020

Name	May 16	June 20	July 18	Aug HOLS	Sept 19	Oct 17	Nov 21	Dec 19	Jan 16	Feb 20	Mar 19	Apr 16	%	2018-19
Barnett	√	<b>X</b>	√		√	√	<b>X</b>						<b>67%</b>	<b>91%</b>
Chidlow	√	<b>X</b>	√		√	√	<b>X</b>						<b>67%</b>	<b>64%</b>
Goodier	√	√	√		<b>X</b>	√	√						<b>83%</b>	<b>80%</b>
Grant	-	-	-		-	√	√						<b>100%</b>	-
King	√	√	<b>X</b>		√	<b>X</b>	√						<b>67%</b>	<b>82%</b>
Payne	√	√	√		√	√	√						<b>100%</b>	<b>100%</b>
Soudah	√	√	√		√	√	√						<b>100%</b>	<b>91%</b>
Trehear	√	<b>X</b>	√		√	√	√						<b>83%</b>	<b>100%</b>
Webster	√	<b>X</b>	√		<b>X</b>	√	<b>X</b>						<b>50%</b>	-
Hayes	<b>X</b>	<b>X</b>	<b>X</b>		<b>X</b>	<b>X</b>	<b>X</b>						<b>0%</b>	<b>0%</b>
Wilson	√	√	<b>X</b>		<b>X</b>	√	√						<b>67%</b>	<b>45%</b>
Smith	<b>X</b>	<b>X</b>	<b>X</b>		<b>X</b>	<b>X</b>	<b>X</b>						<b>0%</b>	<b>0%</b>
Marshall-Clarke	<b>X</b>	<b>X</b>	<b>X</b>		<b>X</b>	<b>X</b>	<b>X</b>						<b>0%</b>	<b>0%</b>

# Derbyshire Association of Local Councils



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## Circular No. 12/2019

To all Member Town and Parish Councils and Parish Meetings

### GENERAL CIRCULAR

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#### In this Circular:

- DALC Annual General Meeting & Excellence Awards
- Children's Funeral Fund – Reimbursement for Burial Authorities
- Consultation: National Audit Office (External Audit)
- NALC respond to consultation on deployment of 5G
- Security of data
- HR Advice
- Stories from around the County: Brimington's Tuesday lunch addresses loneliness

#### 1. DALC ANNUAL GENERAL MEETING & EXCELLENCE AWARDS

Once again, a highlight of our AGM was the DALC Excellence Awards.

Now in their second year, the awards are growing in popularity, with nominations received from across Derbyshire in the categories Clerk, Councillor and Council of the Year.

Our judging panel drew up shortlists in each category, with final results and award certificates presented during the AGM at Chesterfield FC's ProAct Stadium.

Overall winners are:



**BHIB Council of the Year – Charlesworth Parish Council.**  
 Highly Commended – Ripley Town Council, Kilburn Parish Council, Ashbourne Town Council



**Blachere Illumination Clerk of the Year – Phillip Woodward (Pilsley PC)**  
 Highly Commended – Alan Jacques (Grindleford PC), Tony Walker (Dethick, Lea & Holloway PC)



**Councillor of the Year** – Olwen Wilson (Middleton-by-Wirksworth PC)  
Highly Commended – Kevin McDonald (Kilburn PC), Michael Edge and Phillip Kirkham (Parwich PC).

We'd like to thank our sponsors – BHIB Councils Insurance and Blachere Illumination UK – for once again being part of our Awards, and look forward to receiving Clerk, Councillor and Council nominations for the 2020 edition! Application forms will be mailed out in the New Year.

## **2. CHILDREN'S FUNERAL FUND – REIMBURSEMENT FOR BURIAL AUTHORITIES**

The Government has introduced a new scheme whereby it will reimburse burial authorities in England, including town and parish councils for the fees they would normally charge for children's burials. Full details of the Children's Funeral Fund for England scheme and the burial authorities claim form are now available. The news release and links to forms can be found [here](#).

## **3. CONSULTATION: NATIONAL AUDIT OFFICE (EXTERNAL AUDIT)**

The National Audit Office (NAO) has issued the second part of its [consultation on the new Code of Audit Practice](#) which is due to come into force by 1 April 2020. NALC will be responding on behalf of the sector and is currently thinking of the following response:

- There is a difficulty for smaller local councils of the potentially high and disproportionate cost on a small authority when a concerted number of electors decide to raise a high number of minor / technical objections of a vexatious nature. We want to support the continued principle of proportionality (i.e. a lighter-touch for smaller bodies) and of safeguards to contain excessive fees brought about by habitual complainers.

- There should be the inclusion of a principle relating to proportionality in respect of smaller authorities, especially where the authority has an annual budget / turnover below £25k and is potentially exempt (i.e. smaller and subject to the Smaller Authorities' Transparency Code).
- We agree retention of the current bullet under clause 5.4 that the auditor should consider "the costs of dealing with the matter, bearing in mind that these are borne by the taxpayer" where to a smaller local council the costs of an audit investigation could cost more than the council's annual precept.
- NAO should also in our view work with NALC and the local council sector in the future to consider the need to revise upwards the financial turnover audit and accounts threshold of £6.5 million for the largest spending local councils in England.

However, NALC would welcome your views in relation to the following questions. If you have any comments to make please send them to [chiefofficer@derbyshirealc.gov.uk](mailto:chiefofficer@derbyshirealc.gov.uk) and I will send a response for Derbyshire.

- Do you think the updated draft Code should include more with respect to when auditors might be expected to use their additional powers?
- Do you think the current approach set out in the updated draft Code to undertake work at smaller authorities under specified procedures will enable auditors to continue to respond to the challenges at smaller authorities?
- Do you think the current approach to considering economy, efficiency and effectiveness at smaller authorities being appropriate and proportionate to the size of the bodies being reviewed is sufficiently reflected in the updated draft Code?

#### **4. NALC RESPOND TO CONSULTATION ON DEPLOYMENT OF 5G**

The National Association of Local Councils (NALC) responded on behalf of the Parish and Town Council sector with the following key points:

- Calling for a change in government policy on planning applications for mobile telephone masts to ensure that all heights of masts are subject to a full planning application and proper consultation with local (parish and town) councils
- Requesting new build houses and business to be provided with in-built infrastructure to enable connection to fibre-optic broadband
- Support for the Rural Coalition's call for infrastructure, which reaches rural areas so the rural economy can grow and create jobs

#### **5. SECURITY OF DATA**

All councils have legal obligations to protect the security of data that identifies a living person (personal data). Failure to comply with these obligations could result in the council being subject to fines or other enforcement action by the Information Commissioner and the reputational damage that ensues from such enforcement actions.

Whilst the tool kit is aimed at local councils (town and parish councils and Welsh community councils), the advice should be heeded by principal authorities, especially in relation to councillor owned devices.



All councils must ensure the confidentiality, integrity and availability of all the personal data it holds, even if the data is being processed through personal email accounts or is stored on a privately-owned device. The council is accountable for any council business conducted involving personal data on any device or through any email account.

At parish level, it is likely that emails containing personal data or with attachments that contain personal data will be circulated to councillors by the clerk to the councillor's private email addresses and stored and accessed on the councillors' private devices.

The data protection breach risks of this are numerous, including:

- the document will become inaccurate or out of date over time,
- that it will be retained for longer than necessary,
- that it will be shared inappropriately,
- that it can be viewed by others, if others have access to the device and or private email address, and
- that it will be difficult to respond to a subject access request if the council has to search multiple devices on which the personal data may be stored.

Even in the largest unitary authority, where each councillor will have a council email address, it is likely that the email and attachments will be accessed using a councillor owned personal device and could be saved to that device or forwarded by that device.

The risks of the use of personal devices include:

- that the data will be accessed if the device is lost or stolen,
- the systems that are used to transfer data to other devices are not secure, and
- the blurring of personal and/or political use with council use.

Councils must have appropriate technical and organisational measures in place to prevent the compromising of the personal data it holds.

### **Organisational measures**

The council should have the following policies which all councillors should be aware of and trained on regularly:

- Privacy Policy - which states what type of personal data the council holds, how it stores it, how it processes it and with who it shares the data with. Some principal authorities are encouraging councillors themselves to adopt a Privacy Policy especially where councillors undertake advocacy work on behalf of members of the public in their wards
- Document retention and disposal policy - which details how long types of documents will be held for
- Information security incident policy - which details what staff and councillors should do if the security of data is compromised, ranging from incidents of theft and lost devices to data sent to a wrong email recipient
- Personal device acceptable use policy - detailing how the device should be used for council matters, including the prohibition on saving documents to the device, the

provisions that the device automatically locks if inactive for a period of time and that a device must be password protected.

### **Technical measures**

These range from the complex and costly to the simple, from measures that will need to be implemented by the council's IT section to those that a parish clerk or local authority officer can do, including:

- Registering the personal devices with a remote locate and wipe facility to maintain confidentiality of the data in the event of device loss or theft
- Password protecting all devices, including ensuring that all councillor owned devices are password protected, to stop unauthorised access of the device
- Setting editing and printing restrictions on a document containing personal data
- Password protecting or encrypting documents sent by email
- Only uploading documents containing personal data to a secure file share app eg Dropbox or similar or onto the councillor login section of the council's website and sending out an email notification of the upload to councillors

The [ICO Local Council ToolKit](#) can be viewed on their website. Councils should seek specialist legal advice as to the use of their data being access by councillors if they are unsure of the safety of the data.

## **6. HR ADVICE**

### **Carrying over unused holiday for Employees on Long Term Sick Leave**

To avoid claims of Disability Discrimination, many Councils have been allowing workers who have not used their full holiday entitlement to carry all of their unused entitlement over into the following year.

The principle behind this is that workers with disabilities would be treated unfavourably if they lost some or all of the holiday entitlement due to long term sick leave caused by a disability. If that happened an Employee might be able to submit a claim to the Tribunal for disability related discrimination.

However the question of how much should be allowed to be carried over has recently been addressed in the European Courts.

In addressing two cases from Finland, the Court ruled that only 4 weeks should be carried over.

The European Working Time Directive only provides workers with 4 weeks leave. In 2008 the UK Government increased this entitlement to 5.6 weeks. Furthermore the NJC Green book provides workers with 21 days plus 8 Bank Holidays, plus 2 statutory days, increasing to 25 days after five years continuous employment.

However in this recent judgement, the European Courts ruled that in the absence of a contractual agreement to enable Employees to carry over more than 4 weeks, there is no right to carry over any more than the Working Time Directive's statutory 4 weeks leave.



Consequently if someone has taken 4 weeks leave during the year, and subsequently is on long term sick leave which takes them over the end of the holiday year, they are not entitled to carry over the remaining unused holiday.

### **What Constitutes “knowledge of a Disability” to require Employers to make reasonable adjustments?**

According to the Equality Act 2010, Councils, along with other Employers, must be made aware of an Employee’s disability before they need to make the necessary adjustments to accommodate them.

To be able to make a claim for Disability Discrimination, an Employee must be able to show that their Employer knew about the long term health problem, or that they would have reasonably been aware of the problem. However this has become more problematic as the number of mental health problems in the workplace has hit record levels. Such conditions are not immediately apparent to Managers, and Employees are not always willing to disclose their problems.

In *A Ltd v Z (2019)* the Court assessed whether the Employer could reasonably be expected to know about an Employee’s mental health condition, which they kept hidden. Following their dismissal the Employee claimed that management should have reasonably deduced from her conduct that she was ill. However, the Courts disagreed, stating that the Employer should have constructive knowledge of a problem to require reasonable adjustments to be made.

Such common sense is refreshing, however Managers do need to be able to demonstrate that they are not deliberately ignoring health problems, and are taking all necessary steps to investigate potential health problems. This would include conducting informal investigatory meetings with staff whose health may be of concern, or who disclose a health problem. The purpose of the meeting is to find out if there is a diagnosis, how does it affect them at work, what is the long term prognosis, and are there any adjustments that the Employer can make to help them.

Take notes during the meeting and get the worker to sign them at the end of the meeting.

If the Employee does inform management of a problem that has long term implications, the next step should be to arrange for an Occupational Health /Medical assessment of the Employee.

### **Disability Discrimination**

Can a dismissal amount to discrimination even if the Employee is later reinstated?

Yes, held the EAT in *Jakkhu v Network Rail*.

The Claimant was potentially at risk of redundancy, and given notice. The Respondent later discovered the notice was in breach of an agreement with relevant trade unions. The Employer should have withdrawn the notice when it discovered the error but did not. As a consequence the Employee was dismissed, but when the mistake was realised the Claimant was able to return to a different role.

The Claimant had a history of disability related sickness. He alleged direct disability discrimination, unfavourable treatment arising in consequence of disability, and victimisation. The tribunal viewed that reinstatement meant the dismissal vanished.

The Appeal Tribunal disagreed. A dismissal, even if subsequently withdrawn can give rise to discrimination.

#### PROFILE

Chris Moses LLM Chartered FCIPD is Managing Director of Personnel Advice & Solutions Ltd. He is a Chartered Fellow of the Chartered Institute of Personnel and Development, and has a Master's Degree in Employment Law.

If you have any questions regarding these issues please feel free to contact him on (01529) 305056 or email

[p.d.solutions@zen.co.uk](mailto:p.d.solutions@zen.co.uk)

[www.personneladviceandsolutions.co.uk](http://www.personneladviceandsolutions.co.uk)

Published research can be viewed at <https://ssrn.com/author=2701127>

## 7. STORIES FROM AROUND THE COUNTY : BRIMINGTON'S TUESDAY LUNCH CLUB ADDRESSES LONELINESS

In 2018 Brimington Parish Council took over the running and organisation of the lunch. "We have a fabulous cook, and have increased the numbers of people coming to almost 40, from 15 before our intervention.

It's open to all, families, elderly and single parents. With a small charge of £4 for a home cooked meal plus hot drink it's very good value. We have 5 or 6 volunteers who work very hard to keep the lunch running smoothly."

**Wendy Amis**  
Chief Officer

**November 2019**

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#### TRAINING & EVENTS DIARY

DATE	SUBJECT	CIRCULAR/ REF	VENUE	COST	CPD POINT	TRAINER
3 Dec. 2019 – (6pm – 8.30pm)	Essential Councillor Training		DALC Office, Cromford	*Enhanced Sub Councils up to 3 free places/£50	1.5 per session	Wendy Amis
9 Dec. 2019 – (6pm – 8.30pm)	Essential Councillor Training	11/2019	DALC Office, Cromford	*Enhanced Sub Councils up to 3 free places/£50	1.5 per session	Wendy Amis
10 Dec. 2019 – (10am – 1.00pm)	Essential Clerk Training	12/2019	DALC Office, Cromford	*Enhanced Sub Councils up to 3 free places/£50	1.5 per session	Wendy Amis

\* Up to 3 delegate places free per council on the enhanced subscription scheme

\*\* Total fee for both days, plus follow-up support; a further payment is payable to SLCC for the examination and certificate.

# Derbyshire Association of Local Councils



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## Circular No. 13/2019

To all Member Town and Parish Councils and Parish Meetings

### GENERAL CIRCULAR

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#### In this Circular:

- DALC Annual General Meeting
- Spring Seminar – New Venue – 12 March 2020
- Grant Funding Training Course
- Website Accessibility Regulations
- Good Councillor's Guide to Transport Planning
- Local Councils tackling loneliness
- Vehicular Activated Speed Signs: Guidance from NALC
- Legal Briefing – pre-election publicity
- HR Matters: New Employment regulations
- Law and Good practice reminder: Confidential minutes
- What's in the pipeline?: Code of conduct for councillors

#### 1. DALC ANNUAL GENERAL MEETING

The DALC Annual Report was approved and is available on our website for reference. Members of the new Executive Committee were confirmed and, again, are on the website for reference. It was also agreed that, in line with the increase imposed by NALC, the subscription fees for 2020/21 will be increased by 3%. I hope that this will help with your budgeting and that you continue to appreciate the value for money that membership offers.

#### 2. A NEW VENUE FOR DALC'S SPRING SEMINAR WILL HOST A GREAT LINE-UP OF SPEAKERS NEXT MARCH

[Alfreton Hall](#), one of the county's historic mansions, will welcome delegates from across Derbyshire for a full day of presentations on March 12th – with topics ranging from a first-hand account of Whaley Bridge's recent dam crisis and the council's response, to how loneliness can be tackled in rural areas.

There'll also be discussion on tackling climate change at a local level, the challenge of encouraging young people to engage with council issues, and the remarkable community benefits of events like 'The Big Lunch'.

Talking of lunch (!), we're sure you'll love Alfreton Hall and the menu we've arranged for delegates...

Cost per delegate, inclusive of hot lunch, tea/coffee breaks and a full day of presentations, in addition to a wide range of exhibitor trade stands showcasing products and services, is £55. Please book soon as places are limited. 01629 826655 – [admin@derbyshirealc.gov.uk](mailto:admin@derbyshirealc.gov.uk)

#### **4. WEBSITE ACCESSIBILITY REGULATIONS**

The Public Sector Bodies (Websites and Mobile Applications)(No. 2) Accessibility Regulations 2018 came into force on the 23<sup>rd</sup> September 2018. GOV.UK claims that 4 in 10 local council homepages fail the basic tests for accessibility. However, existing websites have until 23<sup>rd</sup> September 2020 to comply.

The legislation is about ensuring that everyone can access information about public life in the easiest way possible, including online access. Click [here](#) to view the legislation.

Actions to help meet the requirements:

- Contact your web provider to ensure compliance and whether you need an accessibility statement
- Look at government guidance [here](#) to conduct a basic accessibility check
- Budget for any costs that may arise
- Add the date to your calendar
- Start making required changes

#### **5. GOOD COUNCILLOR'S GUIDE TO TRANSPORT PLANNING**

NALC have just published a new Good Councillor Guide which gives practical advice for councillors and their role in transport planning. It is available on the DALC website [here](#).

#### **6. LOCAL COUNCILS TACKLING LONELINESS**

NALC and the Local Government Association have joined forces to provide a guide for local councils and others to help tackle issues of loneliness in local communities. The new Reaching Out guide outlines how you can work with other councils and organisations to improve the wellbeing of lonely people in your community. To read more and find out how your council can help, click [here](#).

#### **7. VEHICULAR ACTIVATED SPEED SIGNS : GUIDANCE FROM NALC**

Three specific powers (s.274A Highways Act 1980, s. 72 Road Traffic Regulation Act 1984 and s.31 Local Government and Rating Act 1997) are not powers that enable the provision of signs for traffic calming purposes by local councils.

In our view the general power of competence will not assist local councils as it is a power that enables a local authority to do anything individuals generally may do. Individuals cannot provide speed signs.

In the absence of a specific power the normal route is to consider s.137 of the Local Government Act 1972. S.137(2) which specifically allows a council to contribute towards the costs of another local authority's functions; as such, a contribution could be made to a highway authority's costs in respect of such speed signs. S.137 (1) is subject to existing statutory limitations and prohibitions, such as the three powers referred to above. Whether it could be used outside of those powers would depend on the specific circumstances.

Another possibility would be for a highway authority to delegate its function to a local under s.101 of the 1972 Act.

## **8. LEGAL BRIEFING – PRE-ELECTION PUBLICITY ([L01-19](#))**

This can be viewed on our website by clicking on the link above.

## **9. HR MATTERS : NEW EMPLOYMENT REGULATIONS**

A number of new measures come into force from April 2020 including changes to: employment contracts, calculations of holiday pay, self employment under IR35 and zero hours contracts. For more details please [read on](#).

## **10. LAW & GOOD PRACTICE REMINDER : CONFIDENTIAL MINUTES**

Council minutes must be published. They also have to be open to electors for inspection (s.228 of the Local Government Act 1972). Of course there may be confidential items that should not be disclosable to the public (e.g. discussions about a staff member's illness) and there are also personal data considerations. To deal with confidentiality, given the public nature of minutes, a report can be made that is separate from, but referred to, in the minutes. The minutes can detail the resolution and make reference to the confidential report, but should not reveal the confidential information contained within it. This is also a good place to confirm that minutes should be a record of resolutions made at a meeting and not a verbatim account of proceedings.

## **11. WHAT'S IN THE PIPELINE? : CODE OF CONDUCT FOR COUNCILLORS**

The Local Government Association is to develop a new Model Code of Conduct for Councillors. This is in response to the recommendations made in the Committee on Standards in Public Life's report earlier this year, and in response to rising local government concern about the increasing incidence of public, member-to-member and officer/member intimidation and abuse, and overall behavioural standards and expectations in public debate, decision making and engagement. This is part of their programme on civility in public life and they aim to launch a revised code at their annual conference at the end of June. NALC will be contributing to this work to make sure the local council dimension and voice isn't lost, as the LGA is focussed on principal authorities.

**Wendy Amis**  
**Chief Officer**

**December 2019**

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**TRAINING & EVENTS DIARY**

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<b>10 Dec. 2019 – (10am – 1.00pm)</b>	<b>Essential Clerk Training</b>	<b>12/2019</b>	<b>DALC Office, Cromford</b>	<b>*Enhanced Sub Councils up to 3 free places/£50</b>	<b>1.5 per session</b>	<b>Wendy Amis</b>
<b>23 Jan. 2020 – (10am – 3pm)</b>	<b>Grant Funding</b>	<b>13/2019</b>	<b>Gothic Warehouse, Cromford Mill</b>	<b>*Enhanced Sub Councils up to 3 free places/£50</b>	<b>2.5 per session</b>	<b>Ian Hey SDDC</b>

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