



# **GUIDELINES FOR PARISH COUNCIL OPERATION**

**WHAT THE STANDING ORDERS MEAN IN PRACTICE**

Reviewed: 4<sup>th</sup> January 2021

# Contents

<b>Basic Principles .....</b>	<b>3</b>
<b>The authority of the chair .....</b>	<b>3</b>
<b>Nature and Limitations .....</b>	<b>3</b>
<b>Preliminary .....</b>	<b>4</b>
<b>Typical Agenda .....</b>	<b>4</b>
<b>The Meeting .....</b>	<b>5</b>
<b>Outside Interference .....</b>	<b>6</b>
<b>Personal and Prejudicial Interests .....</b>	<b>6</b>
<b>Rulings on notices .....</b>	<b>7</b>
<b>Quorum .....</b>	<b>7</b>
<b>Ultra Vires Proposals (Beyond councils powers) .....</b>	<b>7</b>
<b>A Clear Issue .....</b>	<b>7</b>
<b>Method Of Voting .....</b>	<b>8</b>
<b>Completeness Of Information .....</b>	<b>8</b>
<b>Impartiality .....</b>	<b>8</b>
<b>Relevance .....</b>	<b>8</b>
<b>Personalities .....</b>	<b>8</b>
<b>Methods of Enforcement .....</b>	<b>9</b>
<b>Revival of Decided Issues .....</b>	<b>9</b>
<b>Some Procedural Points .....</b>	<b>9</b>
<b>Points of Order .....</b>	<b>9</b>
<b>Procedural Resolutions .....</b>	<b>9</b>
<b>Closure Motions.....</b>	<b>9</b>
<b>Amendments .....</b>	<b>10</b>
<b>“Any Other Business” .....</b>	<b>10</b>
<b>“Urgent” Business .....</b>	<b>10</b>
<b>Presence Of The Public And Press .....</b>	<b>10</b>
<b>Maladministration .....</b>	<b>10</b>

**(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 only carry out Its decisions. They cannot do this properly unless they have instructions which they can understand, and the public can see that they are doing the bidding of the council as a whole.
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 form personalities;
  - i. co-operate with the officers and councillors.

### **The authority of the chair**

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. The Chairman cannot act without authority of the council other than in ways passed by statute ie calling meetings via the Clerk etc.

## Preliminary

7. **The business to be transacted should always be clear to everyone who is attending or who might attend** what that business should be. Any other business is not acceptable because people do not know what is to be raised.
8. Minutes are taken as read and are not again referred to. Matters arising are not matters arising from minutes but matters arising from previous decisions of the council
9. Matters arising from the business transacted at a previous meeting are either contained in a report if no action is required or are placed on the business to be transacted. **No decision can be made about anything unless it is specifically identified on the agenda**

## Typical Agenda

10. A typical business to be transacted or agenda is as follows
  - **Acceptance of Apologies for Absence** - Apologies from parish councillors who have failed to respond to the summons and those who have sent their apologies and the reasons given.
  - **Suspension for Public participation**
    - **District Councillors report (if any)**
    - **County councillors report (if any)**
    - **Police report (if any)**
    - **Parishioners concerns**
  - Please note that during this session the meeting is suspended and councillors are not obliged to respond to the public rather the chairman and clerk should take note of what is being said and write a response if appropriate. Or the subject matter might be worthy of a formal inclusion in next months' meeting. **It should not be discussed**, as notice of anything raised has to be given to councillors and other members of the public.
  - **Declarations of Interest** on forthcoming agenda items. - This provides the councillors present the opportunity to declare if they have a conflict of interest in any of the items that are on the agenda. Examples of this may be a personal or personal and prejudicial interest (e.g. they or their family or associates work for a company tendering for a contract) or a personal interest (e.g. a planning application on the house next door or items affecting their property). **The guide is, would an independent parishioner feel that the decision could be biased because of the councillors interests or the interests of his family friends and associates?**
  - **Confirmation of Minutes of Previous Meeting** - It is important that the minutes of all council meetings reflect an accurate record of what transpired. Draft minutes of the previous meeting are put before the meeting for confirmation of accuracy
  - **Matters Arising** –listed items that have arisen from previous decisions of the council. These items **must** be itemised and listed so that councillors and members of the public are aware that they are to be discussed
  - **Reports and Actions** - Parish Councillors who have attended meetings or undertaken tasks on behalf of the parish council are given the opportunity to update on progress made. Again these should be itemised ie Report from Cllr Brown on site visit" Please note that if any further action is required it cannot be acted upon and must be included in next month's agenda under matters

arising unless the councillor feels it should be discussed this month and he can propose a motion under notice for inclusion in that section of the meeting.

- **Planning**- Although the parish council has no authority to approve or turn down planning applications, it has the opportunity to comment on any applications that have been submitted. These are shown on the agenda as:
  - Determine.
    - a. Application xxxyyy
    - b. Application zzz
  - Report (on previous applications passed through the council)
    - a. Application bbcc refused
    - b. Application sstt permitted
- **Finance** - The consideration of financial matters affecting the council. This may be to give authority to the clerk to pay some bills. Again these need to be specified eg to pay:
  - a. x contractor £2195 for as agreed in the maintenance contract
  - b. Potteries Water Board Ltd £210 for water used in Q4
- **Correspondence** - The clerk will report on any correspondence that has been received and of which the councillors **should** be aware, and not connected to previous matters (which should be itemised in matters arising) eg to receive a letter of complaint from Mr Abc about car parking in the street

Correspondence does **not need** reading out in full unless the Clerk or chairman sees the need for doing so.

- **Matters to be discussed and Items on notice** – These are items that parish councillors have asked to be on the agenda sometimes called Items on notice as the councillor is obliged to give notice to other councillors and the public what he/she wishes to be discussed. This notice is the notice period allowed in the standing orders. It can also be items that the clerk/chairman feel should be included on business to be transacted. It is in the form of a motion ie It should say who the councillor is who has given notice e.g. A notice has been received from Cllr Brown for a motion that this council will xxxxxxxxyyyyyyyyyy or to zzzzzzmmm

## The Meeting

10. Proper notice must be given. The minimum three clear days for notice of a meeting does not include 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 including the day received. It can't be too much before that as you have to wait to see if there are any items given on notice by councillors
11. The Clerk (the proper officer) is the only person who can send out notices of meetings or transact business on behalf of the council. This can be changed by the council by resolution with proper notice if the clerk is ill or absent.
12. Each item on the agenda is introduced by the Chairman to make it clear that this is the stage of the business the council is at. Previous business cannot be brought back up, even if a councillor was distracted or was late for the meeting. Again a well constructed "business to be transacted" will assist in this regard.

13. Before any discussion takes place, councillors have to consider what has been said by a report or correspondence etc and propose a motion.

In the case of items that have been placed on the agenda under notice the councillor who placed the item on the agenda, (example) Cllr Brown has to explain why he/she thinks that this motion is important and a seconder to the motion that is proposed is sought by the chairman. If no seconder is found the item is recorded as **Lost** and is not discussed again.

If a seconder is found then a discussion can take place, each councillor having the opportunity to speak. A councillor wishing to speak indicates this to the chair by holding up his hand. No councillor can interrupt (other than on a point of order) or speak unless invited to do so by the chair. The most effective councillors are those that think through what they are saying before speaking as they probably will only get one opportunity to speak.

An amendment can be proposed and if there is a seconder to that amendment it can be discussed. The amendment is voted upon first and if passed then that is what is marked as Resolved if it fails to achieve a majority then the original proposal is voted on if that achieves a majority then it is marked as resolved if it fails to get a majority it is marked as Lost and no further discussion takes place.

14. Therefore it is a critical role of the Chairman and Clerk, before any meeting, to study the items that will form the business to be transacted and prepare an agenda that directs the business to be transacted with enough information to allow councillors to be **equally** prepared for the meeting.

## Outside Interference

15. 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 excluded from the meeting if he/she does it again; if the warning is ignored it should be resolved, to remove that person. The chairman should say "I move that the member of public be removed" (no seconder is required) and a show of hands is taken and without discussion, 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 may be necessary.
16. 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. It is, however, illegal to decide to exclude all 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. And recording is allowed without permission needing to be sought.

## Personal and Prejudicial Interests

17. 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.

18. 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. Failure to disclose an interest (personal or prejudicial) can lead accusations of impropriety and loss of reputation for the council This is done by referring to the councils own register of interests maintained by the Clerk.

## Rulings on Notices

19. 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

20. No business can be transacted if no quorum is present (3 members). 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 or a personal interest requiring withdrawal should consider making an application for dispensation where appropriate.

## Ultra Vires Proposals (Beyond councils powers)

21. 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

22. 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.

## Method Of Voting

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

## Completeness Of Information

25. 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

26. 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.
27. 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:**

28. 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

29. 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

30. Where a speech is obviously irrelevant the Chairman should stop the speaker and invite him to return to the point. 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

31. 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.

## Some Procedural Points

### Points of Order

32. Points of Order relate to procedure only and take precedence of 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 the answer is “No”, the Council has no power to act as proposed and the business ought not to be under discussion.

### Procedural Resolutions

33. 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

34. 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. The business in hand will 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

35. An amendment, which in substance negates the principle resolution, should not be allowed because it is confusing and unnecessary.

## “Any Other Business”

36. 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.

## “Urgent” Business

37. 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.

## Presence Of The Public And Press

38. 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: 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

39. 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 National Circular 2/86 – 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.