



Cullompton Town Council

Minutes of a meeting held on
Thursday 14 May 2020 at 19:00hrs. Meeting held with remote attendance.

Present:

Chairman: Councillor Lloyd Knight.

Councillors: Eileen Andrews*, James Buczkowski, Matthew Dale, Robert Dietrich, Gordon Guest, Kathryn Haslett, Janet Johns, Will Jones, Justin Lochhead, Ian Morton*, Russell Murch*, Michelle Rowe and Martin Smith*.

In attendance:

Joy Norris (Town Clerk), Steve Reardon (Assistant Town Clerk) and Maria Weston (Deputy Town Clerk).

* in attendance for only part of the meeting.

1. Apologies for Absence

To receive apologies for absence from Councillors unable to attend the meeting.

Apologies for absence were received from Councillor Kerry Baldwin.

Councillor Martin Smith stated that, due to multiple commitments, he would have to leave the meeting at 19:30hrs.

2. Declarations of Interests

The following Declarations of Interests from Councillors and Officers in respect of matters to be considered at this meeting, together with an appropriate statement regarding the nature of the interest were made:

Councillor Gordon Guest declared an interest in item 6 and will require guidance on how best to proceed in terms of his participation when the time comes.

3. Public Participation

To allow members of the public present at the meeting to raise matters which are relevant to Cullompton. Up to 3 minutes will be allowed for each person.

There were no members of the public present.

4. Minutes:

To confirm the Minutes of the meeting held on 21 April 2020 as a correct record.

RESOLVED: That the Minutes of the meeting held on 21 April 2020 were adopted as a correct record of that meeting and signed as such.

5. Resolutions:

To note previous resolutions made by the Committee and the action taken to implement those decisions.

RESOLVED: To note previous resolutions made by the Council and the action taken to implement those decisions.

6. Motion made Standing Order No 9

To consider motions submitted by Councillor Gordon Guest, namely:

Councillors Legal Expenses for Code of Conduct Complaints

- (a) Cullompton Town Council creates a new Code of Conduct policy which states clearly whether or not the Town Council supports a Councillor in code of conduct complaints and in what circumstances it would not support a Councillor in a code of conduct complaint.

** Councillor Ian Morton left the meeting.*

The Town Clerk stated that Councillor Gordon Guest has a pecuniary interest in 6c and should be excluded from the meeting whilst this matter is debated and resolved.

RESOLVED: That Councillor Gordon Guest is permitted to remain for the debate and resolution of 6a and 6b but will be removed for the debate and resolution of item 6c.

Councillor Gordon Guest stated that he was involved in a Code of Conduct (CoC) complaint and is aware that others have too. He admitted that he was unaware of the legal complexities of such complaints until he became the subject of one. He stated that staff are covered by Employee Liability Insurance but Councillors are not by any means. His own insurers stated that his own personal insurance cover would also not cover his legal expenses. He wishes to have clarity in the matter of legal representation for members including Code of Conduct matters.

There was discussion including:

- There should, in principle, be provision to provide support for Councillors experiencing CoC complaints and other legal matters directly related to their role as a Councillor.

** Councillor Eileen Andrews, due to technical difficulties, was no longer present at the meeting.*

- A report will be required to detail exactly what matters can be brought under Code of Conduct complaints and what sanctions are available to the council and the Monitoring Officer as these matters directly relate to the matter that resulted in the motion being debated.
- There is concern that the council could be held liable to provide legal support for a Councillor in any matter despite that it may clearly be in breach of the Code of Conduct at a misconduct hearing and this will require a certain amount of predetermination on the part of the council which should be avoided.

** Councillor Martin Smith departed the meeting.*

- At the present time, there is no mechanism to support a Councillor who is undergoing a CoC complaint nor is there anywhere else to seek such help. In short, the Councillor experiencing a complaint is left entirely to his or her own devices with no support from any source.
- The council is unaware of what other councils do in respect of Councillor legal support.

- There should, perhaps, be something in place to support and fund the legal support but only in the event that the complaint was not upheld at a hearing. It was further suggested that, without some sort of support, that there will be difficulty in attracting new Councillors and that there may be resignations of existing members.
- There was feeling that, whilst an insurance based policy should in place, no such policy exists and it was felt that NALC or DALC should have an alternative in place given the sums paid to them for membership of these bodies.
- It was suggested that the council's legal advisors are approached to investigate the cost of having a specific period of legal advice available to it in the event of a complaint being made against individual members.

RESOLVED: To adjourn the meeting in order that all present can participate in the weekly Clap for Carers.

RESOLVED: That Cullompton Town Council creates a new Code of Conduct policy which states clearly whether or not the Town Council will support a Councillor in Code of Conduct complaints and in what circumstances it would not support a Councillor in a Code of Conduct complaint.

- (b) Cullompton Town Council create a new mechanisms, either using existing legal insurance or some other means to ensure all Cullompton Town Councillors have full Legal Support including Code of Conduct allegations.

RESOLVED: That Cullompton Town Council explore a new mechanism either using existing legal insurance or some other means to ensure all Cullompton Town Councillors have full Legal Support including Code of Conduct allegations.

- (c) Cllr Guest has had to pay private legal fees to defend his actions as chair of the Cullompton Town Council Planning committee. He requests Cullompton Town Council to reimburse all these legal fees, as quickly as possible. As this action was solely about his role as a Town Councillor.

- Gordon Guest stated that MDDC stated that the result would be known in due course. The case is, therefore, still open.
- Legal fees run to several hundred pounds at this time.
- There was a view expressed that, as the complaint is still ongoing, there cannot be support for 6c in the possible event that the complaint is upheld.

RESOLVED: That the meeting is placed into Part II and that the press and public are excluded until the matter under debate is resolved. Proposed Councillor James Buczkowski, seconded Councillor Will Jones.

- Councillor Gordon Guest explained the circumstances and substance of the complaint but has yet to receive a substantive response from the Monitoring Officer.

RESOLVED: That the meeting is placed back into public session. Proposed Councillor James Buczkowski, seconded Councillor Lloyd Knight.

Councillor Gordon Guest departed the meeting having declared a pecuniary interest.

RESOLVED: That the matter at 6c is deferred until such time as the Monitoring Officer has made a determination on the Code of Conduct Complaint.

Councillor Gordon Guest was readmitted to the meeting.

7 Recommendations from the Policy, Finance and Personnel Committee

The Policy, Finance and Personnel Committee met on 5 May 2020 and made recommendations to Council regarding the adoption of a Public Participation Policy and the complementary amendments to Standing Orders.

- There was a feeling that the council is incredibly generous in giving time to participants in Public Question Time. This matter is at the discretion of the Chair but there may be circumstances when it may be prudent to give a public speaker more than the allocated 3 minutes. Conversely, it may be prudent to limit them to only 3 minutes dependent on the circumstances and the level of business to be debated.
- If 3 minutes are to be applied, there needs to be some sort of indicator to the speaker that the end of their time to speak is approaching.

RESOLVED: That the Public Participation Policy (at Annex 1) is adopted with immediate effect.

RESOLVED: That the Standing Order to compliment the Public Participation Policy is adopted with immediate effect.

8. Chair of Planning and Licensing Committee

To consider the duties and responsibilities of the Chair of the Planning and Licensing Committee being resumed by Councillor Guest.

RESOLVED: That Councillor Gordon Guest is reinstated as Chair of the Planning and Licensing Committee.

** Councillors Will Jones and Russell Murch both departed the meeting.*

9. Parish Charter

Mid Devon District Council are currently consulting on a review of the Parish Charter, and welcome thoughts, comments and suggestions for improvement based upon the current charter. Responses should be submitted by 31 July 2020.

- It was noted that there is specific mention, early in the Charter, that District Councillors are expected to attend Parish and Town Council meetings to report on District matters. District Officers are also expected to attend to discuss matters of interest.

RESOLVED: That the council requests that additions are made to the Parish Charter to confirm that:

- MDDC treat all tax payers equally and fairly in respect of double and triple taxation. Cemeteries, and the fact that Cullompton tax payers pay for Cullompton Cemetery via the Town Council precept but also for Crediton and Tiverton Cemeteries via the MDDC precept was cited as an example. Markets are funded at Tiverton (but at Cullompton) and Cullompton tax payers, in part, pay for these amenities.
- Further, that District Councillors are required regularly to attend Parish and Town Council meetings.
- Deeper consultation with longer time lines is required on the spending of available discretionary funding including s106 monies.
- Lack of equality in sport and leisure and MDDC keep offloading Cullompton play areas to the Town Council whilst funding many of Tiverton's that, again, Cullompton tax payers partially fund through the MDDC precept.

10. Audio and Video Recordings of Town Council and Committee Meetings

The Town Council has an existing practice of audio recording Town Council and Committee meetings; at the present time with meetings being held by means of remote attendance there is also an opportunity to video record meetings.

The Council is asked to consider

- (i) Whether or not Town Council and Committee meetings held by means of remote attendance should be both audio and video recorded
- (ii) The retention period for any recordings.

Note: Legal advice on this matter has been sought and research is ongoing into the practice of other public authorities. – the information will be made available as Appendix E when it is received

RESOLVED: That this matter is deferred until such time as Legal advice has been received and that best practice has been established. Until such time as Legal advice has been received and best practice has been established, a full video recording, with audio, of meetings will be made and retained. However, if a Freedom of Information is requested, the council will be obliged to make such recordings public.

11 Payments

To examine and agree the accounts due for payment.

RESOLVED: That accounts due for payment are approved.

ANNEX 1

POLICY TITLE	Public Participation Policy (May 2020)
POLICY NO	
REVISION DATE	
REVIEW DATE	
REPLACES POLICY	New Policy
POLICY AIM	This policy sets out the Town Council's stance regarding public participation at formal meetings and the procedures that are implemented to enable the public to raise matters at meetings of the Town Council and its committees.

1. Policy Statement

The Town Council welcomes the public attending the formal meetings of the Town Council and Its Committees and actively encourages people to raise issues and topics about the town. The Town Council, as part of its approach to community engagement chooses to have an agenda item at its formal meetings called "Public Participation" where members of the public can make representations, ask questions, answer questions and give evidence.

2. Overview

Members of the public have the right to attend, but no legal right to speak, at meetings of the Town Council and its committees, however the Town Council welcomes people's constructive contributions when they raise issues and topics about the town using the procedures set out in this policy and procedure document.

The Town Council's Standing Orders set the overarching principles for public participation at Town Council and Committee meetings, namely:

- Items raised at a full Town Council meeting may be on any topic relevant to Cullompton
- Items raised at a Committee meeting must be relevant to items on the agenda for that meeting
- Each member of the public may speak for a maximum of 3 continuous minutes
- The overall length of time for the public participation on an agenda is generally limited to 15 minutes – this includes the time for the members of the public to speak as well as for the responses to be given. The meeting Chairman may extend the time available for the public participation item but this is at their discretion and their decision is final.
- At a meeting of the full Town Council the Chairman (usually the Mayor) will decide whether the matter is to be referred to a Committee or if an oral or written response is to be given at a Town Council meeting.

- At a committee meeting the Chairman will decide whether an oral or written response is to be given
- The Chairman may direct that a response is not given if, in their opinion, the question / statement is defamatory, frivolous, abusive or has been previously raised at a meeting within the previous 6 months or requires the disclosure of confidential or exempt information. The Chairman's ruling on this matter is final.
- Neither questions / statements etc. made by members of the public nor responses given will be the subject of further debate or discussion at the meeting.
- The Chairman, or any Committee Member may propose a motion under Standing Order 10 (xii) to not hear further from a member of the public , (xiii) to exclude a member of the public for disorderly conduct or any use any other appropriate Standing Order.

Public participation is not an appropriate time to

- complain about general problems such as routine maintenance of facilities
- demand information that is already publically available
- make complaints about individual members of staff (Please send the details of these direct to the Town Clerk)

PROCEDURE

Note: The arrangements may vary at the Town Council's Planning Committee if

- a) an applicant wishes to speak about their planning application which is to be considered at the meeting
- b) if there are large numbers of people wishing to speak about the same planning application

Responses will not be given to comments or questions from members of the public on specific planning applications.

Before the Meeting

1. Any member of the public wishing to speak at a meeting is asked to contact the Town Council Offices at least 48 hours before the meeting starts to say that they will be attending the meeting and provide an overview of what they wish to speak about
2. Members of the public are encouraged to complete a public participation form which gives their contact details and brief information about what they are intending to say at the meeting. The form is available from the Town Council Offices and the Town Council's website. Submission of a written question helps with managing the meeting, preparation of a response and minuting the meeting.

At the Meeting

1. Members of the public should sign in - an attendance sheet will be provided for this purpose
2. Public Participation will usually be an agenda item listed towards the start of the meeting
3. The meeting Chairman will decide the speaker order and call people to speak; Priority will usually be given to questions / statements submitted in advance and they will usually be taken in the order in which they were received.
4. Members of the public may speak for a maximum of 3 minutes during the public participation agenda item

5. The overall length of time for the public participation item on an agenda is generally limited to 15 minutes – this includes the time for the members of the public to speak as well as for the responses to be given. The meeting Chairman may extend the time available for the public participation item but this is at their discretion and their decision is final.
6. A member of the public speaking at a meeting must ask their question / address their comments to the meeting Chair.
7. The Chairman of the meeting may:
 - Direct that no response is required and that there will be no further communication on the matter
 - Provide a response or ask another present Councillor to do so
 - Direct that an oral or written response is to be given

An oral response will usually be given by an appropriate Town Councillor at the next appropriate meeting

A written response will usually be provided within 20 working days and a summary provided in the supporting papers for the next appropriate meeting

8. At a Town Council meeting the Chairman may refer the question to an appropriate committee. During a meeting members of the public are asked to:
 - Behave in an orderly and respectful manner and not heckle or otherwise disrupt the meeting
 - Respect the rulings of the meeting Chair

During a meeting members of the public cannot:

- speak during Councillors debate or at any time other than during public participation unless expressly asked to do so by the meeting Chair
- vote on any proposals

After a Town Council Meeting

After a Town Council meeting the meeting administrator will notify a Committee Chairman and relevant Committee Administrator if any questions have been referred to it

Proposed Amendments to Standing Orders Regarding Public Participation

(a) Standing Order 3e is amended to read

- (i) Members of the public may make representations, answer questions and give evidence at a full Town Council meeting which they are entitled to attend in respect of any matter relating to Cullompton
- (ii) Members of the public may make representations, answer questions and give evidence at a Committee meeting which they are entitled to attend in respect of the work of the Committee
- (iii) Members of the public are encouraged to complete a public participation form stating their question / statement and submit it to the Meeting Administrator at least 48 hours before the meeting, however questions may be asked or statements made without notice at the discretion of the meeting Chairman. Priority will usually be given to questions / statements submitted in advance and they will usually be taken in the order in which they were received.

(b) Standing Order 3h is amended to read

In accordance with standing order 3(e), a question shall not require a response at the meeting nor start a debate on the question.

In the case of a matter raised at a full Town Council meeting the chairman of the meeting may

- Facilitate an immediate response
- Direct that a written or oral response be given.
- Refer the question to the appropriate Committee for a response.

For questions raised at a Committee meeting where it is not possible to give an immediate response the chairman of the meeting may direct that a written or oral response be given.

In all cases where an immediate response is not given, the response or summary of the action taken shall be given at an appropriate future meeting.