

## Can Town and Parish Councillors be liable?

Yes, Town and Parish councils are corporate bodies defined by statute.

- As such they are not exempt from or above the law
- The "buck stops with the council and councillors" not with the town or parish clerk who is a local government employee

The parish clerk's role is to advise the council which is the legal decision making body and to implement the decisions and policies of the council.

Town and parish councillors are elected, the clerk is not.

Many parish councillors believe that the law does not apply to them as they think of themselves as volunteers or that it is the council which is responsible.

They frequently fail to understand that they are "the Council".

### **If a town or parish council make an illegal decision which is implemented . . .**

- **It is the council and councillors who are liable** not the clerk who was implementing the decision
- This is particularly true for the financial decisions of the council
- The Financial Regulations require councils to carry out an annual review of the effectiveness of their system of internal audit
- This review is an integral part of continually improving governance and accountability
- If a council fails to do this and subsequently a fraud comes to light **it is the council and councillors who may be liable**
- As with other decisions made by the council, all of which have a legal implication, councillors have a duty to make themselves familiar with the requirements contained in the statutes and financial regulations as they are jointly and severally legally responsible

### **What does "jointly and severally" legally responsible mean?**

- Well the councillors are responsible both as individuals and collectively for the decisions and the actions of their council
- This means that in some circumstances that all the councillors and individual councillors can be pursued in the courts for recompense

### **Each year the Annual Return is signed by the Chairman on behalf of ALL councillors.**

- The liability and responsibility is collective and shared
- This only applies to councillors and NOT the clerk
- Whilst the responsibilities and liabilities of councillors is ongoing it is brought into sharp focus by the signing of the Annual Return
- This should not be signed lightly or without understanding

Corporate responsibility applies as much to town and parish councils as principal authorities and international corporations.

This is why many principal authorities are so circumspect in their decision making and actions, they appreciate their liabilities and take them seriously.

Responsibility and liability will of course vary on a case by case basis but where there is a duty of care such as approving the signing of the annual return this cannot be avoided or evaded.