

SHROPSHIRE COUNCIL

PARISH MEETINGS AND PARISH POLLS

Notes for the Guidance of Parish Council Clerks and Others

PARISH POLLS

Brief Summary

Parish Polls provide an opportunity for local electors to express an opinion on a specific subject either by giving an answer to a question or an appointment to any office. They arise from the Parish and Community Meetings (Polls) Rules 1987 which apply where a poll consequent on a Parish Meeting is required to be taken.

At the Parish Meeting either 10 electors or one third of electors present and voting whichever is less may demand a Poll on a question or the appointment to an Office. The request for a Poll can not be subject to a vote at the meeting. If a Poll is demanded on a question, the wording of the question can be voted upon.

The Chairman of the meeting must notify the Returning Officer at Shropshire Council and give such particulars as will enable him to give notice of poll.

Key Features

- There is **no provision** for absent voting (i.e. voting by post or appointing a proxy to vote on your behalf). Polling therefore is **only** in person at your local polling station. A Notice will be put in the Parish not less than five days before the Poll.
- There is no provision for the issue of poll cards.
- Polling will be from 4pm to 9pm on the day fixed by the Returning Officer between the 14th and 25th day (inclusive) after the poll was demanded.
- A Parish poll cannot be combined with any other type of election.
- The motion proposed at the Parish Meeting is reproduced as the question on the ballot paper. It is therefore important for the original motion to be phrased in such a way as to enable a **YES/NO** response to be given.
- As the cost of a Parish poll has to be met entirely by the Parish Council or Parish meeting concerned, it should have the powers to deal with the subject matter of the question.
- The result is **not** binding on the Parish or Unitary Council.

Introduction

Section 9 of the Local Government Act 1972 states that 'for every parish there shall be a parish meeting for the purpose of discussing parish affairs and exercising any functions conferred on such meetings by any enactment...' Section 13 of the Act states that 'the parish meeting of a parish shall consist of the local government electors for the parish'.

A parish meeting is a public body exercising public functions and as such any decision, action or failure to act in relation to the exercise of its public function is capable of being judicially reviewed.

Convening the Meeting

A Parish meeting has to be properly convened. It is convened either by the chairman of the Parish Council, or by two councillors of the parish or by six local government electors of the parish.

Proper notice of the meeting must be given not less than seven clear days before the meeting. This must specify the time and place, the business to be transacted at the meeting, and it must be signed by the person(s) convening the meeting. The notice must be posted in some conspicuous place or places or given in such a manner that it will give publicity to the meeting.

The time and place of the meeting is specified. It must not be held before 6.00pm and must not be held in premises used for the supply of alcohol (unless there are no other suitable venues).

The National Association of Local Councils (NALC) advise that parish councils 'should endeavour to secure the largest possible turnout at a parish meeting so that the local electorate, with careful steering from the chairman of the parish council, can debate and democratically decide any business which legitimately features on the agenda and further decide if a poll on any question arising is required.'

The Meeting

The chairman of the parish council is entitled to attend, and if he/she is present, he/she shall preside over the meeting. If he/she is absent, the vice-chairman (if any) shall, if present, reside. NALC urges the parish council chairman to attend; without him/her 'the meeting risks being procedurally defective and may need to be reconvened at a later date. Conversely, the non-attendance of the chairman or vice-chairman at a parish meeting could be disastrous.'

In particular, NALC urges that parish council chairmen will be in a position to ensure that the parish meeting only considers parish affairs, that any call for a poll relates to parish affairs, that the cost of funding a parish poll will be borne by the parish council and ultimately by the electors, and that the outcome of a poll is not binding.

If the chairman and vice-chairman are absent, the meeting may appoint a person to chair the meeting. The meeting's chairman will have the usual powers and authority of chairman and has a casting vote in addition to his/her own vote.

At a meeting, an issue is decided by a majority of those present and voting. Each local government elector present has one vote on an issue which is put to the vote.

Parish Councils have a right to obtain a copy of the electoral register from the Electoral Registration Officer 'for the purpose of establishing whether any person is entitled to attend and participate in a meeting of or take any action of behalf of the parish or community as the case may be'. No person supplied with the Full Register shall supply a copy of it, disclose any information it contains or make use of such information other than for the particular purpose for which the copy is supplied.

Minutes of the meeting shall be drawn up and entered in a book provided for the purpose and shall be signed at the same or the next parish meeting by the chairman. Any minute purporting to be so signed shall be received in evidence without further proof.

Until the contrary is proved, a parish meeting for which minutes have been made and signed shall be deemed to have been duly convened and held, and all the persons present at the meeting shall be deemed to have been duly qualified. It is considered that the validity of a parish meeting can only be challenged by way of legal process.

Parish councils may make, vary and revoke standing orders for the regulation of proceedings and business of parish meetings for the parish.

The Call for a Poll

A poll may be demanded before the end of a parish meeting on any question arising at the meeting, but no poll shall be held unless the person presiding at the meeting consents to it or the poll is demanded by 10 or one third of the local government electors present (whichever figure is the less) call for it.

The parish meeting does not vote on whether or not to have a poll once this call has been made.

The poll is a poll of the local government electors of the **parish**; there is no provision for a ward poll.

Unlawful Polls

In the case of *Bennet v Chappell* (1965 – 3 WLR 829), the Court of Appeal recognised that a parish poll requested for a purpose that was 'devoid of practical application' might not be granted by the Returning Officer. The poll can serve as an instruction to the town or parish council to do or to desist from doing something that is within its power, and there would be no practical application in asking the electorate to vote on a question that was wholly outside the remit of the Council.

The Audit Commission has issued further guidance on this matter, referred to in NALC Legal Briefing L04/08; 'Some principal authorities have conducted or may be preparing to conduct, parish polls in respect of the recently signed EU Lisbon Treaty. In the Commission's view the purpose of these polls does not constitute 'parish affairs' within the meaning of the legislation and so may be unlawful. Consequently, any costs incurred may be ultra vires and irrecoverable.'

The Question

The meeting does, however, vote on the question which is to be put in the poll, and each local government elector present may give one vote and no more on any question.

The proposer of the question becomes a key figure in the subsequent poll, and he or she will have many of the rights of a candidate at any other elections, including the appointment of polling agents to attend inside the polling stations and the appointment of counting agents to attend at the count. The proposer's name and address will need to be recorded by the clerk of the meeting.

The form of words used in the question itself is also important. The Chairman should ensure that the question can be voted for either 'yes' or 'no'. The question should not lend itself to vague or double-negative answers.

Once the wording has been agreed at the meeting, the question cannot be changed.

The Returning Officer is notified

The chairman of the meeting has a duty to provide the Returning Officer with the following:

The question

The name and address of the proposer of the question

The date of the parish meeting

The Poll Rules do not stipulate a time limit for this notification, but this will need to be sooner rather than later to permit the Returning Officer to meet the statutory deadlines detailed below.

The Returning Officer will consider whether a poll shall be held, and in those cases where a poll would clearly not be unlawful (see above), the Returning Officer will prepare to hold a poll.

Preparations for the Poll

Polling takes place according to the following timetable:

Polling	between 4.00pm and 9.00pm, between 14 and 25 days after the poll was demanded.
Publication of notice of poll	five days before polling day
Appointment of a polling or counting agent by the proposer of the question	three days before polling day

(These days are calculated excluding Saturdays, Sundays and Bank Holidays).

The Poll and Count

The rules for the conduct of the poll are similar to those common to all elections, with some variations or exceptions outlined here:

Polling is between 4.00pm and 9.00pm

There are no provisions for electors' poll cards or for postal or proxy voting.

The notice of poll must include the date, time and place of the poll, a description of the electors who may vote and the particulars of the question with the name and address of its proposer.

The form of the ballot paper is prescribed in the rules, and a copy of that is appended (Annex 1). It will be seen from this that the wording of the question is an important consideration.

Other than the electors, the only persons who may enter the polling station are the Returning Officer and his clerks and the proposer of the question.

A count of the votes follows. The only persons who may attend the count are the Returning Officer and his clerks and the proposer of the question. The Returning Officer may also invite persons to attend, and a small number of courtesy invitations would probably be made. There is no provision for the proposer of the question to call for a recount.

Notice of the Result must be given by the Returning Officer.

The timetable for the Poll is attached as Annex 2.

Conclusion

The outcome of the poll is no more and no less than an expression of the views of the electorate of the parish who have voted in the poll. **It is not binding.**

Shropshire Council will recharge the cost of parish polls to parish councils.

This guidance is for information only. Full guidance can be found in the following and in the legislation:

NALC – Legal Briefing L18-07 Parish Polls, 13 November 2007

NALC – Legal Briefing L04-08 Parish Polls, 30 January 2008

Sections 9 and 13 and Schedule 12 (Part III) Local Government Act 1972

The Parish and Community Meetings (Polls) Rules 1987 (SI 1987/1)

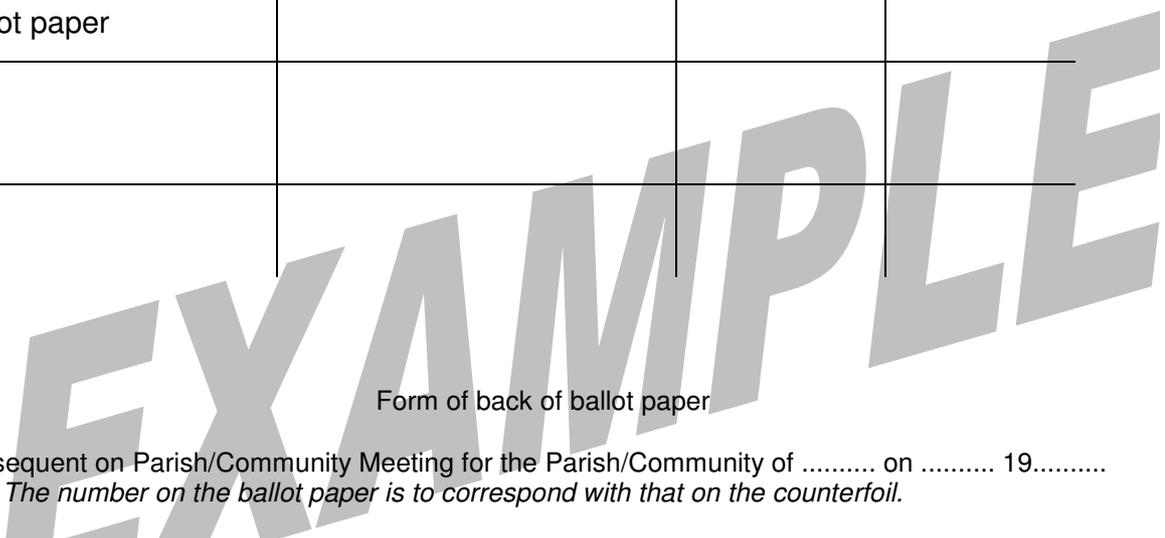
Representation of the People (England and Wales) Regulations 2001 (SI 200/341)

Annex 1:

FORM OF BALLOT PAPER ON A QUESTION OTHER THAN THAT OF APPOINTMENT TO AN OFFICE

Rule 4, Parish and Community Meetings (Polls) Rules 1987

Form of front of ballot paper			
Counterfoil No.	Question[s]	Answer[s]	
		Yes	No
The counterfoil is to have a number to correspond with that on the back of the ballot paper	[Insert question or questions to be asked]		



Form of back of ballot paper

No.
Poll consequent on Parish/Community Meeting for the Parish/Community of on 19.....
Note. — The number on the ballot paper is to correspond with that on the counterfoil.

Directions as to printing the ballot paper

1. Nothing is to be printed on the ballot paper except in accordance with these directions.
2. So far as practicable, the following arrangements shall be observed in the printing of the ballot paper:-
 - (a) no word shall be printed on the face except the words "Question[s]" and "Answer[s]", the question or questions to be asked and the words "Yes" and "No" underneath "Answer[s]";
 - (b) no rule shall be printed on the face except the vertical rules separating the questions from the answers and the answers from each other and, where more than one question is asked, a horizontal rule separating the answers to each question; and
 - (c) an equal amount of space shall be allocated for the answer "Yes" and the answer "No" to each question.
3. The number on the back of the ballot paper shall be printed in small characters.

Annex 2:

Model Timetable of Proceedings

SHROPSHIRE COUNCIL
Poll consequent on a Parish Meeting –
(INSERT DATE OF MEETING)

TIMETABLE OF PROCEEDINGS

Date on which the Parish Meeting was held	(m)	Wednesday 3 rd August 2011
Notice of Poll	(P-5)	Thursday 1 st September 2011
Notice of Appointment of Polling and Counting Agents	(P-3)	Monday 5 th September 2011
Polling	P	Thursday 8th September 2011
Declaration of Result		Forthwith after the Count, by declaration, by public notice and by notification to the Chairman of the Parish Meeting.

The poll shall be held between the hours of 4 in the afternoon and 9 at night on the day fixed by the Returning Officer which shall not be earlier than the fourteenth day nor later than the twenty-fifth day after the day on which the poll was demanded.