

# EAST HORSLEY PARISH COUNCIL

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## Standing Orders and Financial Regulations

*Revised in August-September 2010 in accordance with NALC Model Standing Orders published February 2010 (as amended by further NALC and SCAPTC legal guidance) and NALC Model Financial Regulations published in 2004.*

**These Standing Orders and Financial Regulations were adopted by the Council at its meeting held on 19<sup>th</sup> March 2018. (minute 183. 14)**

Note: Anything highlighted in **Bold Text** is a statutory requirement.

Anything in plain text is contained in the Model Standing Orders (as amended) and the Model Financial Regulations but is not a mandatory or statutory requirement.

Anything shown in *Italic Text* is specific to East Horsley Parish Council.

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## **EAST HORSLEY PARISH COUNCIL: STANDING ORDERS**

### **1. MEETINGS OF THE COUNCIL**

- 1.1 Three clear days notice of meetings shall be given to Councillors and the public. **When calculating the 3 clear days for notice of a meeting to councillors and the public, the day on which notice was issued, the day of the meeting, a Sunday, a day of the Christmas break, a day of the Easter break or of a bank holiday or a day appointed for public thanksgiving or mourning shall not count.**
- 1.2 **Meetings shall be open to the public unless their presence is prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons. The public's exclusion from part or all of a meeting shall be by a resolution which shall give reasons for the public's exclusion.**
- 1.3 Subject to Standing Order 1.2 above, members of the public are permitted to make representations, answer questions and give evidence in respect of any item of business included in the agenda.
- 1.4 The period of time which is designated for public participation in accordance with Standing Order 1.3 above shall not exceed 30 minutes.
- 1.5 Subject to Standing Order 1.4 above, each member of the public is entitled to speak once only in respect of business itemised on the agenda and shall not speak for more than 10 minutes.
- 1.6 A question asked by a member of the public during a public participation session at a meeting shall not require a response or debate.
- 1.7 In accordance with Standing Order 1.6 above, the Chairman may direct that a response to a question posed by a member of the public be referred to a Councillor for an oral response or to an employee for a written or oral response.
- 1.8 A record of a public participation session at a meeting shall be included in the minutes of that meeting.
- 1.9 A person shall raise his hand when requesting to speak *and may stand or remain seated* when speaking.
- 1.10 Any person speaking at a meeting shall address his comments to the Chairman.
- 1.11 Only one person is permitted to speak at a time. If more than one person wishes to speak, the Chairman shall direct the order of speaking.
- 1.12 Under the 2014 Public Bodies (Admission to Meetings) Act 1960 amended 2014 Regulations any person has the right to 'Report' on the meeting by filming, recording or photography.
- 1.13 In accordance with Standing Order 1.2 above, the press shall be provided reasonable facilities for the taking of their report of all or part of a meeting at which they are entitled to be present.
- 1.14 Subject to any Standing Orders which indicate otherwise, anything authorised or required to be done by, to or before the Chairman may in his absence be done by, to or before the Vice-Chairman (if any).

- 1.15 **The Chairman, if present, shall preside at a meeting. If the Chairman is absent from a meeting, the Vice-Chairman, if present, shall preside. If both the Chairman and the Vice-Chairman are absent from a meeting, a Councillor as chosen by the Councillors present at the meeting shall preside at the meeting. The person presiding at a meeting may exercise all the powers and duties of the Chairman in relation to the conduct of the meeting.**
- 1.16 **No business may be transacted at a meeting unless at least one third of the whole number of members of the Council are present and in no case shall the quorum of a meeting be less than three Councillors.**
- 1.17 **If a meeting is or becomes inquorate no business shall be transacted and the meeting shall be adjourned. Any outstanding business of a meeting so adjourned shall be transacted at a following meeting.**
- 1.18 **All questions at a meeting which is quorate shall be decided by a majority of the Councillors present and voting thereon.**
- 1.19 **The Chairman may give an original vote on any matter put to the vote, and in the case of an equality of votes may exercise his casting vote whether or not he gave an original vote. (See also Standing Orders 2.9 and 2.10 below.)**
- 1.20 **Unless Standing Orders provide otherwise, voting on any question shall be by a show of hands (this applies to all Committees and Sub-Committees). At the request of a Councillor, the voting on any question shall be recorded so as to show whether each councillor present and voting gave his vote for or against that question. Such a request shall be made before moving on to the next item of business on the agenda.**
- 1.21 **The minutes of a meeting shall record the names of councillors present and absent.**
- 1.22 **If prior to a meeting, a Councillor has submitted reasons for his absence at the meeting which is then approved by a resolution, such resolution shall be recorded in the minutes of the meeting at which the approval was given.**
- 1.23 **The Code of Conduct adopted by the Council shall apply to councillors in respect of the entire meeting. *The Code of Conduct as adopted in July 2012 is attached as Annex 1.***
- 1.24 **An interest arising from the Code of Conduct adopted by the Council, the existence and nature of which is required to be disclosed by a Councillor at a meeting shall be recorded in the minutes. See also Standing Orders Sections 7 and 28 below.**
- 1.25 **Meetings shall not exceed a period of 2½hours.**
- 1.26 **Meetings shall not take place in premises, which at the time of the meeting, are used for the supply of alcohol unless no other premises are available free of charge or at a reasonable cost.**

## **2. ANNUAL MEETINGS**

- 2.1 **In an election year, the Annual Meeting of the Council shall be held on or within 14 days following the day on which the new councillors elected take office.**
- 2.2 **In a year which is not an election year, the Annual Meeting of a Council shall be held on such day in May as the Council may direct.**

- 2.3 **If no other time is fixed, the Annual Meeting of the Council shall take place at 6pm.**
- 2.4 **In addition to the Annual General of the Council, at least three other ordinary meetings shall be held in each year on such dates and times as the Council directs.** *The Council will hold additional meetings in the months of January, March, April, June, July, September, October, and December unless altered because of Bank Holidays.*
- 2.5 **The election of the Chairman** and, following the Chairman, the Vice-Chairman of the Council shall be the first business completed at the Annual Meeting of the Council or at the first ordinary meeting following the resignation or disqualification of the previous Chairman or Vice-Chairman. Councillors wishing to stand for the office of Chairman and/or Vice Chairman shall prior to the meeting submit to the Proper Officer a completed nomination paper or papers. If there is no nomination for an office then no election shall be made. If there is a single nomination for an office the election shall be decided by majority vote of those present and voting. Where two or more nominations for an office have been received and none of those persons has received an absolute majority of votes in their favour of those present and voting, the name of the person having the least number of votes shall be struck off the list and a fresh vote taken. This process shall continue until a majority of votes of those present and voting is given in favour of one person. Any tie may be settled by the casting vote of the Chairman for the time being of the meeting (see 2.9 and 2.10 below). Election ballots shall be secret *unless the Council first agrees by majority vote to public voting by show of hands.*
- 2.6 **The Chairman of the Council, unless he has resigned or becomes disqualified, shall continue in office and preside at the Annual Meeting until his successor is elected at the Annual Meeting.** *A Councillor may not serve for more than five consecutive years as Chairman and, upon leaving office shall not be appointed Vice-Chairman within a period of 12 months unless no other candidate is available.*
- 2.7 The Vice-Chairman of the Council, if any, unless he has resigned or becomes disqualified, shall hold office until immediately after the election of the Chairman of the Council at the next Annual Meeting of the Council. *A Councillor may not serve for more than two consecutive years as Vice-Chairman.*
- 2.8 **In an election year, if the current Chairman of the Council has not been re-elected as a member of the Council, he shall preside at the meeting until a successor Chairman of the Council has been elected. The current Chairman of the Council shall not have an original vote in respect of the election of the new Chairman of the Council but must give a casting vote in the case of an equality of votes.**
- 2.9 **In an election year, if the current Chairman of the Council has been re-elected as a member of the Council, he shall preside at the meeting until a new Chairman of the Council has been elected. He may exercise an original vote in respect of the election of the new Chairman of the Council and must give a casting vote in the case of an equality of votes.**

- 2.10 Following the election of the Chairman of the Council and Vice-Chairman (if any) of the Council at the Annual Meeting of the Council, the remaining business transacted shall be *confined to* the following.
- a. In an election year, delivery by councillors of their declarations of acceptance of office.
  - b. Confirmation of the accuracy of the minutes of the last meeting of the Council and to receive and note minutes of and/or to determine recommendations made by committees.
  - c. Review of delegation arrangements to committees, employees and other local authorities.
  - d. Review of the terms of references for committees and task groups.
  - e. Receipt of nominations to existing committees.
  - f. Appointment of any new committees, confirmation of the terms of reference, the number of members (including, if appropriate, substitute councillors) and receipt of nominations to them.
  - g. *The Council shall appoint the Chairman and Vice Chairman of each committee*
  - h. Review of representation on or work with external bodies and arrangements for reporting back.
  - i. If required, adoption of new Standing Orders and financial regulations.
  - j. In a year of elections, if the Council's period of eligibility to exercise the power of well being expired the day before the annual meeting, to review and make arrangements to reaffirm eligibility.
  - k. Setting the dates, times and place of ordinary meetings of the full Council for the year ahead.
- 2.11 *The following administrative and governance items shall be considered by the Finance and Risk Management Committee each year under its powers delegated from the full Council:*
- a. Review of Standing Orders and financial regulations (any changes to Standing Orders must be approved by the full Council).
  - b. Review of inventory of land and assets including buildings and office equipment.
  - c. Review and confirmation of arrangements for insurance cover in respect of all insured risks.
  - d. Review of the Council's and/or employees' memberships of other bodies.
  - e. Review of the Council's complaints procedure.
  - f. Review of the Council's procedures for handling requests made under the Freedom of Information Act 2000 and the Data Protection Act 1998.
  - g. Review of the Council's policy for dealing with the press and media .
  - h. *Appointment of an Internal Auditor and approval of the Audit Plan.*
  - i. *Review of employees' terms and conditions of employment.*

2.12 *The following administrative and governance item will be observed by elected committees:*

*Should the Chairman or Vice Chairman of any committee be unavailable the remaining members of the committee will appoint a substitute Chairman for that meeting.*

### **3. PROPER OFFICER**

3.1 The Council's Proper Officer shall be either (i) the Clerk or (ii) such other employee appointed by the Council to undertake the role of the Clerk in the absence of the Clerk. **A Councillor may act in the role of Proper Officer in the absence of the Clerk but shall receive no remuneration for doing so.**

3.2 The Council's Proper Officer shall do the following:

- a. **Sign and serve on councillors by delivery or post at their residences a summons confirming the time, date, venue and the agenda of a meeting of the Council and a meeting of a committee and sub-committee at least 3 clear days before the meeting.**
- b. Upon the Council having first resolved that service of summons on councillors confirming the time, date, venue and the agenda for meetings by delivery or post at their residences at least 3 clear days before a meeting is not expedient, electronically serve on councillors a summons confirming the time, date, venue and the agenda of a meeting of the Council and a meeting of a committee and a sub-committee at least 3 clear days before the meeting provided any such email contains the electronic signature and title of the Proper Officer.
- c. **Give public notice of the time, date, venue and agenda at least 3 clear days before a meeting of the Council or a meeting of a committee or a sub-committee (provided that the public notice with agenda of an extraordinary meeting of the Council convened by councillors is signed by them).**
- d. Include in the agenda all items necessary to meet the Council's legal obligations and to further the Council's agreed objectives, policies, and resolutions
- e. Subject to Standing Order Section 4 below, include in the agenda all motions received from Councillors in the order received unless a councillor has given written notice at least five clear days before the meeting confirming his withdrawal of it.
- f. **Convene a meeting of full Council for the election of a new Chairman of the Council, occasioned by a casual vacancy in his office, in accordance with Standing Order 3.2(a) or 3.2(b) above.**
- g. Make available for inspection the minutes of meetings.
- h. Receive and retain copies of byelaws made by other local authorities.



- i. **Receive and retain declarations of acceptance of office from councillors.**
- j. Retain a copy of every councillor's register of interests and any changes to it and keep copies of the same available for inspection.
- k. Keep proper records required before and after meetings;
- l. Process all requests made under the Freedom of Information Act 2000 and Data Protection Act 1998, in accordance with and subject to the Council's procedures relating to the same.
- m. Receive and send general correspondence and notices on behalf of the Council except where there is a resolution to the contrary.
- n. Manage the organisation, storage of and access to information held by the Council in paper and electronic form.
- o. Arrange for legal deeds to be signed by two councillors and witnessed
- p. Arrange for the prompt authorisation, approval, and instruction regarding any payments to be made by the Council in accordance with the Council's Financial Regulations.
- q. Keep a record of every planning application notified to the Council and the Council's response to the local planning authority.
- r. Refer a planning application received by the Council to the Chairman or in his absence Vice-Chairman (if any) of the Planning & Environment Committee within 2 working days of receipt, and to facilitate an extraordinary meeting if the nature of a planning application requires consideration before the next ordinary meeting of the Committee.
- s. Action, *initiate* or undertake activity or responsibilities as instructed by resolution or contained in Standing Orders *and as may otherwise be necessary or expedient (in the reasonable and informed opinion of the Proper Officer) to safeguard the interests of the Council and the residents of East Horsley. The Council shall be informed at the earliest opportunity of any such action taken.*

#### **4. MOTIONS REQUIRING WRITTEN NOTICE**

- 4.1 In accordance with Standing Order 3.2(e) above, no resolution may be moved at a meeting unless the business to which it relates *has been placed on the Agenda by the Proper Officer at least three clear days before the meeting, or* (where a motion is proposed by a Councillor) the Councillor proposing the motion has given notice to the Proper Officer in writing of its terms at least five clear days before the meeting.
- 4.2 The Proper Officer may, before including a motion in the agenda received in accordance with Standing Order 4.1 above, correct obvious grammatical or typographical errors in the wording of the motion.
- 4.3 If the Proper Officer considers that the wording of a motion received in accordance with Standing Order 4.1 is not clear in meaning, the motion shall be rejected unless the mover of the motion resubmits it in writing to the Proper Officer in clear and certain language at least five clear days before the meeting.
- 4.4 If the Proper Officer considers that the wording or nature of a proposed motion is unlawful or improper, the Proper Officer shall consult with the Chairman of the

forthcoming meeting or, as the case may be, the Councillors who have convened the meeting, to determine whether the motion shall be included in the agenda or rejected.

- 4.5 Having consulted the Chairman or councillors pursuant to Standing Order 4.4 above, the decision of the Proper Officer as to whether or not to include the motion in the agenda shall be final.
- 4.6 Every motion received in accordance with the Council's Standing Orders shall be numbered in the order received and recorded, and shall be open to inspection by all councillors.
- 4.7 Every motion rejected in accordance with the Council's Standing Orders shall be duly recorded with a note by the Proper Officer giving reasons for its rejection, and the motion and the reasons for its rejection shall be open to inspection by all councillors.
- 4.8 Every motion and resolution shall relate to the Council's statutory functions, powers and lawful obligations or shall relate to an issue which specifically affects the Council's area or its residents.

## **5. COUNCILLORS' MOTIONS NOT REQUIRING WRITTEN NOTICE**

- 5.1 Motions in respect of the following matters may be moved without written notice.
  - a. To appoint a person to preside at a meeting.
  - b. To approve the absences of councillors.
  - c. To approve the accuracy of the minutes of the previous meeting.
  - d. To correct an inaccuracy in the minutes of the previous meeting.
  - e. To dispose of business, if any, remaining from the last meeting.
  - f. To alter the order of business on the agenda for reasons of urgency or expedience.
  - g. To proceed to the next business on the agenda.
  - h. To close or adjourn debate.
  - i. To refer by formal delegation a matter to a committee or to a task group or an employee.
  - j. To appoint a task group or any councillors (including substitutes) thereto.
  - k. To receive nominations to a task group.
  - l. To dissolve a task group.
  - m. To note the proceedings of a meeting of a committee or task group.
  - n. To consider a report and/or recommendations made by a committee or a task group or an employee.
  - o. To consider a report and/or recommendations made by an employee, professional advisor, expert or consultant.
  - p. To authorise legal deeds to be signed by two councillors and witnessed. (see 14.1 and 14.2 below)
  - q. To authorise the payment of monies up to £500 (without prior notice of resolution).

- r. To amend a motion relevant to the original or substantive motion under consideration which shall not have the effect of nullifying it.
  - s. To extend the time limit for speeches.
  - t. To exclude the press and public for all or part of a meeting.
  - u. To silence or exclude from the meeting a Councillor or a member of the public for disorderly conduct.
  - v. To give the consent of the Council if such consent is required by Standing Orders.
  - w. **To suspend any Standing Order except those which are mandatory by law.**
  - x. To adjourn the meeting.
  - y. To appoint representatives to outside bodies and to make arrangements for those representatives to report back the activities of outside bodies.
  - z. To answer questions from councillors.
- 5.2 If a motion falls within the terms of reference of a committee or sub-committee or task group, or within the delegated powers conferred on an employee, a referral of the same may be made to such committee or sub-committee or employee, provided that the Chairman may direct for it to be dealt with at the present meeting for reasons of urgency or expedience.
- 6. RULES OF DEBATE**
- 6.1 Motions included in an agenda shall be considered in the order that they appear on the agenda unless the order is changed at the Chairman's direction for reasons of expedience.
- 6.2 A motion *proposed by a Councillor* shall not be considered unless it has been proposed and seconded.
- 6.3 A motion *proposed by a Councillor* included in an agenda but not moved by the councillor who tabled it may be treated as withdrawn.
- 6.4 A motion to amend an original or substantive motion shall not be considered unless proper notice has been given after the original or substantive motion has been seconded and notice of such amendment, shall, if required by the Chairman, be reduced to writing and handed to the Chairman who shall determine the order in which they are considered.
- 6.5 A Councillor may move amendments to his own motion. If a motion has already been seconded, an amendment to it shall be with the consent of the seconder.
- 6.6 Any amendment to a motion shall be either:
- a. to leave out words;
  - b. to add words;
  - c. to leave out words and add other words.
- 6.7 A proposed or carried amendment to a motion shall not have the effect of rescinding the original or substantive motion under consideration.

- 6.8 Only one amendment shall be moved and debated at a time, the order of which shall be directed by the Chairman. No further amendment to a motion shall be moved until the previous amendment has been disposed of.
- 6.9 Subject to Standing Order 6.8 above, one or more amendments may be discussed together if the Chairman considers this expedient but shall be voted upon separately.
- 6.10 Pursuant to Standing Order 6.8 above, the number of amendments to an original or substantive motion, which may be moved by a councillor, is limited to one.
- 6.11 If an amendment is not carried, other amendments shall be moved in the order directed by the Chairman.
- 6.12 If an amendment is carried, the original motion, as amended, shall take the place of the original motion and shall become the substantive motion upon which any further amendment may be moved.
- 6.13 The mover of a motion or the mover of an amendment shall have a right of reply, not exceeding 5 minutes.
- 6.14 Where a series of amendments to an original motion are carried, the mover of the original motion shall have a right of reply in respect of the substantive motion at the very end of debate and immediately before it is put to the vote.
- 6.15 Subject to Standing Orders 6.13 and 6.14 above, a councillor may not speak further in respect of any one motion except to speak once on an amendment moved by another councillor or to make a point of order or to give a personal explanation.
- 6.16 During the debate of a motion, a councillor may interrupt only on a point of order or a personal explanation and the councillor who was interrupted shall stop speaking. A Councillor raising a point of order shall identify the Standing Order which he considers has been breached or specify the irregularity in the meeting he is concerned by.
- 6.17 A point of order shall be decided by the Chairman and his decision shall be final.
- 6.18 With the consent of the seconder and/or of the meeting, a motion or amendment may be withdrawn by the proposer. A councillor shall not speak upon the said motion or amendment unless permission for the withdrawal of the motion or amendment has been refused.
- 6.19 Subject to Standing Order 6.15 above, when a councillor's motion is under debate no other motion shall be moved except:
  - a. to amend the motion;
  - b. to proceed to the next business;
  - c. to adjourn the debate;
  - d. to put the motion to a vote;
  - e. to ask a person to be silent or for him to leave the meeting;
  - f. to refer a motion to a committee or sub-committee for consideration;
  - g. to exclude the public and press;
  - h. to adjourn the meeting;
  - i. to suspend any Standing Order, except those which are mandatory.

- 6.20 In respect of Standing Order 6.19(d) above, the Chairman shall first be satisfied that the motion has been sufficiently debated before it is seconded and put to the vote. The Chairman shall call upon the mover of the motion under debate to exercise or waive his right of reply and shall put the motion to the vote after that right has been exercised or waived. The adjournment of a debate or of the meeting shall not prejudice the mover's right of reply at the resumption.

## **7. CODE OF CONDUCT**

- 7.1 **All councillors shall observe the Code of Conduct adopted by the Council.** *The Code of Conduct adopted in July 2012 is attached as Annex 1.*
- 7.2 All councillors shall undertake training in the Code of Conduct within 6 months of the delivery of their declaration of acceptance of office.
- 7.3 The Council having adopted paragraph 3.8 Obligations on councillors in respect of Disclosable Pecuniary Interests.

## **8. QUESTIONS**

- 8.1 A councillor may seek an answer at a meeting to a question concerning any business of the Council provided 3 clear days notice of the question has been given to the Proper Officer.
- 8.2 Questions not related to items of business on the agenda for a meeting shall only be asked during the part of the meeting set aside for such questions.
- 8.3 Every question shall be put and answered without discussion.

## **9. MINUTES**

- 9.1 If a copy of the draft minutes of a preceding meeting has been circulated to councillors no later than the day of service of the summons to attend the scheduled meeting they shall be taken as read.
- 9.2 No discussion of the draft minutes of a preceding meeting shall take place except in relation to their accuracy. A motion to correct an inaccuracy in the minutes shall be raised in accordance with Standing Order 5.1(d) above.
- 9.3 Minutes, including any amendment to correct their accuracy, shall be confirmed by resolution and shall be signed by the Chairman of the meeting and stand as an accurate record of the meeting to which the minutes relate.
- 9.4 If the Chairman of the meeting does not consider the minutes to be an accurate record of the meeting to which they relate, he shall sign the minutes and include a paragraph in the following terms or to the same effect:
- “The Chairman of this meeting does not believe that the minutes of the meeting of the ( ) held on [date] in respect of ( ) were a correct record but his view was not upheld by the majority of the ( ) and the minutes are confirmed as an accurate record of the proceedings.”
- 9.5 Upon a resolution which confirms the accuracy of the minutes of a meeting, any previous draft minutes or recordings of the meeting shall be destroyed.

**10. DISORDERLY CONDUCT**

- 10.1 No person shall obstruct the transaction of business at a meeting or behave offensively or improperly or in such a manner as to bring the Council into disrepute.
- 10.2 If, in the opinion of the Chairman, there has been a breach of Standing Order 10.1 above, the Chairman shall express that opinion and thereafter any councillor (including the Chairman) may move that the person be silenced or excluded from the meeting, and the motion, if seconded, shall be put forthwith and without discussion.
- 10.3 If a resolution made in accordance with Standing Order 10.2 above is disobeyed, the Chairman may take such further steps as may reasonably be necessary to enforce it and/or he may adjourn the meeting.

**11. PREVIOUS RESOLUTIONS IN FORCE**

- 11.1 Members, committees, and officers of the Council shall abide by lawfully determined resolutions and policies of the Council in force at the time. Such resolutions and policies (whether affirmative or negative) shall remain in force until such time as the Council shall properly agree to reverse or vary the resolution or policy.
- 11.2 A resolution or policy (whether affirmative or negative) of the Council shall not be reversed within 6 months except either by a special motion, the written notice whereof bears the names of at least 2 councillors of the Council, or by a motion moved in pursuance of the report or recommendation of a committee.
- 11.3 When a special motion or any other motion moved pursuant to Standing Order 11.2 above has been disposed of, no similar motion may be moved within a further 6 months.

**12. VOTING ON APPOINTMENTS**

12.1

If the number of candidates is equal to the number of vacancies the vote will be by a show of hands on each vacancy. Any tie may be settled by the Chairman's casting vote.

If there are more candidates for the number of vacancies, there will be a vote by means of the agreed Ballot Form. Any tie may be settled by the Chairman's casting vote.

Where more than two applicants have applied for a vacancy and none of those persons has received an absolute majority of votes in their favour, the name of the person having the least number of votes shall be struck off the list and a fresh vote taken. This process shall continue until a majority of votes is given in favour of one person per vacancy. Any tie may be settled by the Chairman's casting vote.

**13. FINANCIAL REGULATIONS**

- 13.1 Full regulations are based on NALC model. Appendix 3

**14. EXECUTION AND SEALING OF LEGAL DEEDS**

- 14.1 A legal deed shall not be executed on behalf of the Council unless the same has been authorised by a resolution.

- 14.2 In accordance with a resolution made under Standing Order 14.1 above, any two members of the Council may sign, on behalf of the Council, any deed required by law and the Proper Officer shall witness their signatures.

## **15. COMMITTEES**

- 15.1 The Council may, at its Annual Meeting, appoint standing committees and may at any other time appoint such other committees as may be necessary, and:
- a. shall determine their terms of reference;
  - b. may permit committees to determine the dates of their meetings;
  - c. shall appoint and determine the term of office of councillor or non-councillor members of such a committee (unless the appointment of non-councillors is prohibited by law) so as to hold office no later than the next annual meeting;
  - d. may in accordance with Standing Orders, dissolve a committee at any time.
- 15.2 Members of a committee may appoint substitute councillors whose role is to replace ordinary councillors at a meeting of that committee, if ordinary councillors of the committee have confirmed to the Proper Officer 3 days before the meeting that they are unable to attend.
- 15.3 An ordinary member of a committee who has been replaced at a meeting by a substitute member (in accordance with Standing Order 15.2 above) shall not be permitted to participate in debate or vote on business at that meeting and may only speak during any public participation session during the meeting.

## **16. SUB-COMMITTEES**

- 16.1 Unless there is a Council resolution to the contrary, every committee may appoint a sub-committee whose terms of reference and members shall be determined by resolution of the committee.

## **17. EXTRAORDINARY MEETINGS**

(See also Standing Order 1 above.)

- 17.1 The Proper Officer or **the Chairman of the Council may convene an extraordinary meeting of the Council at any time.**
- 17.2 **If the Chairman of the Council does not call, or refuses to call, an extraordinary meeting of the Council within seven days of having been requested to do so by two councillors, those two councillors may convene an extraordinary meeting of the Council. The statutory public notice giving the time, venue and agenda for such a meeting must be signed by the two councillors.**
- 17.3 The Chairman of a committee (or a sub-committee) may convene an extraordinary meeting of the committee or sub-committee at any time.
- 17.4 If the Chairman of a committee (or a sub-committee) does not or refuses to call an extraordinary meeting within seven days of having been requested by to do so by two councillors, those two councillors may convene an extraordinary meeting of a committee (or a sub-committee). The statutory public notice giving the time, venue and agenda for such a meeting must be signed by the two councillors.

**18. ADVISORY COMMITTEES AND TASK GROUPS**

(See also Standing Order 1 above).

- 18.1 The Council may appoint advisory committees and task groups comprised of a number of councillors and non-councillors.
- 18.2 Advisory committees and any sub-committees may consist wholly of persons who are non-councillors.

**19. CANVASSING OF AND RECOMMENDATIONS BY COUNCILLORS**

- 19.1 Individuals canvassing councillors, or the members of a committee or sub-committee, directly or indirectly, for appointment to or by the Council shall disqualify the individual from such an appointment. The Proper Officer shall disclose the requirements of this Standing Order to every candidate.
- 19.2 A councillor or a member of a committee or sub-committee shall not solicit a person for appointment to or by the Council or recommend a person for such appointment or for promotion; but, nevertheless, any such person may give a written testimonial of a candidate's ability, experience or character for submission to the Council with an application for appointment.
- 19.3 This Standing Order shall apply to tenders as if the person making the tender were a candidate for an appointment.

**20. INSPECTION OF DOCUMENTS**

- 20.1 In respect of matters which are confidential, and subject to any other Standing Orders to the contrary, a Councillor may, for the purpose of his official duties (but not otherwise), inspect any document in the possession of the Council or a committee or a sub-committee, and request a copy for the same purpose. The minutes of meetings of the Council, its committees or sub-committees shall be available for inspection by councillors.

**21. UNAUTHORISED ACTIVITIES**

- 21.1 Unless authorised by a resolution, no individual councillor shall in the name or on behalf of the Council, a committee or a sub-committee:
- a. inspect any land and/or premises which the Council has a right or duty to inspect; or
  - b. issue orders, instructions or directions.

**22. CONFIDENTIAL BUSINESS**

- 22.1 Councillors and employees shall not disclose information given in confidence or which they believe to be, or ought to be aware is, of a confidential nature.
- 22.2 A Councillor in breach of the provisions of Standing Order 22.1 may be removed from a committee or a sub-committee by a resolution of the Council.

**23. GENERAL POWER OF COMPETENCE (ENGLAND)**

- 23.1 **Before exercising the power to promote well-being, a meeting of the full Council shall have passed a resolution to confirm it has satisfied the prescribed statutory criteria required to qualify as an eligible parish council.**



- 23.2 The Council's period of eligibility begins on the date that the resolution under Standing Order 23.1 above was made and expires on the day before the annual meeting of the Council that takes place in a year of ordinary elections.
- 23.3 After the expiry of its preceding period of eligibility, the Council continues to be an eligible council solely for the purpose of completing any activity undertaken in the exercise of the power to promote well-being which was not completed before the expiry of the Council's preceding period of eligibility referred to in Standing Order 23.2 above.

## **24. MATTERS AFFECTING COUNCIL EMPLOYEES**

- 24.1 If a meeting considers any matter personal to a Council employee, it shall not be considered until the meeting has decided whether or not the press and public shall be excluded pursuant to Standing Order 1.3 above.
- 24.2 The Proper Officer shall notify the Chairman of Council or, in his absence, the Vice-Chairman of Council of any absence by him/her occasioned by illness or urgency and that person shall report such absence to Council at its next meeting.
- 24.3 The Chairman of the Council (or in his absence and upon a resolution the Vice-Chairman) shall conduct an annual review or appraisal of the performance of the Proper Officer and shall keep a written record of it. The results of the review or appraisal shall be reported back to the Finance and Risk Management Committee.
- 24.4 *The Council shall conform to the Employee Grievance and Dispute Resolution procedure set out in its employees' contracts of employment.*
- 24.5 *The Council shall conform to the Employee Disciplinary procedure set out in its employees' contracts of employment.*
- 24.6 Any persons responsible for all or part of the management of Council employees shall keep written records of all meetings relating to their performance, and capabilities, grievance and disciplinary matters.
- 24.7 The Council shall keep written records relating to employees secure. All paper records shall be secured under lock and electronic records shall be password protected. The Chairman shall be responsible for the safekeeping of the Clerk's personal file including employment references and annual appraisals.
- 24.8 Records documenting reasons for an employee's absence due to ill health or details of a medical condition shall be made available only to those persons with responsibility for the same.
- 24.9 Only persons with line management responsibilities shall have access to employee records referred to in Standing Orders 24.7 and 24.8 if so justified.
- 24.10 Access and means of access by keys and/or computer passwords to records of employment referred to in Standing Orders 24.7 and 24.8 shall be provided only to the Proper Officer and the Chairman of the Council.

## **25. FREEDOM OF INFORMATION ACT 2000**

- 25.1 All requests for information held by the Council shall be processed in accordance with the Council's policy in respect of handling requests under the Freedom of Information Act 2000.

- 25.2 Correspondence from, and notices served by, the Information Commissioner shall be referred by the Proper Officer to the chairman of the Finance and Risk Management Committee. The said committee shall have the power to do anything to facilitate compliance with the Freedom of Information Act 2000 including exercising the powers of the Proper Officer in respect of Freedom of Information requests set out under Standing Order 3.2(1) above.
- 25.3 The Council shall maintain and publish an Information Publication Scheme detailing what classes of documents and other information the Council is willing to disclose to the public upon application, in accordance with the requirements of the Information Commissioner and the Freedom of Information Act 2000.

## **26. RELATIONS WITH THE PRESS/MEDIA**

- 26.1 The Proper Officer shall respond to all requests from the press or other media for an oral or written statement or comment from the Council, in accordance with Council resolutions and with the Council's policy in respect of dealing with the press and/or other media.
- 26.2 Councillors shall not, in their official capacity, provide oral or written statements or written articles to the press or other media except by prior authorisation of the Council.

## **27. LIAISON WITH DISTRICT AND COUNTY OR UNITARY COUNCILLORS**

- 27.1 An invitation to attend a meeting of the Council shall be sent, together with the agenda, to the councillor of the District and County Council representing its electoral ward.
- 27.2 Unless the Council otherwise orders, a copy of each letter sent to the District or County or Unitary Council shall be sent to the District or County councillor representing its electoral ward.

## **28. ALLEGATIONS OF BREACHES OF THE CODE OF CONDUCT**

- 28.1 On receipt of an allegation of breach of the Code of Conduct committed by a member of the Council, the Proper Officer shall inform the Chairman of the Council and shall pass details of the allegation to the local Monitoring Officer in Guildford Borough Council. The local Monitoring Officer may investigate the allegation and may either (1) refer the allegation to the Local Standards and Audit Committee of the Borough Council for its consideration; or (2) respond informally to the allegation through action such as mediation, conciliation, or Councillor training; or (3) decide to take no action. The Council itself shall undertake no discussion or investigation of the complaint.
- 28.2 Where the complainant is the Proper Officer, the Proper Officer shall notify the Chairman of the Council, who, upon receipt of such notification, shall nominate a person who is not the subject of any complaint made to assume the duties of the Proper Officer set out in the remainder of this Standing Order, and who shall continue to act in respect of that matter as such until the complaint is resolved.
- 28.3 Where a notification relates to a complaint made by an employee (not being the Proper Officer) the Proper Officer shall ensure that the employee in question does not deal with any aspect of the complaint.

- 28.4 The fact of an investigation of alleged breach of the Code of Conduct, and its outcome, are subject to public disclosure once the investigation is complete, but the content and conduct of an investigation in progress shall remain confidential. This shall not however prohibit the Council (whether through the Proper Officer or the Chairman of the Council or otherwise) from disclosing information to the local Monitoring Officer, the Local Standards and Audit Committee, or to other persons where such disclosure is necessary to deal with the complaint.
- 28.5 Standing order 28.1 shall apply to a communication of any kind which relates to a breach or an alleged breach of the code of conduct by a councillor.
- 28.6 All other complaints against the Council and officers not involving breaches of the Code of Conduct shall be dealt with through the Council's Complaints Procedure (attached).

**29. VARIATION, REVOCATION AND SUSPENSION OF STANDING ORDERS**

- 29.1 Any or every part of the Standing Orders, **except those which are mandatory by law**, may be suspended by resolution in relation to any specific item of business.
- 29.2 A motion to permanently add to or to vary or to revoke one or more of the Council's Standing Orders not mandatory by law shall not be carried unless two-thirds of the councillors at a meeting of the Council vote in favour of the same.

**30. OTHER**

- 30.1 The Proper Officer shall provide a copy of the Council's Standing Orders to a councillor upon delivery of his declaration of acceptance of office.
- 30.2 The Chairman's decision as to the application of Standing Orders at meetings shall be final.
- 30.3 A councillor's failure to observe Standing Orders more than 3 times in one meeting may result in him being excluded from the meeting in accordance with Standing Orders.

**East Horsley Parish Council**

**COMPLAINTS PROCEDURE – CODE OF PRACTICE**

*adopted 30 June 2006*

**Registration of a Complaint**

1. A complainant should be invited to put the complaint about the Council's procedure of administration in writing to the Clerk or other nominated Proper Officer.
2. If the complainant does not wish to put the complaint to the Clerk or other Proper Officer, he/she should be advised to put it to the Chairman of the Council.
3. The Clerk shall acknowledge the receipt of the complaint and advise the complainant when the matter will be considered by the Council or by a Committee established for the purposes of hearing complaints.
4. The complainant shall be invited to attend the relevant meeting and to bring with them such representation as they wish.
5. Seven clear working days prior to the meeting, the complainant shall provide the Council with copies of any documentation or other evidence they wish to refer to at the meeting. The Council shall similarly provide the complainant with copies of any documentation upon which it wishes to rely at the meeting.

**At the Meeting Hearing the Complaint**

6. The Council shall consider whether the circumstances of the meeting warrant the exclusion of the press and public. If the press and public are excluded, any decision on a complaint shall be announced at the end of the meeting in public.
7. The chairman of the meeting shall introduce those present and explain the procedure.
8. The complainant (or representative) shall outline the grounds for the complaint, and Members shall ask any questions necessary of the complainant.
9. If relevant the Clerk or other Proper officer shall explain the Council's position and Members shall ask any questions necessary of him.
10. The Clerk or other Proper Officer and then the complainant (in this order) shall be offered the opportunity of a last word.
11. The Clerk or other Proper Officer and the complainant shall be asked to leave the room while Members decide whether or not grounds for the complaint have been established. Both parties may be invited back if a point of clarification is necessary.
12. Clerk or other Proper Officer and the complainant shall return to hear the decision, or to be advised when a decision will be made.
13. The decision of the meeting shall be confirmed in writing within seven working days together with details of any action to be taken.

*Council Report*

*Report of Interim Head of Legal and Democratic Services*

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Date: 8 May 2012

## **The Localism Act 2011: Ethical Standards Update**

### **Recommendation:**

The Council is asked to agree the following:

- (1) Subject to paragraph (2) below, to adopt with effect from the commencement date of Section 27(2) of the Localism Act 2011 the draft code of conduct for councillors as set out in Appendix 1 to this report.
- (2) To authorise the Acting Monitoring Officer, in consultation with political group leaders, to make such amendments to the code of conduct as he may consider appropriate in the light of regulations defining disclosable pecuniary interests to be published by the Secretary of State.
- (3) To approve the draft arrangements for dealing with complaints of misconduct, as set out in Appendix 2 to this report, for inclusion in Part 5 of the Constitution.
- (4) To delegate to the Hearings Sub-Committee the right to depart from the arrangements referred to in paragraph (3) above where the Sub-Committee considers it expedient to do so in order to secure the effective and fair consideration of any matter.
- (5) To authorise the Monitoring Officer, following consultation with the Independent Person, to reject complaints if, the Monitoring Officer considers them to be vexatious, frivolous or politically motivated.
- (6) To amend Council Procedure Rule 12, as described in paragraph 3.8 (c) of this report.
- (7) To authorise the new Standards Committee to review the Council's new ethical standards arrangements after 12 months.

### Reason for Recommendation:

To comply with the Council's obligations under the Localism Act 2011 in respect of ethical standards.

## 1. Code of Conduct for Councillors

1.1 The statutory requirements in respect of the new code of conduct are as follows:

- (a) The Council must adopt a code of conduct to apply to councillors and co-opted members when they are acting in that capacity;
- (b) The code, when viewed as a whole, must be consistent with the seven principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership;
- (c) The code must contain provisions that the Council considers appropriate in relation to the registration and disclosure of pecuniary and other interests.
- (d) The code, once adopted by the Council, must be publicised locally.

1.2 Councillors have already taken the view that if the Council is to take its duty to promote and maintain high standards of conduct for its councillors seriously, then it must have in place a robust code of conduct with clear guidance as to how councillors should properly conduct themselves when acting in that capacity and the consequences for them if they do not. Furthermore, its arrangements for dealing with misconduct complaints should be fair, thorough and transparent.

1.3 The Council has therefore asked the Acting Monitoring Officer to include the general obligations on councillors set out in paragraphs 3 to 7 of the current code of conduct in the draft new code. There is, therefore, a clear desire on the part of this Council to ensure that the new code is as equally robust as the current code. A draft code of conduct is attached as **Appendix 1** to this report.

### Registration of interests

1.4 As mentioned above, the new code must contain provisions that the Council considers appropriate in relation to the registration and disclosure of pecuniary and other interests. The current code of conduct provides for the registration and disclosure of *personal and prejudicial interests*. As this will be abolished under the new regime, councillors must now become familiar with the new term *Disclosable Pecuniary Interests* (DPIs)

1.5 Whereas under the existing ethical standards framework failure to register or disclose a personal or prejudicial interest was taken to be a possible breach of the code of conduct, under the new regime a failure by a councillor to register or declare a DPI is taken to be a criminal offence. This can be punished with a maximum fine of £5,000 at the Magistrates' Court and the magistrates could also disqualify a person from being, or becoming, a councillor for a period of up to five years.

1.6 In addition to DPIs, which will be defined in regulations that have still not yet been published, the Council can also specify other interests which it thinks should be declared in the register of interest. It is impossible to state for certain what could be included under this heading until the regulations on DPIs are known. It may be that rules on acceptance of gifts and hospitality come under this heading.

1.7 The Monitoring Officer is responsible for maintaining the register and a copy has to be made available for inspection to the public at all reasonable hours. Furthermore, a copy also has to be placed on the Council's website. This Council has established and maintained an online register of councillors' interests since 2010.

Obligations on councillors in respect of Disclosable Pecuniary Interests

1.8 Below is a summary of the statutory obligations on councillors and (voting) co-opted members.

- (a) To notify the Monitoring Officer of any DPI that the councillor may have within 28 days of their election, **together with** the DPIs of:
- (i) a spouse or civil partner
  - (ii) a person with whom they are living as husband and wife
  - (iii) a person with whom they are living as if they were civil partners

The Monitoring Officer will then enter the notified interests onto the register of interests. As mentioned above, failure by the councillor to comply with this obligation is a criminal offence. It is also an offence to knowingly provide false or misleading information when making the disclosure or to be reckless as to whether the information is true and not misleading. This obligation is therefore far more stringent and intrusive than the existing obligation which is to declare in a meeting any personal or prejudicial interests arising from family and friend relationships where the councillor “*ought reasonably to be aware of the existence of the personal interest*”. Family and friend relationships and interests arising from those relationships do not currently have to be declared in the register of interests.

- (b) If a DPI arises at a meeting and that interest has not previously been notified to the Monitoring Officer and, therefore, not entered on the register of interests, the councillor **must** not only disclose the interest to the meeting but also notify the Monitoring Officer within 28 days of the date of disclosure. It is a criminal offence not to do so.
- (c) Where a DPI arises at a meeting and the councillor is aware that they have a DPI, they **must not** participate either in the discussion of the matter or in any vote taken at the meeting. Unless they have a dispensation, it is a criminal offence to do so. The Council’s procedure rules may make provision for the councillor to leave the room when such a situation arises. The current provision whereby a councillor with a prejudicial interest can speak in a meeting if there is a public right to speak will disappear. The Acting Monitoring Officer recommends that, where a councillor has a DPI at a meeting, it would be appropriate in such circumstances for the councillor concerned to leave the room for their own protection. The following amendment to Council Procedure Rule 12 (Councillors’ Conduct) is therefore recommended:

**“Requirement for councillors with disclosable pecuniary interest to withdraw from meeting**

- (f) Any councillor present at a meeting who is aware that they have a disclosable pecuniary interest in any matter that will be, or is being, considered at that meeting, and who has not received a dispensation in respect of that interest must:
- (i) disclose the nature of the interest to the meeting (or, if it is a sensitive interest as described in the code of conduct, disclose merely the fact that it is a disclosable pecuniary interest);
  - (ii) not participate in any discussion or vote regarding that matter; and

- (iii) withdraw immediately from the room or chamber (including the public gallery) where the meeting considering that matter is being held.”
- (d) Where any councillor acts alone in exercising a function of the Council (for example lead councillor decision making) and a DPI arises, then that councillor **must not** take any further steps in relation to that matter except for the purpose of enabling the matter to be dealt with otherwise than by that councillor. It is a criminal offence to do so.
- (e) Where a DPI arises as in (d) above then the councillor **must** disclose it to the Monitoring Officer within 28 days. It is a criminal offence not to do so.

#### Registration and Disclosure of non-pecuniary interests

- 1.9 As stated in paragraph 3.4, the Act requires the Council’s new code of conduct to contain provisions that the Council considers appropriate in relation to the registration and disclosure of pecuniary interests and interests other than pecuniary interests.
- 1.10 Provision has been made in the draft new code of conduct for the registration of a limited number of non-pecuniary interests covering membership of or occupation of a position of general control or management of the following bodies:
  - bodies to which the councillor has been appointed or nominated by the Council as its representative
  - bodies exercising functions of a public nature
  - bodies directed to charitable purposes
  - bodies one of whose principal purposes includes the influence of public opinion (including any political party or trade union)

The above categories reflect the first four headings contained in the current register of councillors’ interests.

#### Acceptance of gifts and hospitality

- 1.11 The draft code cautions against the acceptance of excessive gifts or hospitality and requires councillors to continue to register any gifts or hospitality with an estimated value of £25 or more.

#### Bias and predetermination

- 1.12 The draft code of conduct takes account of the legislative position taken by the Government in respect of allegations of bias or predetermination. Section 25 of the Act provides that a councillor is not to be taken as having had a closed mind when making a decision just because they had previously expressed a view in relation to the matter.

## **2. Arrangements for dealing with complaints**

- 2.1 The Act requires us to have in place arrangements under which allegations of misconduct against borough councillors and members of parish councils within the borough can be investigated and decisions on those allegations can be made. It is intended that arrangements should be substantially simpler and clearer than the procedures that exist at present, which extend over 25 pages of the Constitution.



2.2 At the 9 February 2012 meeting, the Council authorised the Acting Monitoring Officer to prepare, and submit to Council for approval, arrangements based on the following principles:

- (a) the Monitoring Officer to be designated as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;
- (b) the Monitoring Officer, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation.
- (c) the Monitoring Officer to seek resolution of complaints without formal investigation wherever practicable,
- (d) the Monitoring Officer to have discretion to refer decisions on investigation to the Standards Committee where he feels that it is inappropriate for him to take the decision;
- (e) where an investigation finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer be authorised to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the councillor concerned, and to the Independent Person, and reporting the findings to the Standards Committee for information;
- (f) where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to Standards Committee. Where such local resolution is not appropriate or not possible, he is to report the investigation findings to a Hearings Sub-Committee of the Standards Committee for local hearing;
- (g) the Hearings Sub-Committee to be politically balanced and comprise of five voting members of the Standards Committee;
- (h) the Hearings Sub-Committee to be authorised to take decisions in respect of a councillor who is found on hearing to have failed to comply with the Code of Conduct, including a number of actions ranging from naming and shaming at a full Council meeting to removing the councillor from all outside appointments to which they have been appointed or nominated by the authority.

2.3 The Acting Monitoring Officer has drafted the arrangements (see **Appendix 2**) in order that they meet the following overall objectives:

- (a) they should reassure residents and others that complaints will be dealt with swiftly, properly and transparently
- (b) they should be simple, clear and follow the rules of natural justice
- (c) they should not be bureaucratic in that they should follow the law and not build in unnecessary additional measures
- (d) they should allow the Monitoring Officer to reject vexatious, frivolous or politically motivated complaints

2.4 The Monitoring Officer will, as now, be the first contact for all complaints. The arrangements will permit an initial review and consultation with the Independent Person. If the complaint is trivial, vexatious or politically motivated or a breach of the code is not specified, the process may end there with the complainant being given reasons. If a complaint alleges the commission of a criminal offence, the police will need to be informed. The early stage also provides for the possibility of informal resolution without

formal investigation. However, if an investigation is necessary, that sets in train a particular process.

2.5 If the investigator concludes that there has been no evidence of a failure to comply with the code, and the Monitoring Officer is satisfied that the report is sufficient, that will be the end of the matter, save for the parties being advised and a final copy of the report being provided. If there is evidence of a breach of the code, the matter is likely to proceed to a hearing conducted by the Hearings Sub-Committee, although there is still the possibility of some other local resolution. The procedure for a Sub-Committee hearing is set out in paragraph 7.2 of the Draft Arrangements (Appendix 2).

2.6 Councillors will recall that the Act makes no provision to empower the Council to impose sanctions against a councillor/co-opted member for a failure to comply with the code of conduct. A summary of possible actions, if misconduct is established, is provided in paragraph 8 of the Draft Arrangements.

### **3. Financial Implications**

3.1 As reported previously, it is anticipated that all the necessary changes to the ethical standards framework can be undertaken within existing budgets.

### **4. Legal Implications**

4.1 These are set out in the body of this report.

### **5. Human Resource Implications**

5.1 As reported previously, it is anticipated at this stage that all the necessary changes to the ethical standards framework can be undertaken within existing staff resources.

### **6. Conclusion**

6.1 The adoption of the new code of conduct, including provision for the registration and disclosure of interests, and agreement of the arrangements for dealing with misconduct complaints will help satisfy the statutory duty to promote and maintain high standards of conduct by councillors. They will also help maintain strong ethical governance and safeguard the Council from damage to reputation.

### **7. Background Papers**

- Standards and Audit Committee: 18 January 2012 - Item 4: The Localism Act 2011: The New Ethical Standards Regime
- Minute No. ST41
- Council: 9 February 2012 – Item 8: The Localism Act 2011: The New Ethical Standards Regime
- Minute No. CO91
- Standards and Audit Committee: 28 March 2012 - Item 4: The Localism Act 2011: Ethical Standards Update
- Minute No. ST49
- Council: 5 April 2012 – Item 8: The Localism Act 2011: Ethical Standards Update
- Minute No. CO109

**8. Appendices**

Appendix 1 – Code of Conduct

Appendix 2 – Arrangements for dealing with misconduct complaints

Appendix 3 - Financial Regulations

## ANNEX 2: “PRINCIPLES OF CHAIRMANSHIP”

reproduced from NALC guidance dated March 2007

(NOTE: In this part, the word “Chairman” means the person actually presiding at a meeting and “Council” includes “committee,” where any function has been delegated. )

### BASIC PRINCIPLES

1. The officers and agents of the Council must act as the Council’s executive and carry out its decisions. They cannot do this properly unless they have instructions that they can understand.
2. It is the primary, if not the only, function of the Council to frame instructions upon which people can act; even a decision to take no action, is such an instruction.
3. The Council’s instructions are conveyed by resolutions and it is the purpose of the Council’s proceedings to *reach, without unreasonable delay, an intelligible and lawful decision for the right reasons*. The whole duty of a Chairman is to ensure that this purpose is achieved and to this end he must:-
  - (a) protect the Council against *outside interference*;
  - (b) ensure that everything to be discussed is *lawful*;
  - (c) ensure that the Council is invited to deal with *clear issues*;
  - (d) ensure that as far as possible *information is complete*;
  - (e) permit every point of view to have a *fair hearing*;
  - (f) ensure that opinions expressed are *relevant* to the matter in hand;
  - (g) ensure that business is transacted with *reasonable speed*;
  - (h) ensure as far as possible that proceedings are *friendly* and *free from personalities*;
  - (i) co-operate with the officers and councillors.

### THE AUTHORITY OF THE CHAIR

#### *Origin*

4. The office of Chairman of a local authority is created by statute, which has conferred upon the occupant of the chair a second or casting vote on all occasions but one. The scope of his authority, however, depends upon ancient customs which are perfectly logical and arise from the necessities of the case.

#### *Nature and Limitations*

5. Whether or not the Council has passed any standing orders, the Chairman’s procedural authority is derived from the Council as a whole and an individual councillor must obey his rulings because they are the rulings of the Council itself. It follows from this, however, that the Chairman cannot overrule the Council and that a councillor who is dissatisfied by the Chairman’s ruling may invite the Council to disagree with it. Such appeals against the chair ought to be very rare.
6. The authority of the Chairman, as such, is limited to matters of procedure and neither increases nor decreases his right (in comparison with other members) to discuss the merits of a particular case. It is one of his most difficult tasks to remember that, while the Chair gives him authority on matters of procedure, it confers no rights (other than the casting vote) on matters of policy above those possessed by other members.

## PRIOR TO THE MEETING

7. Before any meeting, the Chairman should study the items on the agenda with either the Clerk or any other officers, and should in effect ask in respect of each item the following questions:-
- (a) What does it mean?
  - (b) Is it lawful?
  - (c) Do we know enough about it?
  - (d) Has any member special knowledge of this problem?
  - (e) Is there any member who may have a prejudicial interest?

## OUTSIDE INTERFERENCE

### *Public Disturbances*

8. No one is entitled to interrupt or obstruct the proceedings of the Council or its committees. In general it is best to stop an interruption at once before the habit spreads to the rest of the audience; and though he will naturally not wish to be rude, the Chairman should cut an interrupter short, and if good humour and conciliation fail to produce silence he may have to warn him that he will be turned out if he does it again; if the warning is ignored it should be resolved, without discussion, that the interrupter be excluded, and if he fails to leave he should be removed by force. Care should be taken to use no more force than necessary. It is not essential to call the police, but maybe necessary.
9. The Chairman should never argue or allow argument with an interrupter. If the public becomes disorderly it may eventually be necessary to close the meeting or to adjourn to a more private place. It is, however, illegal to decide to exclude the public from any future meeting. The press is in a privileged position inasmuch as its representatives must so far as possible be given facilities for taking their reports.

### *Personal and Prejudicial Interests*

10. The law requires that where a member has a personal interest in any matter he must disclose the existence and nature of that interest. If the personal interest is also prejudicial, the member should withdraw from the meeting and take no further part in the relevant proceedings or seek to influence those proceedings (***the member may however address the meeting before withdrawing, if members of the public present also have the right to do so***). The Chairman should before a meeting consider whether any member (including himself) may have any such interest, and may draw the individual member's attention to the possibility before it starts. However, ultimately, it is for the member to decide whether or not to disclose any relevant interest. However, a complaint that a member has failed to disclose an interest (personal or prejudicial) can lead to an investigation by the local Monitoring Officer.

## LEGALITY OF PROCEEDINGS

### *Rulings on Notices*

11. The Chairman must be satisfied that the meeting is lawful. He does not need to have personal knowledge that the proper notices and summonses have been issued, but if complaints are made he must give a ruling based upon the essential justice of the matter. A meeting is not necessarily illegal because someone has not received a notice to which he is entitled, but where an irregularity appears to be intentional or important the meeting should be adjourned until it has been corrected.

### *Quorum*

12. No business can be transacted if no quorum is present. This rule applies not only to cases of physical absence but to cases of disqualification by interest. A situation may, therefore, sometimes arise where the Council cannot act because it is impossible to obtain a disinterested quorum. In such a case the Chairman should adjourn the matter until it can be next dealt with. Those members with a prejudicial interest should consider making an application for dispensation to their local standards committee where appropriate.

### *Ultra Vires Proposals*

13. The Chairman should satisfy himself that any proposal involving expenditure is lawful and should rule any unlawful proposal or amendment out of order. Where there is any doubt, advice should be sought well before the meeting and in time to delete it, if necessary, from the agenda. The Section 137 power (contained in the Local Government Act 1972) is not a “long stop” in case of a mistake; expenditure under this heading requires a special resolution, related to the provisions of that section.

### **A CLEAR ISSUE**

14. *Every* decision of the Council must be made by an affirmative vote of a majority of those present and voting (including, where necessary, the Chairman’s second or casting vote). The members must, therefore, know exactly what they are being asked to decide and each proposition must be put to them in a form which can be answered by a simple “Yes” or “No”. From this there follow certain practical consequences:-
  - (a) All motions should be affirmative in form; it is never necessary to move that a resolution be rejected;
  - (b) Where there is more than one solution to a problem each solution must be separately put to the vote.

### *The Affirmative Form*

15. The most exact method of putting a question to the vote is by the use of the following formula:-

“The resolution is as follows: -

***(e.g.) ‘That the Clerk’s salary be raised to £5,000 a year.’***

The motion is that this resolution be agreed to.”

(Note: A *resolution* is a proposal of the action intended to be taken: for example “That the Council buy a mower”. A *motion* is the procedural formula by which the Council disposes of business: for example “The motion is that the resolution be amended by “.....”, or “The motion is that the Council do now adjourn”.)

### *Separating the Issues*

16. In attempting to reach a decision a Council may from time to time be faced with alternative solutions. Some alternatives may be mutually exclusive; others may be matters of detail subsidiary to the principal issue.
17. Where the alternatives are mutually exclusive, it may be desirable in the first instance to discuss the resolutions embodying them together until the general trend of opinion is apparent, and then to put one of them in the form of an amendment to the other; for instance, if a Council considers that it can afford either a swimming pool or a new playing field but not both, a decision to provide the one in practice excludes the other.

Therefore, the resolution on behalf of each should be discussed together and the issue at this stage may be informally stated thus:-

“If the Council is to spend its money would it prefer a swimming pool or a playing field?”

In more formal language the issue is put to the vote by substantive resolution and amendment: -

“The resolution is that the swimming pool be provided. To this the following amendment has been moved: -

*leave out the words ‘swimming pool’ and substitute the words ‘new playing field.’*

The motion is that this amendment be agreed to.”

18. A vote on an amendment does not end the matter: it merely decides what shall be discussed next. Thus, in the example, if the amendment is carried, all further discussion of the swimming pool becomes out of order, but the Council has yet to decide whether the major operation shall be carried out at all. This is done by putting the resolution as amended to the vote. (See also paragraph 35 below.)

#### **METHOD OF VOTING**

19. The rules on the manner in which decisions are taken are peremptory and admit no exceptions. Every decision must be reached by a majority of those voting. Appointments to employments must be decided in the same way as other questions.

#### **COMPLETENESS OF INFORMATION**

20. Sensible decisions cannot be reached without reasonably complete information, which it is usually the duty of the clerk to supply. The Chairman should before the meeting consider whether enough information is available or likely to be made available, and at the meeting he should make a point of asking a member with special knowledge to give his opinion. If it appears at the meeting that information is still insufficient he should move to adjourn consideration until more is known, and sometimes it may be desirable to frame questions and to instruct the clerk to obtain the answers by a specified date.

#### **IMPARTIALITY**

21. When differences of opinion develop in discussion it is the duty of the Chairman to give a fair hearing to all points of view including his own, if he has one. It is not his duty as Chairman to suppress his own convictions, nor his privilege to impose his opinions. Experience has shown that the safest and least controversial course is for the Chairman to call upon speakers for and against a proposal to speak alternately and himself to avoid speaking first or last.
22. Some people are better at putting a case than others, and the Chairman ought to allow reasonable latitude to the less eloquent. For this reason mechanical rules of debate limiting, for instance, the time allowed for a speech or the number of times a member may speak, are undesirable, and the Chairman should have some latitude in applying them, especially in a Council with a small membership.

#### **RELEVANCE**

##### *General Rule*

23. A speech must be directed to the point under discussion and nothing else. This rule is easy to state, but not always easy to apply fairly, because the relevance of what is being said may be understood by the speaker before it is grasped by the listener. Whilst the

rule should not be made a cover for “barracking from the chair”, it is probably true that if Chairmen enforced it more strictly, business would be much more quickly and efficiently conducted than is often the case, and many unnecessary arguments and even some quarrels would be avoided. Bad feeling originates in irrelevancies more often than in any other way. On the other hand, it is sometimes advantageous to allow irrelevance in order to “clear the air”. Too harsh suppression can breed ill will and a sense of grievance.

#### *Personalities*

24. The Chairman should do his best to prevent observations in discussion; the custom whereby the speeches are in a form addressed to the Chairman, should only be observed because it forces members to employ an impersonal mode of expression. If a member makes an offensive personal observation, the Chairman should immediately intervene to seek immediate apology to an offended member.

#### *Methods of Enforcement*

25. Where a speech is obviously irrelevant the Chairman should stop the speaker and invite him to return to the point or sit down. Where the irrelevance is not quite so obvious, the Chairman may often find it convenient to ask the speaker to explain how his remarks relate to the issue.

#### *Revival of Decided Issues*

26. The Chairman should not allow a matter that has been decided to be reopened at the same meeting. An attempt to “hark back” to a previous agenda item should be firmly ruled out of order as irrelevant to the matter now under discussion, even if the member who raises it was not present when the item was considered.

#### *Minutes*

27. One of the commonest irrelevances is the practice of attempting to discuss the merits of what is contained in the minutes, on a motion for their signature as a correct record. On such a motion the only issue is whether the words of the minutes accurately record the events at the meeting of which they are a record.

#### *Other Problems*

28. If any substantial issue arises on a matter dealt with in the Minutes, it is better to have a separate agenda item than to discuss it under “Matters Arising”. That heading should be used only for reports of progress and not for new or additional decisions.
29. Letters received by the Council should not be read out verbatim: this provokes irrelevant discussion on wording and is liable to lead to misunderstanding by the public. On the very rare occasions that the exact text is needed by every councillor, the clerk should issue copies. Normally it is sufficient to report the main issue in the letter: for example “Mrs Smith of ..... has written asking the Council to get the pile of rubbish removed from outside 48 ..... Lane”.

### **REASONABLE DESPATCH**

#### *Intervals*

30. It is important that business should be transacted with reasonable speed. Long meetings bore the members and so reduce the level of attentiveness and public spirit, and long intervals between meetings lead to missed opportunities and lack of continuity. A Local Council cannot expect to be consulted regularly by other bodies such as the County or District Council if it does not answer letters reasonably promptly. For this reason it should meet at least once a month, and the Chairman ought not to hesitate to call special



meetings in necessary cases; the greater the interval between regular meetings the more ready he should be to call them. The right of Local Councils to be notified of planning applications makes this especially important.

#### *Obstruction at Meetings*

31. Deliberate obstruction is rare, but must be firmly dealt with when it occurs. It is difficult to be directly obstructive for long without being irrelevant, and therefore deliberate obstruction sometimes takes the form of raising a succession of points of order. In dealing with this type of obstruction it is well to remember that a point is not necessarily a point of order because the person who makes it labels it as such. (*For points of order see paragraph 34 below.*)

#### *Repetition*

32. If it is evident that nothing new can be said on either side in a particular discussion, a Chairman is justified in putting the matter to the vote even though there are still members wishing to speak. Usually, however, the state of affairs is not so clear and in such cases the Chairman should ask leave of the Council to put the matter to the vote.

#### *Procrastination*

33. All deliberative bodies have a natural tendency to refer questions to someone else (e.g. an officer or a committee) for consideration or report. These are frequently unnecessary because they are often used only when a Council is unwilling to make a final decision.

### **SOME PROCEDURAL POINTS**

#### *Points of Order*

34. Points of Order relate to procedure only and take precedence over all other business; it is the duty of the Chairman to deal with them. If a point relates to the substance of a matter under discussion, it is not a point of order and should be ruled out of order by the Chairman. The person raising the matter of substance in this way should be told to save it for his speech on the business. For instance, if the provision of a swimming pool is being discussed and someone interrupts the speaker by saying "On a point of order, can we afford it?", the interruption should be ruled out of order because this is not a procedural question. It is part of the merits of the business and must therefore be decided by discussion. The person interrupted may of course answer the point when he continues his speech or ignore it as he thinks appropriate. If, however, the interruption had been "On a point of order, have we power to do this?" the Chairman (in consultation with the clerk) must give a ruling. If the answer is "No", the Council has no power to act as proposed and the business ought not to be under discussion. (See Standing Order 31(a) below.)

#### *Procedural Resolutions*

35. Procedural resolutions should normally be put without discussion. The usual exceptions are resolutions to (a) correct minutes, (b) alter the order of business, (c) refer to committee.

#### *Closure Motions*

36. The following are the respective effects of closure resolutions:-
- (a) On the passing of a resolution to proceed to *next business*, proceedings on the business in hand come to a stop and no decision upon it can be taken.
  - (b) On the passing of a resolution that the *question be now put*, the mover is usually entitled to reply before the matter is put to the vote. By custom the chairman may

refuse to accept such a resolution until he thinks that the matter has been sufficiently debated.

- (c) A resolution to adjourn a discussion or a meeting stops the discussion at the moment it is passed and no decision is taken on the business; therefore the discussion may later be resumed at the point where it was interrupted.

#### *Amendments*

37. An amendment, which in substance negates the principle resolution, should not be allowed because it is confusing and unnecessary.
38. An amendment should always be put to the vote before the resolution that it seeks to amend. (See also paragraph 18 above.)

#### *Any Other Business*

39. The summons to a meeting of a Local Council must by law specify the business to be transacted; a Local Council cannot legally decide to take any action under the general heading of “any other business” because these words do not specify any item of business. The rule prevents the Council deciding any business which will have either expenditure consequences or lead the Council into a legal situation: for example by making a contract. There is no practical objection to exchanges of information under “A.O.B.” or the giving of a preliminary notification of important business for next time.

#### *“Urgent” Business*

40. The law makes no provision for dealing with “urgent” business. If it is “urgent” only because it was not notified in time to appear on the agenda, it should be left till the next meeting. If it is genuinely “urgent”, that is it was too late for the agenda and it will be too late for action if left till the next ordinary meeting an additional meeting should be called or the Council should have a regular arrangement for the reference of such matters either to a committee or to the clerk for action. It is contrary to local government law for the Chairman or any other single member to take a decision binding the Council.

### **USE OF CHAIRMAN’S VOTES**

41. Save on one occasion the Chairman has both an ordinary and a casting vote. There is no rule of law which requires him to give his ordinary vote at the same time as the other members are voting, but it is obviously undesirable and undignified for him to wait and then say “the voting is 5 to 4 against; I therefore vote in favour which makes it even.”
42. Where there is an equality of votes, a Chairman may be faced with an embarrassing problem. A resolution requires a majority and therefore, since an equality is not majority, he may declare the resolution not carried. This course is, however, sometimes regarded as irresponsible or lacking in courage; in such circumstances the Chairman ought to give a casting vote, if at all possible, in such a way that the matter can be considered again. For instance, on a motion to accept a particular tender a vote in favour will conclude the matter, but a vote against will leave the way open for further negotiations or reconsideration.

### **PRESENCE OF THE PUBLIC AND PRESS**

43. In principle, the public (which includes the press) is entitled to be present at all meetings of the Council and its committees, and ought to be admitted to sub-committees. The Council or a committee, however, may exclude the public for a particular item of business, if it is opinion that such exclusion is reasonable and in the public interest. Where the public and Press have been excluded the decisions made in the closed session must be minuted; a record should be kept of who was present at the session; and the

Press should be told of any decision. Business is 'confidential' if its discussion must be kept secret; it is 'special' and the reasons for secrecy must be stated in any case where the need for secrecy is not obvious.

#### **MALADMINISTRATION**

44. Parish and Community Councils are not subject to the jurisdiction of the Local Ombudsman. There is, therefore, no outside body that can adjudicate on complaints about the procedures of a Local Council if the law has not been broken. It is, however, important for the good name of the Council that complaints be handled properly and fairly. The National Association has therefore published Legal Topic Note 56 – Code of Practice in Handling Complaints, which recommends a standard and formal procedure to all Councils. In light of the Local Government Act 2000, Councils are recommended to agree, with their Standards Committee, a form of complaint procedure for matters falling outside the jurisdiction of the Standards Board.

#### **PUBLIC PARTICIPATION**

45. The public cannot, of course, take part in the proceedings of the Council, but an increasing number of Councils have created and sustained public interest in their work by arranging for a short period in meetings (say 20 to 30 minutes) when members of the public are permitted to put questions to the Council or to make observations. Such periods can be either during the meeting (by adjournment) or at its end. At other times during the meeting, during consideration of any item of business, the Chairman may elicit information relevant to the matter in question from named members of the public present, or invite named members of the public to address the meeting on the subject being considered.

#### **LENGTH OF MEETINGS**

46. Experience suggests that a meeting should never be allowed to continue for more than two hours without a break. Some organisations embody this idea in a Standing Order. This has not been done here, but councillors may well find it advantageous to establish a custom.