

# Kingsley Parish Council

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## **Standing Orders**

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**Standing Orders that are in bold type contain legal and statutory requirements.**

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# SECTION 1 - MEETINGS

## 1. Meetings Generally

- a) Meetings of the Council shall be held on such dates and times and at such place as the Council may direct. The Council should publish a list of full council meetings annually.
- b) 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.**
- c) Council members shall receive a summons sent by the Proper Officer, specifying the business to be transacted three clear days before a meeting of the Council. A notice of the time and place of the meeting shall at a similar time be affixed and displayed in a conspicuous place in the locality. 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.**

For the avoidance of doubt, legislation requires a summons and agenda to be served on councillors no fewer than three clear days before a meeting<sup>1</sup>. However, failure to achieve three clear days' service does not automatically invalidate a meeting or prevent the meeting from proceeding where otherwise lawful to do so<sup>2</sup>.

There is no statutory requirement for a parish council to publish agendas on its website<sup>3</sup>. The Transparency Code for Smaller Authorities advises that smaller authorities should publish agendas, minutes and associated meeting papers online as part of recommended transparency practice. However, the Code applies only to authorities with annual turnover not exceeding £25,000.

The Local Government Transparency Code 2015 applicable to larger authorities does not impose a specific mandatory requirement to publish agendas or minutes online. While the Local Government Transparency Code 2015 constitutes statutory guidance issued under section 2 of the Local Government, Planning and Land Act 1980<sup>4</sup>, it is important to distinguish between the Code itself and the Regulations which give legal effect to mandatory publication requirements. The relevant Regulations are the Local Government (Transparency Requirements) (England) Regulations 2015<sup>5</sup>. Regulation 2 limits the mandatory publication requirements included within the Transparency Code to authorities to which the Regulations apply and excludes parish councils whose gross annual income or expenditure, whichever is higher, does not exceed £6.5 million<sup>6</sup>.

Accordingly, the mandatory publication requirements contained within the 2015 Regulations do not apply to Kingsley Parish Council at its present level of income and expenditure.

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<sup>1</sup> Schedule 12, Paragraph 10(2)(b), Local Government Act 1972

<sup>2</sup> Schedule 12, Paragraph 10(3), Local Government Act 1972 states: "Want of service of any such summons as is referred to in subparagraph (2)(b) above on any member of the parish council concerned shall not affect the validity of the meeting". Accordingly, failure to achieve service on a councillor within the prescribed timeframe does not automatically invalidate the meeting or proceedings. Further, no provision within Schedule 12 of the Local Government Act 1972 expressly states that failure to provide three clear days' notice automatically invalidates proceedings.

<sup>3</sup> No provision within the Local Government Act 1972, the Transparency Code for Smaller Authorities, or the Local Government Transparency Code 2015 imposes a universal statutory duty on parish councils to publish agendas on a website.

<sup>4</sup> Section 2, Local Government, Planning and Land Act 1980

<sup>5</sup> Local Government (Transparency Requirements) (England) Regulations 2015

<sup>6</sup> Regulation 2(2), Local Government (Transparency Requirements) (England) Regulations 2015

Notwithstanding this position, the Council remains committed to openness and transparency and will continue, wherever reasonably practicable, to publish agendas, minutes, and other governance information on its website.

To further clarify, the Council's statutory duty in relation to notice of meetings is limited to publishing the time and place of the meeting in a conspicuous place within the parish<sup>7</sup>. The legislation only expressly requires the agenda itself to be published in a conspicuous place within the parish where a meeting has been convened by the Chairperson of the Council or by any two councillors following refusal or failure by the Proper Officer to call the meeting<sup>8</sup>. Accordingly, there is no general statutory requirement for parish councils to publish agendas on a website or in any other format beyond the requirements expressly set out in legislation.

- d) 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.**
- e) Subject to Standing Order 1(d) above, members of the public who are registered local government electors and/or business-rate payers may make representations, answer questions and give evidence at a meeting which they are entitled to attend strictly in respect of the business on the agenda, provided that their primary residence (or business) is within the administrative boundary of Kingsley Parish Council. Qualifying members of the public who would like to make representations at a meeting must contact the Proper Officer no later than 48-hours before the meeting to advise both of their wish to speak and the full content (providing a transcript if available). Other issues could be raised if written notice of the question/matter is submitted to the Proper Officer ten working days prior to the meeting and the matter is considered appropriate for the agenda. A request to speak does not confer an automatic right to do so. All requests will be reviewed by officers, in consultation with the Chairperson of the Council or Committee, prior to the meeting. This is to safeguard the integrity of Council proceedings, prevent procedural misconduct, and mitigate legal and financial risks. Comments that could lead to undue disruption, expose the Council to legal challenge, or impact the wellbeing of staff - potentially resulting in avoidable costs to the public purse - will not be permitted. This approach ensures that public participation remains constructive while protecting the responsible use of public funds and resources. For the avoidance of doubt, and to ensure a constructive and orderly meeting, and in accordance with established protocols, public participation must not be used to:**
- Make personal or defamatory remarks about individual councillors. While the public may raise concerns about council decisions or policies, personal attacks or allegations regarding the conduct of councillors are not appropriate for public discussion. Complaints regarding breaches of the Councillors' Code of Conduct should be referred to the Monitoring Officer, who is responsible for investigating such matters.
  - Discuss individual staff members, their performance, or any matters which may relate to them personally (HR or otherwise). Employment issues, including complaints about staff, are confidential and should be addressed through the appropriate procedures. Any concerns about staff conduct must be submitted in writing to the Proper Officer. If the concern relates to the Proper Officer, it should be directed in writing to the Chairperson of the Council and/or the Personnel Committee. However, members of the public may raise general concerns about service delivery, provided that any comments do not target specific individuals or relate to individual roles.

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<sup>7</sup> Schedule 12, Paragraph 10(2)(a), Local Government Act 1972 requires that "notice of the time and place of the intended meeting shall be fixed in some conspicuous place in the parish".

<sup>8</sup> Schedule 12, Paragraph 9(1)-(2) and Paragraph 10(2)(c), Local Government Act 1972. Paragraph 10(2)(c) specifically applies where a meeting is called by the Chairman or by two councillors pursuant to Paragraph 9 and requires that "the agenda for the meeting shall be signed by those members and published in the manner prescribed above".

- f) The period of time which is designated for public participation in accordance with Standing Order 1(e) above shall not exceed fifteen minutes with the provision that the meeting is adjourned to allow public participation to take place.
- g) Subject to Standing Order 1 (f) above, each member of the public is entitled to speak once only and shall not speak for more than three minutes.
- h) In accordance with Standing Order 1 (e) above, a question asked by a member of the public during a public participation session at a meeting shall not require a response or debate.
- i) In accordance with Standing Order 1(f) above, the Chairman may direct that a response to a question or statement posed by a member of the public be referred to a Councillor for an oral response or to the Proper Officer for a written or oral response.
- j) A record of a public participation session at a meeting shall be included in the minutes of that meeting.
- k) A person shall raise their hand when requesting to speak and shall normally stand at the front of the Council when speaking.
- l) 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.
- m) A person may not orally report or comment about a meeting as it takes place if he/she is present at the meeting of the Council or its Committees but otherwise may:**
  - i) film, photograph or make an audio recording of a meeting;**
  - ii) use any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later;**
  - iii) report or comment on the proceedings in writing during or after a meeting or orally report or comment after the meeting.**
- n) At the beginning of the meeting, the Chairman of the meeting will remind everyone in attendance and those participating in the meeting that they may be filmed, recorded, photographed or otherwise reported about. Any member of the public in attendance that objects to any of the above, and children and vulnerable adults, must inform the Chairman and an area within the meeting venue will be designated to them. Any member of the public or press carrying out any of the above must ensure that their activities do not disrupt the proceedings of the meeting or they may be asked to stop or leave.
- o) In accordance with standing order 1(d) 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.**
- p) Subject to standing orders which indicate otherwise, anything authorised or required to be done by, to or before the Chairman may in their absence be done by, to or before the Vice Chairman (if any).**
- q) 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.**
- r) All motions at a meeting shall be decided by a majority of the Councillors present and voting thereon.**

- s) **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 their casting vote whether or not they gave an original vote.**
- t) **Unless standing orders provide otherwise, voting on any motion shall be by a show of hands. At the request of two Councillors, the voting on any motion 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.
- u) The minutes of a meeting shall record the names of councillors present and absent.
- v) If prior to a meeting, a Councillor has submitted reasons for their 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. **If a member of the Council fails throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the authority, they shall, unless the failure was due to some reason approved by the authority (recorded in the minutes of a meeting) before the expiry of that period, cease to be a member of the authority.** Such reasons may be submitted to the Proper Officer prior to a meeting.
- w) The code of conduct adopted by the Council shall apply to councillors in respect of the entire meeting.
- x) 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.
- y) **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:
  - i) In the case of a Council Meeting – not less than four members
  - ii) In the case of a Committee Meeting – not less than three members.
- z) **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 the following meeting. Council and Committee Meetings shall not exceed a period of two hours, unless the Council or Committee agrees to suspend Standing Orders.

## 2. Remote Meetings

- a) Informal consultation meetings may be held remotely, as directed by the Proper Officer.
- b) Meetings held remotely will adhere to best practice and all persons other than Council members or officers will be muted. During the meeting, members will raise their hand to indicate to the Chairman that they wish to speak on an agenda item. Members may also use the chat facility for the same purpose.
- c) Voting will be carried out by a show of hands and the Proper Officer will clarify the vote of each member via a roll call if they cannot be seen. Any votes taken will be for consultation purposes and will inform officer decision making where authority has already been delegated by the Council to the officer (in a duly convened meeting).

## 3. Extraordinary Meetings

- a) **The Chairman of the Council may convene an extraordinary meeting of the Council at any time.**

- b) **If the Chairman of the Council does not or refuses to call an extraordinary meeting of the Council within 7 days of having been requested to do so by two councillors, any 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.**
- c) **The Chairman of a committee (or a sub-committee) may convene an extraordinary meeting of the committee or sub-committee at any time.**
- d) **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 to do so by two councillors, any 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.**

#### **4. Annual Council Meeting**

- a) **In an election year the Annual Council Meeting shall be held on or within 14 days following the day on which the councillors are elected take office.**
- b) **In a year which is not an election year the Annual Meeting of the Council shall be held on such day in May as the Council may direct and shall be held at such hour as the Council may fix or, if no hour is so fixed, 6 o'clock in the evening.**
- c) **In addition to the Annual Meeting at least three other meetings shall be held in each year.**
- d) **The election of the Chairman and Vice-Chairman of the Council shall be the first business completed at the Annual Meeting of the Council.**
- e) **The Chairman of the Council, unless they have resigned or become disqualified, shall continue in office and preside at the Annual Meeting until their successor is elected at the next Annual Meeting of the Council.**
- f) **The Vice-Chairman of the Council, if any, unless they resign 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.**
- g) **In an election year, if the current Chairman of the Council has not been re-elected as a member of the Council, they 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.**
- h) **In an election year, if the current Chairman of the Council has been re-elected as a member of the Council, they shall preside at the meeting until a new Chairman of the Council has been elected. They 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.**
- i) **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 order of business shall be as follows:**
  - i. **In an election year, delivery by councillors of their declarations of acceptance of office.**

- ii. 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.
- iii. Review of terms of reference for committees, their membership and delegation arrangements to committees, sub-committees, employees and other local authorities.
- iv. Review and adoption of all appropriate policies and governance procedures.
- v. To review and make arrangements to reaffirm eligibility to exercise the power of competency which, in an election year, expires on the day prior to the Annual Meeting.
- vi. Review of inventory of land and assets including buildings and office equipment.
- vii. Confirmation of arrangements for insurance cover in respect of all insured risks.
- viii. Review of the Council's and/or employees' memberships of other bodies.
- ix. Setting the dates, times and place of ordinary meetings of the full Council for the year ahead.

## 5. Committees

- a) **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 shall determine their terms of reference and membership.**
- b) The Council may dissolve a committee at any time.
- c) Committees must abide by Terms of Reference.
- d) Delegated authority may be afforded to Committees to make decisions on behalf of the Council.
- e) Where a required decision involves adherence to legislation, all members of a Committee must undertake suitable training, prior to any such decisions being made, to ensure understanding of all legislation in order to ensure the Committee is not at risk of making unlawful decisions.
- f) Committees are not permitted to amend policies without the approval of the Council.

## 6. Sub Committees

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

## 7. Chairman of the Meeting

- a) The person presiding at a meeting may exercise all the powers and duties of the Chairman in relation to the conduct of the meeting.
- b) The Chairman may, at their discretion, alter the order of business as specified on the agenda. In addition, a motion to vary the order of business on the grounds of urgency may be proposed by any member and after being seconded shall be put to the vote without discussion.

## 8. Proper Officer

- a) Where a statute, regulation or order confers function or duties on the proper officer of the Council, he/she shall be nominated:
- b) **To sign and serve on councillors a summons to attend meetings of the Council, confirming the time, date, venue and the agenda of a meeting at least three clear days before the meeting.**

- c) **To give public notice of the time, date, venue and agenda at least three clear days before a meeting of the Council (provided that the public notice with agenda of an extraordinary meeting of the Council convened by Councillors is signed by them).**
- d) To include in the agenda all appropriate motions unless a Councillor has given written notice at least seven days before the meeting confirming their withdrawal of it.
- e) To convene a meeting of full Council for the election of a new Chairman of the Council, occasioned by a casual vacancy in this office.
- f) To receive and retain declarations of acceptance of office from Councillors.
- g) To receive and record notices disclosing pecuniary and non-pecuniary interests.
- h) To receive and retain plans and documents, and copies of by-laws made by other local authorities.**
- i) To draft minutes of meetings and make such minutes available for inspection.**
- j) To process all requests made under the Freedom of Information Act 2000 and Data Protection Act 1998.
- k) To receive and send general correspondence and notices on behalf of the Council, except where there is a resolution to the contrary.
- l) To manage the organisation, storage of and access to information held by the Council in paper and electronic form.
- m) To sign notices or other documents on behalf of the Council, and arrange for legal deeds to be signed by the Chairman and Vice Chairman and witnessed.
- n) To 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.
- o) To retain the custody of the seal of the Council (if any) which shall not be used without a resolution to that effect.
- p) To liaise with media and press on behalf of the Council when required.
- q) To action or undertake any lawful activity or responsibilities instructed by resolution or contained in Standing Orders.

## **9. Motions Moved With Notice**

- a) Except as provided by these Standing Orders, no resolution may be moved unless the business to which it relates has been put on the agenda by the Proper Officer or the mover has given notice in writing (notice of motion) of its terms and has delivered the notice to the Proper Officer at least ten clear days prior to the meeting.
- b) The Proper Officer will consider all notices of motion and may amend obvious grammatical or typographical errors in the wording of a motion. If the Proper Officer considers the wording of a motion received is not clear in meaning, the motion shall be rejected until the mover of the motion resubmits it in writing so that it can be understood at least seven clear days before the meeting.
- c) If the wording or subject of a proposed motion is considered improper, the Proper Officer shall consider whether the motion shall be included in the agenda or rejected. The Proper Officer will consult the Chairman and/or the proposers of a motion when considering the rejection of a motion. The decision of the Proper Officer as to whether or not to include the motion in the agenda shall be final.

- d) Every motion and resolution must adhere 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.
- e) If a motion is required to be moved within the terms of reference of a Committee, or Sub-Committee, or within the delegated powers conferred on an employee, the motion may not be included on the agenda of full council. However, a motion unable to be dealt with by an employee or Committee expediently may be dealt with at a meeting of the full council for reasons of urgency.

## **10. Motions Moved Without Notice**

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 elect a Chairman or Vice Chairman.
- c) To approve the absences of Councillors.
- d) To approve the accuracy of the minutes of a previous meeting.
- e) To correct an inaccuracy in the minutes of a previous 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 sub-committee or an employee.
- j) To appoint a committee or sub-committee or any councillors (including substitutes) thereto.
- k) To receive nominations to a committee or sub-committee.
- l) To dissolve a committee or sub-committee.
- m) To consider a report or any further documentation and/or recommendations made by a committee or a subcommittee or an employee in regard to an agenda item.
- n) To consider a report and/or recommendations made by an employee, professional advisor, expert or consultant.
- o) To authorise legal deeds to be sealed by the Council's common seal OR signed by two councillors and witnessed.
- p) To authorise the payment of monies as detailed in the Council's Financial Regulations.
- q) To amend a motion relevant to the original or substantive motion under consideration which shall not have the effect of nullifying it.
- r) To extend the time limit for speeches.
- s) To exclude the press and public for all or part of a meeting.
- t) To silence or exclude from the meeting a Councillor or a member of the public for disorderly conduct.
- u) To give the consent of the Council if such consent is required by standing orders.
- v) To suspend any Standing Order except those which are mandatory by law.
- w) To adjourn the meeting.
- x) To appoint representatives to outside bodies and to make arrangements for those representatives to report back the activities of outside bodies.
- y) To answer questions from councillors.

## **11. Rules of Debate**

### **Order of Motions**

- a) 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 discretion for reasons of expedience.

### **Motions not Moved**

- b) If a motion is not moved and seconded at the meeting, it will be treated as withdrawn, unless the Council vote to postpone it.

### **No Speeches Until Motion Seconded**

c) No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

### **Right to Require Motion in Writing**

d) Unless proper notice has already been given, a motion, if required by the Chairman, shall be reduced to writing and given to the Chairman before it is put to the meeting.

### **Secunder's Speech**

e) A member when seconding a resolution or amendment may, if he/she declares his/her intention to do so, reserve his/her speech until a later period of the debate.

### **Questions on Motions**

f) A Councillor may ask a question of the proposer, provided that the question is clearly related to the motion on notice and not potentially defamatory, vexatious or offensive.

g) Questions shall be asked after the motion has been moved and seconded and after the proposer has introduced and explained the motion; before the motion is opened up for debate and before any amendments are moved. Asking the question must take no longer than two minutes and only one question per Councillor shall be permitted on a motion.

h) The proposer reserves the right to refuse a reply.

### **Content and Length of Speeches**

i) A member shall direct their speech to the motion under discussion or to a personal explanation or to a point of order. During the debate of a motion, a member may state verbally 'point of order' or 'personal explanation' and shall be heard forthwith. A personal explanation shall be confined to some material part of a former speech by him/her which may have been misunderstood. A Councillor raising a point of order shall identify the standing order which they consider has been breached or specify the irregularity in the meeting they are concerned by. Any member interrupted by such a 'point of order' or 'personal explanation' may continue their speech once the point of order has been decided by the Chairman. The ruling of the Chairman on the admissibility of a point of order or a personal explanation shall not be discussed and shall be considered final.

j) No speech by a mover of a motion shall exceed five minutes and no other speech shall exceed five minutes except by consent of the Council.

k) During the debate of a motion, all members shall be silent until invited to speak by the Chairman.

l) A member wishing to ask a question should make it known to the Chairman by raising their hand.

### **When a Councillor May Speak Again**

m) A Councillor who has spoken on a motion may not speak again whilst it is the subject of debate, except;

- i. To speak once on an amendment moved by another Councillor;
- ii. To move a further amendment if the motion has been amended since they last spoke;
- iii. If his/her speech was on an amendment moved by another Councillor, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- iv. In the exercise of a right of reply as the mover of the original motion or an amendment;
- v. On a point of order;
- vi. By way of personal explanation.

## **Amendments to Motion**

- n) An amendment to a motion must be relevant to the motion and shall not have the effect of negating the motion before the Council.
- o) An amendment shall be either to:
- i) Omit words.
  - ii) Omit words and insert others.
  - iii) Insert additional words.
- p) Only one amendment may be moved and debated at a time, the order of which shall be directed by the Chairman. One or more amendments may occasionally be discussed together if the Chairman considers this expedient but shall be voted upon separately. Any additional amendments proposed during debate may not be moved until the amendment under discussion has been disposed of.
- q) The number of amendments to an original motion or substantive motion, which may be moved by a Councillor, is limited to one.
- r) A motion or amendment shall not be discussed unless it has been proposed and seconded, and, a Councillor may move amendments to his/her own motion. If a motion has already been seconded, an amendment to it shall be with the consent of the seconder.
- s) If the proposer and seconder of a motion are in agreement, an amendment may be accepted as a 'friendly' amendment and be incorporated in the original motion as an alteration.
- t) If the proposer and seconder do not accept the 'friendly' amendment, the amendment must be taken to a vote.
- u) If an amendment is carried, the 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.
- v) If the amendment is not carried, other amendments to the original motion may be moved.
- w) Further amendments shall not be proposed until the Council has disposed of every prior amendment. After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments.
- x) 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 the debate.
- y) No Councillor, other than the mover, may speak further in respect of any one motion except to speak once on any amendment moved by another Councillor or to make a point of order or to give a personal explanation.
- z) Should an amendment not be carried, the last motion voted upon may at the discretion of the Chairman be taken as the resolution of the Council if no further amendment is moved.
- aa) Should further amendments be carried, the motion, as amended shall, at the discretion of the Chairman, be taken as the resolution of the Council if no further amendment is moved.

## **Motions which may be Moved during Debate**

- bb) When a Councillor's motion is under debate no other motion shall be moved except:
- i) To amend the motion
  - ii) To withdraw the motion
  - iii) To exclude the public and press

- iv) To ask a person to be silent or for him/her to leave the meeting
- v) To suspend any standing order, except those which are mandatory

### **Closure Motions**

cc) A Councillor who has not already spoken in debate, may move, without comment, the following motions at the end of a speech of another Councillor:

- i) To proceed to the next business
- ii) To adjourn the debate
- iii) To put the motion to a vote
- iv) To adjourn the meeting

dd) The Chairman shall first be satisfied that the motion has been sufficiently debated before it is put to the vote. The Chairman shall call upon the mover of the motion under debate to exercise or waive their right of reply and shall put the motion to the vote after that right has been exercised or waived.

ee) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, the Chairman will put the procedural motion to the vote. If it is passed the mover of the original motion shall have a right of reply before putting the motion to the vote. The debate on the motion will continue if the procedural motion is unsuccessful.

ff) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficient debated and cannot reasonably be so discussed on that occasion, the Chairman will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

## **12. Voting**

- a) Members shall vote by show of hands or.
- b) If a member so requires, the Proper Officer shall record the names of the members who voted on any question so as to show whether they voted for or against it. Such a request may be made before or after the vote but in any event before moving on to the next business.

### **Voting on Appointments**

- a) Where more than 2 persons have been nominated for a position to be filled by the Council 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. Any tie may be settled by the Chairman's casting vote.

## **13. Planning**

- a) Because a member of the Planning Committee of a principal authority who is also a Parish Councillor is allowed to speak and vote at both parish meetings and meetings of the principal authority on the same planning issue (unless the application has been made by the Parish Council), Councillors who take this course of action will need to declare membership of the Parish Council as a personal interest at the principal authority meeting.
- b) Members must note an obligation to approach decision-making with an open mind, prepared to listen to all sides of the argument. Dual-hatted members who choose to speak and vote at parish level and principal authority level will need to make it clear that their vote at parish level represents a preliminary view and that they will reconsider the matter afresh at principal authority level. Failure to do so may result in a challenge on the grounds of predetermination.

- c) The Proper Officer is delegated authority to respond to planning applications on behalf of the Council.

#### **14. Conduct**

- a) All Councillors shall observe the Code of Conduct adopted by the Council.
- b) All councillors shall undertake training in the code of conduct within 6 months of the delivery of their declaration of acceptance of office.
- c) No person shall obstruct the transaction of business at a meeting or behave offensively or improperly.
- d) If, in the opinion of the Chairman, there has been a breach of conduct, the Chairman shall express that opinion.
- e) If a Councillor persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Councillor be not heard further. If seconded, the motion will be voted on without discussion.
- f) If the Councillor continues to behave improperly after such a motion is carried, the Chair may move that either the Councillor leaves the meeting or that the meeting is adjourned for a specific period. If seconded, the motion will be voted on without discussion.

#### **15. Minutes**

- a) Minutes shall be published as soon as practicable after the meeting and shall contain a record of decisions made. Minutes are not a verbatim record of meetings.
- b) The Chairman will sign the minutes of the proceedings at the next suitable meeting. A motion must be moved that the minutes of the previous meeting be signed as a correct record.
- c) No discussion of the draft minutes of a preceding meeting shall take place except in relation to their accuracy.
- d) If the Chairman of the meeting does not consider the minutes to be an accurate record of the meeting to which they relate, they shall sign the minutes and include a paragraph in the following terms or to the same effect:
- e) "The Chairman of this meeting does not believe that the minutes of the meeting of this Council (OR [name] Committee/Sub-Committee) held on [date] in respect of ( ) were a correct record but this view was not upheld by the majority of the ( Council / or [name] Committee/ Sub-Committee ) and the minutes are confirmed as an accurate record of the proceedings."
- f) 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.

#### **16. Rescission of Previous Resolutions and Suspension of Standing Orders**

- a) A resolution (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 eight councillors of the Council no fewer than 50% of the current serving councillors of the Council plus one additional councillor**, or by a motion moved in pursuance of the report or recommendation of a committee. No decision shall be reversed unless new information is presented which could not have been known at the time the original decision was made and unless the new information could reasonably result in a change of the decision.
- b) When a special motion or any other motion moved pursuant to the above has been disposed of, no similar motion may be moved within a further 6 months.

- c) 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. 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.

## **17. Financial Matters**

- a) Any expenditure incurred by the Council shall be in accordance with the Council's financial regulations.
- b) The Council's financial regulations shall be reviewed once a year.

## **18. Execution and Sealing of Legal Deeds**

- a) A legal deed shall not be executed on behalf of the Council unless the same has been authorised by a resolution.
- b) In accordance with a resolution made under standing order above, the Council's common seal shall alone be used for sealing a deed required by law. It shall be applied by the Proper Officer in the presence of two members of the Council who shall sign the deed as witnesses.**

## **19. Canvassing**

- a) Canvassing councillors or the members of a committee or sub-committee, directly or indirectly, for appointment to or by the Council shall disqualify the candidate from such an appointment.
- b) 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.
- c) This standing order shall apply to tenders as if the person making the tender were a candidate for an appointment.

## **20. Unauthorised Activities**

Unless authorised by a resolution, no individual councillor shall in the name or on behalf of the Council, a committee, a sub-committee, or a working group:

- i. inspect any land and/or premises which the Council has a right or duty to inspect; or
- ii. issue orders, instructions or directions.

## **21. Confidential Business**

- a) Councillors and employees shall not disclose information given in confidence or which they believe, or ought to be aware is of a confidential nature.
- b) A councillor in breach of the provisions of the above may be removed from a committee, a sub-committee, or a working group by a resolution of the Council or members of the appropriate committee, sub-committee or working group.

## **22. Power of Well-Being**

- a) 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.
- b) The Council's period of eligibility begins on the date that the resolution under the above was made and expires on the day before the annual meeting of the Council that takes place in a year of ordinary elections.
- c) 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 the above.

### **23. Matters Affecting Employees**

- a) If a meeting considers any matter personal to a Council employee, it shall not be considered until the Council has resolved to exclude the press and public.
- b) A review of employee performance will be undertaken in line with contracts and any relevant policies.
- c) Any grievances and disciplinary matters will be dealt with in line with the Council's policy to that effect. If grievance or disciplinary matters involve any members of the Council, such members must declare an interest and abstain from participation.
- d) 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.

### **24. Freedom of Information Act / Data Protection Act**

- a) All requests for information held by the Council shall be processed.
- b) Correspondence from, and notices served by, the Information Commissioner shall be referred by the Proper Officer to the Council.
- c) The Proper Officer shall take all legal steps to comply with the legislation.

## **SECTION 2 - CODE OF CONDUCT**

### **1. ARRANGEMENTS FOR DEALING WITH ALLEGATIONS THAT A COUNCILLOR HAS FAILED TO COMPLY WITH THE RELEVANT CODE OF CONDUCT. LOCALISM ACT 2011 SECTION 28.**

These arrangements are made under Sections 28(6) and (7) of the Localism Act 2011, and advise how the Council will deal with allegations that a Councillors has failed to comply with the relevant Code of Conduct.

An allegation that a Councillor has failed to comply with the requirements of the relevant Code of Conduct must be made to:

The Monitoring Officer, Cheshire West and Chester Council.

An allegation may also be sent by email to the Monitoring Officer.

The allegation must be about a Councillor and must be that the Councillor(s) has, or may have, breached the relevant Code of Conduct.

Any person making an allegation should provide full details of the conduct complained of and how it is alleged to constitute a breach of the relevant Code of Conduct.

## **SECTION 3 - PROTOCOL ON COUNCILLOR/OFFICER RELATIONS**

### **1. INTRODUCTION**

- a) The purpose of this protocol is to guide Councillors and Officers in their relations with one another, to define their respective roles and to provide guidance for dealing with particular issues that may most commonly arise or cause concern.
- b) However, given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or exhaustive. It is hoped that the general approach set out in the protocol will serve as a guide in dealing with other issues that may not be specifically covered.
- c) The objective of this protocol is to enhance and maintain the integrity of local government. As such, this protocol seeks to reflect the principles of the Code of Conduct.

### **2. ROLE OF COUNCILLORS AND OFFICERS**

- a) Both Councillors and Officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council as a whole. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council and the various Committees.
- b) The Council's Standing Orders set out the clear distinction between the roles of Councillors and Officers. Councillors will perform roles on the Council and Committees. They may also represent the Council on outside bodies. Officers are employed by and serve the whole Council. They provide support, impartial advice, and implement the decisions of the Council and Committees. They may also make decisions under powers delegated to them.
- c) Councillors should not get involved in the day to day operational management of services. Equally, Officers should not get involved in politics.
- d) Officers are responsible for advising on and implementing policies, and for the delivery of services in the manner that they consider is most appropriate given their managerial and professional expertise. Councillors would not be expected to be involved in the detail of implementation, but can expect reports on progress, and in certain circumstances, can require the Proper Officer to account for their decisions.
- e) It is appropriate, however, for Councillors to propose initiatives and ideas about how things can be done better. It is essential that existing ways of doing things are challenged and reviewed. This needs to be done in a professional and constructive environment. The Standing Orders sets out the procedures for the Council to review existing policies and bring forward new policy initiatives.
- f) Mutual respect between Councillors and Officers is essential to good local government. It is important in all dealings between Councillors and Officers that both should observe reasonable and consistent standards of courtesy and that neither party should seek to take advantage of their position. Close personal familiarity between individual Councillors

and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.

- g) The general obligations in the Councillors' Code of Conduct include a requirement to treat others with respect, and not to do anything which compromises or is likely to compromise the impartiality of those who work for or on behalf of the Council. There is also a requirement for Councillors in making decisions to have regard to any advice provided by the Council's Proper Officer and Responsible Financial Officer. Any allegation by an Officer that a Councillor has failed to comply with the Code of Conduct will be dealt with under the procedure for dealing with Code of Conduct complaints.

### **3. OFFICER ADVICE TO COUNCILLORS AND GROUPS OF COUNCILLORS**

- a) It is common practice for Councillors and political groups to give preliminary consideration to matters of Council business in advance of such matters being considered. As an example, agendas will identify the key decisions the Council (or Committee) will be considering. Individual Councillors and/or groups of Councillors may properly call upon Officers to support and provide factual advice to their deliberations. The support provided by Officers can take many forms, ranging from a briefing meeting prior to a meeting, to a presentation to a full group meeting. Briefing of political groups should only be undertaken by the Proper Officer, or otherwise with the approval of the Proper Officer and any information provided to the group will not as a matter of routine be passed on to other groups or individual councillors. However, briefing information provided to a political group, whether or not it contains confidential information, may, at the written request of that group, be passed on by the relevant Officer to other groups also.
- b) Certain points must, however, be clearly understood by all those participating in this type of process, Councillors and Officers alike. In particular:
  - i) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of a 'political' nature. Officers are not expected to be present at meetings, or parts of meetings, where matters of political business are to be discussed.
  - ii) Similarly, where Officers provide information and advice to a group of Councillors meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Council meeting when the matter in question is considered.
- c) Officers must respect the confidentiality of any group discussions at which they are present in the sense that they should not relay the content of any such discussion to another group of Councillors, unless specifically asked to do so.
- d) Any particular cases of difficulty or uncertainty in this area of Officer advice to groups of Councillors should be raised with the Proper Officer.

### **4. OFFICER/COUNCILLOR RELATIONSHIPS**

- a) It is clearly important that there should be a close working relationship between Councillors and Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question an Officer's ability to deal impartially with other Councillors.
- b) Whilst the Chairman of the Council and Chairmen of Committees may routinely be consulted as part of the process of drawing up agenda items for a forthcoming meeting, it must be recognised that in some situations an Officer will consider it his/her duty to submit a report on a particular matter. In these circumstances, an Officer will always be fully responsible for the contents of any report and/or recommendation submitted in his/her name.

- c) In relation to action between Council or Committee meetings, it is important to remember that the Council's Standing Orders allow only for decisions (relating to the discharge of any of the Council's functions) to be taken by an Officer.
- d) It must be remembered that Officers in employment are accountable to their line manager and ultimately the Proper Officer, and that whilst Officers should always seek to assist any Councillor, they must not, in doing, go beyond the bounds of whatever authority they have been given by their line manager.

## **5. UNDUE PRESSURE**

- a) A Councillor must not apply undue pressure on an Officer to do anything which he/she is not empowered to do, or which is against the Officer's professional judgement, or to undertake work outside normal duties or normal hours.
- b) Similarly, an Officer must not seek to influence an individual Councillor to make a decision in his/her favour, nor raise personal matters relating to his/her job, nor make claims or allegations about other Officers, except in accordance with any agreed Council procedure or in accordance with law. Councillors who receive any such approach from an Officer should advise the Proper Officer immediately.

## **6. CRITICISM/COMPLAINTS**

- a) It is important that there should be mutual courtesy between Councillors and Officers.
- b) Councillors and Officers should not criticise or undermine respect for each other at Council meetings or at any other meeting they attend in their capacity as a Councillor or Officer, or in any other public forum.
- c) Councillors should not raise matters relating to the conduct or capability of an individual Officer or Officers collectively at meetings or in any other public forum. Any such complaints should be made to the Proper Officer.

## **7. COUNCILLORS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS**

- a) If Councillors wish to visit Officers, they should make prior arrangements whenever possible.
- b) With respect to the legal rights of Councillors to inspect Council documents, these are covered partly by statute and partly by the common law.
- c) Under Section 100F of the Local Government Act 1972, any Councillor may inspect any document in the possession or control of the Council which contains material relating to any business to be transacted at a meeting of the Council or a Committee. This right applies irrespective of whether the Councillor is a member of the relevant committee, and extends not only to reports but also to background papers. However, the right does not apply if a document discloses exempt information as defined in Schedule 12A of the Local Government Act 1972.
- d) The common law right of Councillors is much broader and is based on the principle that any Councillor has a prima facie right to inspect council documents so far as his/her access to the documents is reasonably necessary to enable the Councillor to carry out his/her duties as a Councillor. This is referred to as the "need to know" principle. If a Councillor is a member of a Committee, then he/she has the right to inspect documents relating to the business of that Committee. If a Councillor is not a member of the relevant Committee, then he/she has to demonstrate why sight of the document is necessary to enable the performance of his/her duties as a Councillor. Councillors have no right to a "roving commission" to examine documents of the Council. Mere curiosity is not sufficient. If the Councillor's motive for seeing the documents is indirect, improper or ulterior, then there would be no right of access at common law.

- e) A Councillor has the same rights of access to information under the Freedom of Information Act 2000 as any members of the public. A request must be made in writing and describe specifically the information requested. The exemptions set out in the Act would be applied whoever is requesting the information. Once information has been made available in response to a Freedom of Information request, it become public.
- f) From a procedural point of view, if a Councillor makes a request for information that is not routine, the request should be made to the relevant Officer, who will consider first whether all the information would be made available as a matter of course to a member of the public making a similar request. If so, the information will be provided to the Councillor.
- g) If the request is such that the information would not automatically be provided to a member of the public, the Officer will consider whether the information can be provided under Section 100F of the Local Government Act 1972 or under the common law “need to know”. The final determination as to whether there is a “need to know” will be made by the Proper Officer.
- h) If neither Section 100F nor the “need to know” are met, then the request will be dealt with as a Freedom of Information Act request, but without the need for the Councillor to make a specific Freedom of Information request. The Freedom of Information Request will be dealt with in the normal way by an Officer. This may result in the information being provided in part, with an exemption applying to the remainder, or the request being refused in its entirety as a result of an exemption. The Councillors will be informed that the request has been considered under the Freedom of Information Act and that there is a right of internal review which will be carried out by the Proper Officer. Following such review, the Councillor will be advised of the right to pursue the matter with the Information Commissioner.
- i) Any information provided under the Freedom of Information Act can be made public by the Councillor. Information provided under the “need to know” will be provided with the caveat that it is provided to the Councillor in his/her capacity as Councillor, and is only to be used for the purpose of exercising his/her functions, and should not be made public.
- j) The Code of Conduct provides that a Councillor must not disclose information given to the Councillor in confidence by anyone, or information which the Councillor believes, or ought reasonably to be aware, is of a confidential nature except where:
  - i) the Councillor has the consent of a person authorised to give it;
  - ii) the Councillor is required by law to do so;
  - iii) the disclosure is made to a third party for the purposes of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - iv) the disclosure is reasonable and in the public interest and made in good faith and in accordance with the law.

## **8. CORRESPONDENCE**

- a) Correspondence between an individual Councillor and an Officer should not normally be copied (by the Officer) to any other Councillor. Where exceptionally it is necessary to copy the correspondence to another Councillor, this should be made clear to the original Councillor.
- b) Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Councillor. It may be appropriate in certain circumstances (e.g representations to a Government Minister) for a letter to appear over the name of a Councillor, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor.

- c) In no circumstances will correspondence from an individual or business, or from a third party representing an individual, be disclosed to a Councillor if it is marked confidential or contains personal data. If, in these circumstances, an Officer is of the view that there is a need for a Councillor to know the issue, and it is not possible to do so in general terms without disclosing confidential or personal information, then the relevant individual's consent will first be obtained.

## **9. MEETINGS WITH THIRD PARTIES**

- a) On occasions, Councillors may be approached by individuals or companies who have proposals affecting the area or functions of the Council, and which they wish to discuss with Councillors. Councillors are reminded that, as individual Councillors, they cannot commit the Council to any contract or other agreement or course of action. Councillors are advised to make this clear to any third party with which they may have contact. Should Councillors be asked to attend a meeting with third parties, they are recommended to arrange for the meeting to take place at Council offices and with a relevant Officer present. This will enable the Officer to explain to the third party the proper decision-making process, and will protect Councillors against any subsequent claim by the third party. Normal routine activities are not intended to be subject to this recommendation.

## **10. ARBITRATION**

- a) This protocol is intended to act as a guide for both Councillors and Officers.
- b) This protocol is intended to provide Councillors and Officers with guidelines to determine their roles and their relations with each other.
- c) It is intended to be a "live" document and will be reviewed from time to time to reflect changing circumstances and legislation.