

# BERKHAMSTED TOWN COUNCIL

## Standing Orders and Guidance on Chairing Meetings

[Last Adopted at AMC  
on 18 May 2020]

Standing orders to be reviewed each year or as required by changes to legislation, regulations or other procedural matters.

This document is in two sections:

**Part I** “Standing Orders for Local Councils” provides a complete model set of Standing Orders recommended by NALC for adoption by all Town and Parish Councils in 2013. The version in this document has been updated to reflect changes in legislation since this date and includes additional guidance relating specifically to procedures agreed by Berkhamsted Town Council.

Some of the Standing Orders are compulsory as they are laid down in Acts of Parliament. These are printed in **bold type and cannot be amended**.

Part II “Chairing Meetings” is intended as a helpful guide for those presiding at meetings of Local Councils and a source to refer to when there is a procedural difficulty during a meeting. Further relevant information can be found in “Local Councils Explained” by Meera Tharmarajah, Head of Legal Services, National Association of Local Councils (NALC). A copy is available in the Town Council office.

## **Notes**

If the words “Local Councils” are used, it means Parish and Town Councils in England and Community and Town Councils in Wales.

Town Mayor: The Chair of a Town Council is entitled to use the title “Town Mayor”. The title confers no additional powers on the Chair, and in particular, has no implications for his/her conduct in meetings. The word Chair therefore includes Town Mayor and the word Vice-Chair includes Deputy Mayor.

The word “Chair” means the person actually presiding at a meeting and “Council” includes “committee,” where any function has been delegated.

## Introduction

These model standing orders update the National Association of Local Council (NALC) model standing orders contained in “Local Councils Explained” by Meera Tharmarajah (© 2013 NALC). This publication contains new model standing orders which reference new legislation introduced after 2013 when the last model standing orders were published.

## How to use model standing orders

Standing orders are the written rules of a local council. Standing orders are essential to regulate the proceedings of a meeting. A council may also use standing orders to confirm or refer to various internal organisational and administrative arrangements. The standing orders of a council are not the same as the policies of a council but standing orders may refer to them.

Local councils operate within a wide statutory framework. NALC model standing orders incorporate and reference many statutory requirements to which councils are subject. It is not possible for the model standing orders to contain or reference all the statutory or legal requirements which apply to local councils. For example, it is not practical for model standing orders to document all obligations under data protection legislation. The statutory requirements to which a council is subject apply whether or not they are incorporated in a council’s standing orders. Meetings of full council, councillors, the Responsible Financial Officer and Proper Officer are subject to many statutory requirements. A council should have standing orders to confirm those statutory requirements. A council should have standing orders to control the number, place, quorum, notices and other procedures for committee and sub-committee meetings because these are subject to fewer statutory requirements. If it does not, committees and sub-committees may adopt their own standing orders.

The model standing orders do not include model financial regulations. Financial regulations are standing orders to regulate and control the financial affairs and accounting procedures of a local council. The financial regulations, as opposed to the standing orders of a council, include most of the requirements relevant to the council’s Responsible Financial Officer. Model financial regulations are available to councils in membership of NALC.

## Drafting notes

Model standing orders that are in bold type contain legal and statutory requirements. It is recommended that councils adopt them without changing them or their meaning. Model standing orders not in bold are designed to help councils operate effectively but they do not contain statutory requirements so they may be adopted as drafted or amended to suit a council’s needs. It is NALC’s view that all model standing orders will generally be suitable for councils.

For convenience, the word “councillor” is used in model standing orders and, unless the context suggests otherwise, includes a non-councillor with or without voting rights.

Berkhamsted Town Council Standing Orders – last adopted at AMC - 18 May 2020  
To be adopted at AMC 04 May 2021

A model standing order that includes brackets like this ‘()’ requires information to be inserted by a council. A model standing order that includes brackets like this ‘[]’ and the term ‘OR’ provides alternative options for a council to choose from when determining standing orders.

## **Part I: MODEL STANDING ORDERS 2018 FOR ENGLAND (REVISED 2020)**

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## **1. Rules of debate at meetings**

- a Motions on the agenda shall be considered in the order that they appear unless the order is changed at the discretion of the chair of the meeting.
- b A motion (including an amendment) shall not be progressed unless it has been moved and seconded.
- c A motion on the agenda that is not moved by its proposer may be treated by the chair of the meeting as withdrawn.
- d If a motion (including an amendment) has been seconded, it may be withdrawn by the proposer only with the consent of the seconder and the meeting.
- e An amendment is a proposal to remove or add words to a motion. It shall not negate the motion.
- f If an amendment to the original motion is carried, the original motion (as amended) becomes the substantive motion upon which further amendment(s) may be moved.
- g An amendment shall not be considered unless early verbal notice of it is given at the meeting and, if requested by the chair of the meeting, is expressed in writing to the chair.
- h A councillor may move an amendment to his/her own motion if agreed by the meeting. If a motion has already been seconded, the amendment shall be with the consent of the seconder and the meeting.
- i If there is more than one amendment to an original or substantive motion, the amendments shall be moved in the order directed by the chair of the meeting.
- j Subject to standing order 1(k), only one amendment shall be moved and debated at a time, the order of which shall be directed by the chair of the meeting.
- k One or more amendments may be discussed together if the chair of the meeting considers this expedient but each amendment shall be voted upon separately.
- l A councillor may not move more than one amendment to an original or substantive motion.
- m The mover of an amendment has no right of reply at the end of debate on it.
- n Where a series of amendments to an original motion are carried, the mover of the original motion shall have a right of reply either at the end of debate on the first amendment or at the very end of debate on the final substantive motion immediately before it is put to the vote.
- o Unless permitted by the chair of the meeting, a councillor may speak once in the debate on a motion except:

- i. to speak on an amendment moved by another councillor;
  - ii. to move or speak on another amendment if the motion has been amended since he last spoke;
  - iii. to make a point of order;
  - iv. to give a personal explanation; or
  - v. to exercise a right of reply.
- p During the debate on 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/she considers has been breached or specify the other irregularity in the proceedings of the meeting he/she is concerned by.
- q A point of order shall be decided by the chair of the meeting and his/her decision shall be final.
- r When a motion is under debate, no other motion shall be moved except:
  - i. to amend the motion;
  - ii. to proceed to the next business;
  - iii. to adjourn the debate;
  - iv. to put the motion to a vote;
  - v. to ask a person to be no longer heard or to leave the meeting;
  - vi. to refer a motion to a committee or sub-committee for consideration;
  - vii. to exclude the public and press;
  - viii. to adjourn the meeting; or
  - ix. to suspend particular standing order(s) excepting those which reflect mandatory statutory or legal requirements.
- s Before an original or substantive motion is put to the vote, the chair of the meeting shall be satisfied that the motion has been sufficiently debated and that the mover of the motion under debate has exercised or waived his/her right of reply.
- t Excluding motions moved under standing order 1(r), the contributions or speeches by a councillor shall relate only to the motion under discussion and shall not exceed 5 minutes without the consent of the chair of the meeting.

## **2. Disorderly conduct at meetings**

- a No person shall obstruct the transaction of business at a meeting or behave offensively or improperly. If this standing order is ignored, the chair of the meeting shall request such person(s) to moderate or improve their conduct.
- b If person(s) disregard the request of the chair of the meeting to moderate or improve their conduct, any councillor or the chair of the meeting may move that the person be no longer heard or be excluded from the meeting. The motion, if seconded, shall be put to the vote without discussion.

- c If a resolution made under standing order 2(b) is ignored, the chair of the meeting may take further reasonable steps to restore order or to progress the meeting. This may include temporarily suspending or closing the meeting.

### 3. Meetings generally

- Full Council meetings ●  
 Committee meetings ●  
 Sub-committee meetings ●

●	a	<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.</b>
●	b	<b>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.</b>
●	c	<b>The minimum three clear days' public notice for a meeting does not include the day on which the notice was issued or the day of the meeting unless the meeting is convened at shorter notice.</b>
●	d	<b>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.</b>
	e	Members of the public may make representations, answer questions and give evidence at a meeting which they are entitled to attend in respect of the business on the agenda.
	f	The period of time designated for public participation at a meeting in accordance with standing order 3(e) shall not exceed 15 minutes unless directed by the chair of the meeting.
	g	Subject to standing order 3(f), a member of the public shall not speak for more than 3 minutes.
	h	In accordance with standing order 3(e), a question shall not require a response at the meeting nor start a debate on the question. The chair of the meeting may direct that a written or oral response be given.
	i	A person shall stand when requesting to speak and when speaking (except when a person has a disability or is likely to suffer discomfort).
	j	A person who speaks at a meeting shall direct his/her comments to the



	chair of the meeting.
k	Only one person is permitted to speak at a time. If more than one person wants to speak, the chair of the meeting shall direct the order of speaking.
● ●	<b>l</b> Subject to standing order 3(m), a person who attends a meeting is permitted to report on the meeting whilst the meeting is open to the public. To “report” means to film, photograph, make an audio recording of meeting proceedings, use any other means for enabling persons not present to see or hear the meeting as it takes place or later or to report or to provide oral or written commentary about the meeting so that the report or commentary is available as the meeting takes place or later to persons not present.
● ●	<b>m</b> A person present at a meeting may not provide an oral report or oral commentary about a meeting as it takes place without permission.
● ●	<b>n</b> The press shall be provided with reasonable facilities for the taking of their report of all or part of a meeting at which they are entitled to be present.
●	<b>o</b> Subject to standing orders which indicate otherwise, anything authorised or required to be done by, to or before the Chair of the Council may in his/her absence be done by, to or before the Vice-Chair of the Council.
●	<b>p</b> The Chair of the Council, if present, shall preside at a meeting. If the Chair is absent from a meeting, the Vice-Chair of the Council, if present, shall preside. If both the Chair and the Vice-Chair are absent from a meeting, a councillor as chosen by the councillors present at the meeting shall preside at the meeting.
● ● ●	<b>q</b> Subject to a meeting being quorate, all questions at a meeting shall be decided by a majority of the councillors and non-councillors with voting rights present and voting.
● ● ●	<b>r</b> The Chair of a meeting may give an original vote on any matter put to the vote, and in the case of an equality of votes may exercise his/her casting vote whether or not he gave an original vote.  <i>See standing orders 5(h) and (i) for the different rules that apply in the election of the Chair of the Council at the annual meeting of the Council.</i>
●	<b>s</b> Unless standing orders provide otherwise, voting on a question shall be by a show of hands. 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.
t	The minutes of a meeting shall include an accurate record of the following: <ul style="list-style-type: none"> <li>i. the time and place of the meeting;</li> <li>ii. the names of councillors who are present and the names of councillors who are absent;</li> <li>iii. interests that have been declared by councillors and non-councillors with voting rights;</li> <li>iv. the grant of dispensations (if any) to councillors and non-councillors with voting rights;</li> <li>v. whether a councillor or non-councillor with voting rights left the meeting when matters that they held interests in were being considered;</li> <li>vi. if there was a public participation session; and</li> <li>vii. the resolutions made.</li> </ul>
● ● ●	<b>u A councillor or a non-councillor with voting rights who has a disclosable pecuniary interest or another interest as set out in the Council's code of conduct in a matter being considered at a meeting is subject to statutory limitations or restrictions under the code on his/her right to participate and vote on that matter.</b>
●	<b>v 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.</b>  <i>See standing order 4d(viii) for the quorum of a committee or sub-committee meeting.</i>
● ● ●	<b>w If a meeting is or becomes inquorate no business shall be transacted</b> and the meeting shall be closed. The business on the agenda for the meeting shall be adjourned to another meeting.

#### 4. Committees and sub-committees

- a **Unless the Council determines otherwise, a committee may appoint a sub-committee whose terms of reference and members shall be determined by the committee.**
- b **The members of a committee may include non-councillors unless it is a committee which regulates and controls the finances of the Council.**
- c **Unless the Council determines otherwise, all the members of an advisory committee and a sub-committee of the advisory committee may be non-councillors.**
- d The Council may appoint standing committees or other committees as may be necessary, and:

- i. shall determine their terms of reference;
  - ii. shall determine the number and time of the ordinary meetings of a standing committee up until the date of the next annual meeting of full council;
  - iii. shall permit a committee, other than in respect of the ordinary meetings of a committee, to determine the number and time of its meetings;
  - iv. shall, subject to standing orders 4(b) and (c), appoint and determine the terms of office of members of such a committee;
  - v. may, subject to standing orders 4(b) and (c), appoint and determine the terms of office of the substitute members to a committee whose role is to replace the ordinary members at a meeting of a committee if the ordinary members of the committee confirm to the Proper Officer 1 days before the meeting that they are unable to attend;
  - vi. shall, after it has appointed the members of a standing committee, appoint the chair of the standing committee, however, at Berkhamsted Town Council the practice is set out in vii below;
  - vii. shall permit a committee to appoint its own chair at the first meeting of the committee;
  - viii. shall determine the place, notice requirements and quorum for a meeting of a committee and a sub-committee which, in both cases, shall be no less than three;
  - ix. shall determine if the public may participate at a meeting of a committee;
  - x. shall determine if the public and press are permitted to attend the meetings of a sub-committee and also the advance public notice requirements, if any, required for the meetings of a sub-committee;
  - xi. shall determine if the public may participate at a meeting of a sub-committee that they are permitted to attend; and
  - xii. may dissolve a committee or a sub-committee.
- e Berkhamsted Town Council's committees and working groups for the relevant council year can be found in **Appendix 1** to these Orders.
  - f The terms of reference for Berkhamsted Town Council committees and working groups is **Appendix 2** to these Orders.
  - g Any member of the council may attend meetings of standing committees or sub-committees and working groups but may not vote unless they have been appointed to that standing committee or sub-committee. (Working groups have no decision-making authority and have no decision-making voting rights).
  - h The Protocol for the Operation of Working groups was agreed at Full Council on 16 March 2020 and is **Appendix 6** to these Standing Orders.

## 5. Ordinary council meetings

- a **In an election year, the annual meeting of the Council shall be held on or within 14 days following the day on which the councillors 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 decides.**
- c **If no other time is fixed, the annual meeting of the Council shall take place at 6pm.**
- d **In addition to the annual meeting of the Council, at least three other ordinary meetings shall be held in each year on such dates and times as the Council decides.**
- e **The first business conducted at the annual meeting of the Council shall be the election of the Town Mayor and Deputy Town Mayor of the Council.**
- f **The Town Mayor of the Council, unless he/she has resigned or becomes disqualified, shall continue in office and preside at the annual meeting until his/her successor is elected at the next annual meeting of the Council.**
- g **The Deputy Town Mayor of the Council, unless he/she resigns or becomes disqualified, shall hold office until immediately after the election of the Town Mayor of the Council at the next annual meeting of the Council.**
- h **In an election year, if the current Town Mayor of the Council has not been re-elected as a member of the Council, he/she shall preside at the annual meeting until a successor Town Mayor of the Council has been elected. The current Town Mayor of the Council shall not have an original vote in respect of the election of the new Town Mayor of the Council but shall give a casting vote in the case of an equality of votes.**
- i **In an election year, if the current Town Mayor of the Council has been re-elected as a member of the Council, he/she shall preside at the annual meeting until a new Town Mayor of the Council has been elected. He/she may exercise an original vote in respect of the election of the new Town Mayor of the Council and shall give a casting vote in the case of an equality of votes.**
- j Following the election of the Town Mayor and Deputy Town Mayor of the Council at the annual meeting, the business shall include:
  - i. **In an election year, delivery by the Town Mayor of the Council and councillors of their acceptance of office forms unless the Council resolves for this to be done at a later date. In a year which is not an election year, delivery by the Town Mayor of the Council of his/her acceptance of office form unless the Council resolves for this to be done at a later date;**
  - ii. Confirmation of the accuracy of the minutes of the last meeting of the Council;
  - iii. Receipt of the minutes of the last meeting of a committee;
  - iv. Consideration of the recommendations made by a committee;

- v. Review of delegation arrangements to committees, sub-committees, staff and other local authorities;
- vi. Review of the terms of reference for committees;
- vii. Appointment of members to existing committees;
- viii. Appointment of any new committees in accordance with standing order 4;
- ix. Review and adoption of appropriate standing orders and financial regulations;
- x. Review of arrangements (including legal agreements) with other local authorities, not-for-profit bodies and businesses.
- xi. Review of representation on or work with external bodies and arrangements for reporting back;
- xii. In an election year, to make arrangements with a view to the Council becoming eligible to exercise the general power of competence in the future;
- xiii. Review of inventory of land and other assets including buildings and office equipment;
- xiv. Confirmation of arrangements for insurance cover in respect of all insurable risks;
- xv. Review of the Council's and/or staff subscriptions to other bodies;
- xvi. Review of the Council's complaints procedure;
- xvii. Review of the Council's policies, procedures and practices in respect of its obligations under freedom of information and data protection legislation;
- xviii. Review of the Council's policy for dealing with the press/media;
- xix. Review of the Council's employment policies and procedures;
- xx. Review of the Council's expenditure incurred under s.137 of the Local Government Act 1972 or the general power of competence.
- xxi. Determining the time and place of ordinary meetings of the Council up to and including the next annual meeting of the Council.

**6. Extraordinary meetings of the council, committees and sub-committees**

- a **The Town Mayor of the Council may convene an extraordinary meeting of the Council at any time.**
- b **If the Town Mayor of the Council does not call an extraordinary meeting of the Council within seven days of having been requested in writing to do so by two councillors, any two councillors may convene an extraordinary meeting of the Council. The public notice giving the time, place and agenda for such a meeting shall be signed by the two councillors.**
- c The chair of a committee [or a sub-committee] may convene an extraordinary meeting of the committee [or the sub-committee] at any time.
- d If the chair of a committee [or a sub-committee] does not call an extraordinary meeting within 5 working days days of having been requested to do so by 2 members of the committee [or the sub-committee], any 2 members of the

committee [or the sub-committee] may convene an extraordinary meeting of the committee [or a sub-committee].

## **7. Previous resolutions**

- a A resolution shall not be reversed within six months except either by a special motion, which requires written notice by at least 4 councillors to be given to the Proper Officer in accordance with standing order 9, or by a motion moved in pursuance of the recommendation of a committee or a sub-committee.
- b When a motion moved pursuant to standing order 7(a) has been disposed of, no similar motion may be moved for a further six months.

## **8. Voting on appointments**

- a Where more than two 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. A tie in votes may be settled by the casting vote exercisable by the chair of the meeting.

## **9. Motions for a meeting that require written notice to be given to the proper officer**

- a A motion shall relate to the responsibilities of the meeting for which it is tabled and, in any event, shall relate to the performance of the Council's statutory functions, powers and obligations or an issue which specifically affects the Council's area or its residents.
- b No motion may be moved at a meeting unless it is on the agenda and the mover has given written notice of its wording to the Proper Officer at least 7 clear days before the meeting. Clear days do not include the day of the notice or the day of the meeting.
- c The Proper Officer may, before including a motion on the agenda received in accordance with standing order 9(b), correct obvious grammatical or typographical errors in the wording of the motion.
- d If the Proper Officer considers the wording of a motion received in accordance with standing order 9(b) is not clear in meaning, the motion shall be rejected until the mover of the motion resubmits it, so that it can be understood, in writing, to the Proper Officer at least 5 clear days before the meeting.
- e If the wording or subject of a proposed motion is considered improper, the Proper Officer shall consult with the chair of the forthcoming meeting or, as the case may be, the councillors who have convened the meeting, to consider whether the motion shall be included in the agenda or rejected.
- f The decision of the Proper Officer as to whether or not to include the motion on

the agenda shall be final.

- g Motions received shall be recorded and numbered in the order that they are received.
- h Motions rejected shall be recorded with an explanation by the Proper Officer of the reason for rejection.

## **10. Motions at a meeting that do not require written notice**

- a The following motions may be moved at a meeting without written notice to the Proper Officer:
  - i. to correct an inaccuracy in the draft minutes of a meeting;
  - ii. to move to a vote;
  - iii. to defer consideration of a motion;
  - iv. to refer a motion to a particular committee or sub-committee;
  - v. to appoint a person to preside at a meeting;
  - vi. to change the order of business on the agenda;
  - vii. to proceed to the next business on the agenda;
  - viii. to require a written report;
  - ix. to appoint a committee or sub-committee and their members;
  - x. to extend the time limits for speaking;
  - xi. to exclude the press and public from a meeting in respect of confidential or other information which is prejudicial to the public interest;
  - xii. to not hear further from a councillor or a member of the public;
  - xiii. to exclude a councillor or member of the public for disorderly conduct;
  - xiv. to temporarily suspend the meeting;
  - xv. to suspend a particular standing order (unless it reflects mandatory statutory or legal requirements);
  - xvi. to adjourn the meeting; or
  - xvii. to close the meeting.

## **11. Management of information**

See also standing order 20.

- a **The Council shall have in place and keep under review, technical and organisational measures to keep secure information (including personal data) which it holds in paper and electronic form. Such arrangements shall include deciding who has access to personal data and encryption of personal data.**
- b **The Council shall have in place, and keep under review, policies for the retention and safe destruction of all information (including personal data) which it holds in paper and electronic form. The Council's retention policy shall confirm the period for which information (including personal data) shall be retained or if this is not possible the criteria used to determine that period (e.g., the Limitation Act 1980).**

- c **The agenda, papers that support the agenda and the minutes of a meeting shall not disclose or otherwise undermine confidential information or personal data without legal justification.**
- d **Councillors, staff, the Council’s contractors and agents shall not disclose confidential information or personal data without legal justification.**

## 12. Draft minutes

Full Council meetings	●
Committee meetings	●
Sub-committee meetings	●

- a If the draft minutes of a preceding meeting have been served on councillors with the agenda to attend the meeting at which they are due to be approved for accuracy, they shall be taken as read.
- b There shall be no discussion about the draft minutes of a preceding meeting except in relation to their accuracy. A motion to correct an inaccuracy in the draft minutes shall be moved in accordance with standing order 10(a)(i).
- c The accuracy of draft minutes, including any amendment(s) made to them, shall be confirmed by resolution and shall be signed by the chair of the meeting and stand as an accurate record of the meeting to which the minutes relate.
- d If the chair of the meeting does not consider the minutes to be an accurate record of the meeting to which they relate, he/she shall sign the minutes and include a paragraph in the following terms or to the same effect:
 

“The chair 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/her view was not upheld by the meeting and the minutes are confirmed as an accurate record of the proceedings.”
- e The signed minutes of a meeting form the legal records of the Council’s decisions.
- f **If the Council’s gross annual income or expenditure (whichever is higher) does not exceed £25,000, it shall publish draft minutes on a website which is publicly accessible and free of charge not later than one month after the meeting has taken place.**
- g Subject to the publication of draft minutes in accordance with standing order 12(e) and standing order 20(a) and following a resolution which confirms the accuracy of the minutes of a meeting, the draft minutes or recordings of the meeting for which approved minutes exist shall be destroyed.



### 13. Code of conduct and dispensations

See also standing order 3(u).

- a All councillors and non-councillors with voting rights shall observe the code of conduct adopted by the council. A copy of the Berkhamsted Town Council's Code of Conduct, first adopted on 23 July 2012, is **Appendix 2** of these Orders. This Code of Conduct has been drawn up in accordance with the Localism Act 2011 and is consistent with the "Nolan principles" of standards in public life (selflessness, integrity, objectivity, accountability, openness, honesty and leadership). The Planning Code of Practice is **Appendix 3 (a)** of these Orders and supplements the Code of Conduct.
- b Unless he/she has been granted a dispensation, a councillor or non-councillor with voting rights shall withdraw from a meeting when it is considering a matter in which he/she has a disclosable pecuniary interest. He/she may return to the meeting after it has considered the matter in which he/she had the interest.
- c Unless he/she has been granted a dispensation, a councillor or non-councillor with voting rights shall withdraw from a meeting when it is considering a matter in which he/she has another interest if so, required by the Council's code of conduct. He/she may return to the meeting after it has considered the matter in which he/she had the interest.
- d **Dispensation requests shall be in writing and submitted to the Proper Officer** as soon as possible before the meeting, or failing that, at the start of the meeting for which the dispensation is required.
- e A decision as to whether to grant a dispensation shall be made by the Proper Officer and that decision is final.
- f A dispensation request shall confirm:
  - i. the description and the nature of the disclosable pecuniary interest or other interest to which the request for the dispensation relates;
  - ii. whether the dispensation is required to participate at a meeting in a discussion only or a discussion and a vote;
  - iii. the date of the meeting or the period (not exceeding four years) for which the dispensation is sought; and
  - iv. an explanation as to why the dispensation is sought.
- g Subject to standing orders 13(d) and (f) above, dispensations requests shall be considered by the Proper Officer before the meeting or, if this is not possible, at the start of the meeting for which the dispensation is required.
- h **A dispensation may be granted in accordance with standing order 13(e) if having regard to all relevant circumstances any of the following apply:**
  - i. **without the dispensation the number of persons prohibited from participating in the particular business would be so great a**

- proportion of the meeting transacting the business as to impede the transaction of the business;**
- ii. **granting the dispensation is in the interests of persons living in the Council's area; or**
- iii. **it is otherwise appropriate to grant a dispensation.**

#### **14. Code of conduct complaints**

- a Upon notification by Dacorum Borough Council that it is dealing with a complaint that a councillor or non-councillor with voting rights has breached the Council's code of conduct, the Proper Officer shall, subject to standing order 11, report this to the Council.
- b Where the notification in standing order 14(a) relates to a complaint made by the Proper Officer, the Proper Officer shall notify the Town Mayor of the Council of this fact, and the Mayor shall nominate another staff member to assume the duties of the Proper Officer in relation to the complaint until it has been determined and the Council has agreed what action, if any, to take in accordance with standing order 14(d).
- c The Council may:
  - i. provide information or evidence where such disclosure is necessary to investigate the complaint or is a legal requirement;
  - ii. seek information relevant to the complaint from the person or body with statutory responsibility for investigation of the matter;
- d **Upon notification by Dacorum Borough Council that a councillor or non-councillor with voting rights has breached the Council's code of conduct, the Council shall consider what, if any, action to take against them. Such action excludes disqualification or suspension from office.**

#### **15. Proper officer**

- a The Proper Officer shall be either (i) the clerk or (ii) other staff member(s) nominated by the Council to undertake the work of the Proper Officer when the Proper Officer is absent.
- b The Proper Officer shall:
  - i. **at least three clear days before a meeting of the council, a committee or a sub-committee,**
    - **serve on councillors by delivery or post at their residences or by email authenticated in such manner as the Proper Officer thinks fit, a signed summons confirming the time, place and the agenda (provided the councillor has consented to service by email),**
    - **Provide, in a conspicuous place, public notice of the time, place and agenda (provided that the public notice with agenda of an**

**extraordinary meeting of the Council convened by councillors is signed by them); and**

- at least three clear days before a meeting of the council, a committee and a sub-committee serve on councillors a summons, by email, confirming the time, place and the agenda provided any such email contains the electronic signature and title of the Proper Officer. {As agreed at the Annual Town Council meeting of Berkhamsted Town Council held on 18 May 2015 councillors can consent to receive their summons by email by completing and returning the consent form to the Town Clerk.}

*See standing order 3(b) for the meaning of clear days for a meeting of a full council and standing order 3(c) for the meaning of clear days for a meeting of a committee;*

- ii. subject to standing order 9, include on the agenda all motions in the order received unless a councillor has given written notice at least 5 days before the meeting confirming his withdrawal of it;
- iii. **convene a meeting of the Council for the election of a new Town Mayor of the Council, occasioned by a casual vacancy in his/her office;**
- iv. **facilitate inspection of the minute book by local government electors;**
- v. **receive and retain copies of byelaws made by other local authorities;**
- vi. hold acceptance of office forms from councillors;
- vii. hold a copy of every councillor's register of interests;
- viii. assist with responding to requests made under freedom of information legislation and rights exercisable under data protection legislation, in accordance with the Council's relevant policies and procedures;
- ix. receive and send general correspondence and notices on behalf of the Council except where there is a resolution to the contrary;
- x. assist in the organisation of, storage of, access to, security of and destruction of information held by the Council in paper and electronic form subject to the requirements of data protection and freedom of information legislation and other legitimate requirements (e.g., the Limitation Act 1980);
- xi. arrange for legal deeds to be executed;  
*(see also standing order 23);*
- xii. arrange or manage the prompt authorisation, approval, and instruction regarding any payments to be made by the Council in accordance with its financial regulations;
- xiii. record every planning application notified to the Council and the Council's response to the local planning authority in a book for such purpose;
- xiv. refer a planning application received by the Council to the Chair or in his/her absence Vice-Chair of the Town Planning Committee] within two working days of receipt to facilitate an extraordinary meeting if the nature of a planning application requires consideration before the next Full Town

- Planning Committee meeting;
- xv. manage access to information about the Council via the publication scheme; and

## **16. Responsible financial officer**

- a The Council shall appoint appropriate staff member(s) to undertake the work of the Responsible Financial Officer when the Responsible Financial Officer is absent.

## **17. Accounts and accounting statements**

- a “Proper practices” in standing orders refer to the most recent version of “Governance and Accountability for Local Councils – a Practitioners’ Guide”.
- b All payments by the Council shall be authorised, approved and paid in accordance with the law, proper practices and the Council’s financial regulations.
- c The Responsible Financial Officer shall supply to members of the Finance and [Policy Committee before each meeting (with copies to other members of the Council) a statement summarising up to the last month end:
- i. the Council’s receipts and payments (or income and expenditure) for each quarter;
  - ii. the Council’s aggregate receipts and payments (or income and expenditure) for the year to date;
  - iii. the balances held at the end of the quarter being reported and which includes a comparison with the budget for the financial year and highlights any actual or potential overspends.

And which includes a comparison with the budget for the financial year and highlights any actual or potential overspends.

- d As soon as possible after the financial year end at 31 March, the Responsible Financial Officer shall provide:
- i. each councillor with a statement summarising the Council’s receipts and payments (or income and expenditure) for the last quarter and the year to date for information; and
  - ii. to the Council the accounting statements for the year in the form of Section 2 of the annual governance and accountability return, as required by proper practices, for consideration and approval.
- e The year-end accounting statements shall be prepared in accordance with proper practices and apply the form of accounts determined by the Council (receipts and payments, or income and expenditure) for the year to 31 March. A completed draft annual governance and accountability return shall be presented to all councillors at least 14 days prior to anticipated approval by the

Council. The annual governance and accountability return of the Council, which is subject to external audit, including the annual governance statement, shall be presented to the Council for consideration and formal approval before 30 June.

## 18. Financial controls and procurement

- a. The Council shall consider and approve financial regulations drawn up by the Responsible Financial Officer, which shall include detailed arrangements in respect of the following:
  - i. the keeping of accounting records and systems of internal controls;
  - ii. the assessment and management of financial risks faced by the Council;
  - iii. the work of the independent internal auditor in accordance with proper practices and the receipt of regular reports from the internal auditor, which shall be required at least annually;
  - iv. the inspection and copying by councillors and local electors of the Council's accounts and/or orders of payments; and
  - v. whether contracts with an estimated value below **£25,000** due to special circumstances are exempt from a tendering process or procurement exercise.
- b. Financial regulations shall be reviewed regularly and at least annually for fitness of purpose.
- c. **A public contract regulated by the Public Contracts Regulations 2015 with an estimated value in excess of £25,000 but less than the relevant thresholds in standing order 18(f) is subject to Regulations 109-114 of the Public Contracts Regulations 2015 which include a requirement on the Council to advertise the contract opportunity on the Contracts Finder website regardless of what other means it uses to advertise the opportunity unless it proposes to use an existing list of approved suppliers (framework agreement).**
- d. Subject to additional requirements in the financial regulations of the Council, the tender process for contracts for the supply of goods, materials, services or the execution of works shall include, as a minimum, the following steps:
  - i. a specification for the goods, materials, services or the execution of works shall be drawn up;
  - ii. an invitation to tender shall be drawn up to confirm (i) the Council's specification (ii) the time, date and address for the submission of tenders (iii) the date of the Council's written response to the tender and (iv) the prohibition on prospective contractors contacting councillors or staff to encourage or support their tender outside the prescribed process;
  - iii. the invitation to tender shall be advertised in a local newspaper and in any other manner that is appropriate;
  - iv. tenders are to be submitted in writing in a sealed marked envelope addressed to the Proper Officer;

- v. tenders shall be opened by the Proper Officer in the presence of at least one councillor after the deadline for submission of tenders has passed;
  - vi. tenders are to be reported to and considered by the appropriate meeting of the Council or a committee or sub-committee with delegated responsibility.
- e. Neither the Council, nor a committee or a sub-committee with delegated responsibility for considering tenders, is bound to accept the lowest value tender.
- f. **A public contract regulated by the Public Contracts Regulations 2015 with an estimated value in excess of £189,330 for a public service or supply contract or in excess of £4,733,252 for a public works contract; or £663,540 for a social and other specific services contract (or other thresholds determined by the European Commission every two years and published in the Official Journal of the European Union (OJEU)) shall comply with the relevant procurement procedures and other requirements in the Public Contracts Regulations 2015 which include advertising the contract opportunity on the Contracts Finder website and in OJEU.**
- g. **A public contract in connection with the supply of gas, heat, electricity, drinking water, transport services, or postal services to the public; or the provision of a port or airport; or the exploration for or extraction of gas, oil or solid fuel with an estimated value in excess of £378,660 for a supply, services or design contract; or in excess of £4,733,252 for a works contract; or £663,540 for a social and other specific services contract (or other thresholds determined by the European Commission every two years and published in OJEU) shall comply with the relevant procurement procedures and other requirements in the Utilities Contracts Regulations 2016.**

## 19. Handling staff matters

- a. A matter personal to a member of staff that is being considered by a meeting of Council or the Support Services Group is subject to standing order 11.
- b. Subject to the council's policy regarding absences from work, the council's most senior member of staff shall notify a member of the Support Services Group of absence occasioned by illness or other reason.
- c. Members of the Support Services Group shall conduct a review of the performance and annual appraisal of the work with the Town Clerk. The reviews and appraisal shall be reported in writing. It will be reported to the Finance and Policy Committee that such a review has occurred.
- d. Subject to the council's policy regarding the handling of grievance matters, the council's most senior employee shall contact an appropriate member or members of the Support Services Group in respect of an informal or formal

grievance matter.

- e Any persons responsible for all or part of the management of staff shall treat the written records of all meetings relating to their performance, capabilities, grievance or disciplinary matters as confidential and secure.
- f The council shall keep all written records relating to employees secure in accordance with the principles of the General Data Protection Regulations 2018 and the Town Council's Privacy statement. All paper records shall be secured and locked and electronic records shall be password protected and encrypted.
- g Only persons with line management responsibilities shall have access to staff records referred to in standing orders 19(f) above if so justified. At Berkhamsted Town Council the Town Clerk (or the Deputy Clerk in their absence) and Town Mayor (or the Deputy Mayor in their absence) currently have line management responsibilities.
- h Access and means of access by keys and/or computer passwords to records of employment referred to in standing orders 19(f) shall be controlled by the Town Clerk.

## **20. Responsibilities to provide information**

See also standing order 21.

- a **In accordance with freedom of information legislation, the Council shall publish information in accordance with its publication scheme and respond to requests for information held by the Council.**
- b **The Council, shall publish information in accordance with the requirements of the Local Government (Transparency Requirements) (England) Regulations 2015.**

## **21. Responsibilities under data protection legislation**

Below is not an exclusive list. See also standing order 11.

- a The Council may appoint a Data Protection Officer.
- b **The Council shall have policies and procedures in place to respond to an individual exercising statutory rights concerning his personal data.**
- c **The Council shall have a written policy in place for responding to and managing a personal data breach.**
- d **The Council shall keep a record of all personal data breaches comprising the facts relating to the personal data breach, its effects and the remedial action taken.**

- e **The Council shall ensure that information communicated in its privacy notice(s) is in an easily accessible and available form and kept up to date.**
- f **The Council shall maintain a written record of its processing activities.**

## **22. Relations with the press/media**

- a Requests from the press or other media for an oral or written comment or statement from the Council, its councillors or staff shall be handled in accordance with the Council's policy in respect of dealing with the press and/or other media.
- b The Town Clerk, Town/Deputy Mayor and committee chairs are the primary spokespersons for the Town Council.
- c If councillors wish to respond to questions regarding the views of the Town Council, they should make reference to relevant decisions made by the council, and should avoid speculating on the views of the Town Council if no relevant decision has been made.
- d In any communications regarding the decisions of the Town Council, councillors must take reasonable steps to represent them accurately, including a reference to the date of the decision. Deliberate misrepresentation of decisions taken by the Town Council in communications shall be considered a breach of the code of conduct.
- e When individual town councillors or groups of councillors are communicating their views, they must make it clear that these are individual views, not those of the Town Council. When communicating with the press or public, as in all activities, councillors should adhere to the Nolan principles set out in the code of conduct.

NB: The Town Council's Social Media Policy was approved at Full Council on 16 March 2020 and is **Appendix 5** of these Orders.

## **23. Execution and sealing of legal deeds**

See also standing orders 15(b)(xii) and (xvii).

- a A legal deed shall not be executed on behalf of the Council unless authorised by a resolution.
- b **Subject to standing order 22(a), any two councillors may sign, on behalf of the Council, any deed required by law and the Proper Officer shall witness their signatures.]**

## **24. Communicating with borough and county or unitary councillors**

- a An invitation to attend a meeting of the council shall be sent, together with the



agenda, to the ward councillor of Dacorum Borough Council and Hertfordshire County Council representing the area of the council.

- b Unless the Council determines otherwise, a copy of each letter sent Dacorum Borough or to Hertfordshire County Council shall be sent to the ward councillor(s) representing the area of the Council.

## **25. Restrictions on councillor activities**

- a. Unless duly authorised no councillor shall:
  - i. inspect any land and/or premises which the Council has a right or duty to inspect; or
  - ii. issue orders, instructions or directions.

## **26. General Power of Competence**

- a The Localism Act 2011 gives eligible councils “the power to do anything that individuals generally may do”.
- b The council may pass a resolution of eligibility and adopt the power.
- c At the precise moment the council passes a resolution of eligibility, which will be minuted, the number of councillors elected at the last ordinary election, or at a subsequent by-election, must equal or exceed two thirds of its total number of councillors. Additionally, the clerk must hold at least one of the sector specific qualifications and should have completed the relevant training (this includes CiLCA). A council will confirm that it remains eligible (or not) at the next relevant annual meeting of the council. The next relevant annual meeting will be after the next ordinary election in 2023.

## **27. Standing orders generally**

- a All or part of a standing order, except one that incorporates mandatory statutory or legal requirements, may be suspended by resolution in relation to the consideration of an item on the agenda for a meeting.
- b A motion to add to or vary or revoke one or more of the Council’s standing orders, except one that incorporates mandatory statutory or legal requirements, shall be proposed by a special motion, the written notice by at least 4 councillors to be given to the Proper Officer in accordance with standing order 9.
- c The Proper Officer shall provide a copy of the Council’s standing orders to a councillor as soon as possible.
- d The decision of the chair of a meeting as to the application of standing orders at the meeting shall be final.

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The Model Standing Orders 2018 for England were revised in 2020.

## **PART II: CHAIRING MEETINGS**

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## **1. The Role of Local Councils**

A local council can only do what legislation requires it to do. There are few statutory functions that a local council must discharge and these functions arise because a local council has a statutory power to raise a precept and spend it. Legislation also permits local councils to exercise a range of specific and discretionary powers. By choosing to exercise statutory powers available to it, a local council has the potential to improve the services and amenities available in the area it serves.

## **2. The Role of the Chair**

A local council is a legal entity in itself, constituted by councillors, one of whom must be the Chair of the Council. All councillors are holders of public office and legislation dictates the term of office and conduct expected when acting as a representative of the council. A councillor's main responsibilities are to: raise matters that the council can consider and formally decide to take action about at a meeting; attend council meetings; make informed contribution to debate at meetings and participate in the council's decision-making process.

Such decisions are implemented by the officers and agents of the council. They cannot do this properly unless they have instructions that they can understand. The Council's instructions are conveyed by resolutions made at meetings 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 Chair should seek to:

- (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.

He/she will achieve the above by keeping order and control at meetings in accordance with the standing orders contained within standing. He/she may exercise a second or casting vote on any question to be decided at a meeting. For other matters his/her status is the same as any other councillor.

### **3. Preparing for Meetings**

The Town Clerk will prepare and issue the agenda. However, before any meeting it is good practice for the Chair and Town Clerk to discuss items on the agenda before it is sent out with the notice and summons. He/she should consider the items on the agenda and ask questions such as: -

What does it mean?

Is it lawful?

Do we know enough about it?

Has any member special knowledge of this problem?

Is there an opportunity for declarations of interest?

Is there a risk that the meeting will be inquorate?

Is there any risk of disorderly conduct or disruption?

### **4. Chair's Responsibilities at the Meeting**

The Chair will preside at the meeting and ensure that the business set out on the agenda is considered. He/she will keep control, maintain order and apply standing orders as necessary. Intervention for these purposes should be respected and obeyed by councillors and members of the public present. Specifically, he/she will:

Open the meeting;

Consider if there is a procedural obstacle to the meeting proceeding;

Order debate on motions;

Decide on points of order;

Choose to exercise his/her casting vote when votes are tied;

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To be adopted at AMC 04 May 2021

Declare the result of a vote;  
Temporarily suspend a meeting or adjourn a meeting if necessary and  
Close the meeting after its business is concluded;  
Remind members about their responsibilities regarding declarations of interest.

## **5. Dealing with Public Disturbances at a Meeting**

- i. Such occurrences are very rare. However, 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/she will naturally not wish to be rude, the Chair should cut an interrupter short, and if good humour and conciliation fail to produce silence he/she may have to warn the perpetrator that he/she will be turned out if there is a repetition; if the warning is ignored it should be resolved, without discussion, that the interrupter be excluded, and if he/she fails to leave he/she should be removed although care should be taken to use no more force than necessary. It is not essential to call the police, but may be necessary.
- ii. The Chair 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 be given facilities for taking their reports.

## **6. Declarations of Interest made in accordance with the code of conduct**

A standing item on all council and committee meeting agenda will be to receive declarations of disclosable interest(s) relating to any items on the agenda. Any councillor declaring a disclosable pecuniary interest must leave the meeting for the item in which he/she has an interest and not participate in any decision making on that item. A copy of the code of conduct adopted by Berkhamsted Town Council is attached at appendix 3 of Part 2 of this document and standing Order 13. Details are also set out in this standing order on how a councillor with such an interest can apply for a dispensation, allowing him/her to participate in the discussion.

## **7. Rulings on notices**

The Chair must be satisfied that the meeting is lawful. He/she 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/she is entitled, but where an irregularity appears to be intentional or important the meeting should be adjourned until it has been corrected.

## 8. Quorum

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 Chair should adjourn the matter until it can be next dealt with. As already stated in paragraph 6 above, those members with a disclosable pecuniary can consider making an application for dispensation. The Mayor shall be a voting members, ex-officio, but the Deputy Mayor, ex-officio, shall not have a vote unless already a member.

## 9. Ultra Vires Proposals

The Chair should satisfy him/herself that any proposal 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. Any expenditure proposed under s 137 (Local Government Act 1972) should be recorded as such in the relevant minutes. (Note: The Town Council has adopted the General Power of Competence so would have no need to use s137. However, eligibility to adopt the GPC must be reviewed immediately after the next ordinary election in 2023.)

## 10. Useful notes on rules of debate (see also standing order no 1)

- I. **Clear Issues:** Every decision of the Council must be made by an affirmative vote of a majority of those present and voting (including, where necessary, the Chair'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 should be separately put to the vote.
- II. **The Affirmative Form:** 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".)



- III. **Separating the issues:** 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. 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.”

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*.

- IV. **Method of voting** 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.
- V. **Completeness of Information.** Sensible decisions cannot be reached without reasonably complete information, which it is usually the duty of the Clerk to supply. The Chair should before the meeting consider whether enough information is available or likely to be made available, and at the meeting he/she should make a point of asking a member with special knowledge to give his/her opinion. If it appears at the meeting that information is still insufficient, he/she 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.

**VI. *Impartiality:***

- i. When differences of opinion develop in discussion it is the duty of the Chair to give a fair hearing to all points of view including his/her own, if he/she has one. It is not his/her duty as Chair to suppress his/her own convictions nor his/her privilege to impose his/her opinions. Experience has shown that the safest and least controversial course is for the Chair to call upon speakers for and against a proposal to speak alternately and for him/her to avoid speaking first or last.
- ii. Some people are better at putting a case than others and the Chair 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 Chair should have some latitude in applying them, especially in a Council with a small membership.

**VII. *Relevance:*** 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 Chair 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.

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

**IX. *Methods of Enforcement:*** Where a speech is obviously irrelevant the Chair should stop the speaker and invite him/her to return to the point or conclude. Where the irrelevance is not quite so obvious the Chair may often find it convenient to ask the speaker to explain how his/her remarks relate to the issue.

**X. *Revival of Decided Issues:*** The Chair 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.

XI. **Minutes:** 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.

## XII. **Other Problems**

- a) 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.
- b) 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 48 \_\_\_\_\_ Lane".

## Reasonable Despatch

- I. **Intervals:** 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. Special meetings may be called if required.
- II. **Obstruction at Meetings:** 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.
- III. **Repetition:** If it is evident that nothing new can be said on either side in a particular discussion, the Chair 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 Chair should ask leave of the Council to put the matter to the vote.

## 11. **Some Procedural Points**

**Points of Order:** Points of Order relate to procedure only and take precedence of all other business; it is the duty of the Chair 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 Chair. The person raising the matter of substance in this way should be told to save it for his/her 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/she continues his/her speech or ignore it as he/she thinks appropriate. If, however, the interruption had been "On a point of order, have we power to do this?" the Chair (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.

**Closure Motions:** The following are the respective effects of closure resolutions:

- I. 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.
- II. 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 Chair may refuse to accept such a resolution until he/she thinks that the matter has been sufficiently debated.
- III. 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:** An amendment, which in substance negates the principal resolution, should not be allowed because it is confusing and unnecessary. An amendment should always be put to the vote before the resolution that it seeks to amend.

**Any Other Business:** 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. Therefore, it is not the practice within Berkhamsted Town Council to include Any Other Business on Council/Committee agendas.

**"Urgent" Business:** 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 Chair or any other single member to take a decision binding the Council.

## **12. Use of Chair's Votes**

Save on one occasion the Chair has both an ordinary and a casting vote. There is no rule of law which requires him/her to give his ordinary vote at the same time as the other members are voting, and 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."

Where there is an equality of votes the Chair may be faced with an embarrassing problem. A resolution requires a majority and therefore, since equality is not majority, he/she may declare the resolution *not* carried. This course is, however, sometimes regarded as irresponsible or lacking in courage; in such circumstances the Chair 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.

## **13. Presence of the Public and Press**

The public and press are entitled to be present at all meetings of the Council and its committee. The Council or a committee, however, may exclude the public and press 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.

## **14. Maladministration:**

At present Town and Parish Councils are not subject to the jurisdiction of the Local Government 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. A copy of the Town Council's Complaints Handling Procedure is available on the Town Council web site and from the Town Council office.

## **15. Length of Meetings:**

Experience suggests that a meeting should never be allowed to continue for more than two hours.