



Cullompton Town Council

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

Present:

Chairman: Councillor L Knight.

Councillors: E Andrews*, J Buczkowski, M Dale, R Dietrich, G Guest, K Haslett, J Johns, W Jones, J Lochhead, I Morton*, R Murch*, M Rowe and M 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.

No members of the public attended the meeting.

1. Apologies for Absence

An apology for absence was received from Councillor Baldwin; Councillor 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 were made:

Following guidance, Councillor Guest declared a personal s interest in items 6a and 6b and a prejudicial interest in agenda item 6c.

3. Public Participation

There were no members of the public present.

4. Minutes:

The Minutes of the meeting held on 21 April 2020 were considered.

RESOLVED that the Minutes of the meeting held on 21 April 2020 be adopted as a correct record.

5. Resolutions:

The previous resolutions made by the Committee and the action taken to implement those decisions were reported for information.

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.

Note: 19:17hrs Councillor Morton left the meeting.

RESOLVED that Councillor Gordon Guest is given a dispensation regarding his personal interest in agenda items 6 a and b 6a and 6b but due to his prejudicial (financial) interest 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 other Councillors have similar experiences; until being part of the complaint process he was unaware of the legal complexities of such complaints and that staff are covered by Employee Liability Insurance but Councillors are not by any means. Having explored his position with his own insurers stated it became apparent that his own personal insurance cover would not cover his legal expenses as a councillor.

CLLr Guest said he was putting forward his motions to gain clarity in the matter of legal representation for Members including those involving Code of Conduct matters.

Discussion on the motions included:

- The provision of support for Councillors experiencing CoC complaints and other legal matters directly related to their role as a Councillor.
- A report would be helpful detailing what matters can be brought under Code of Conduct complaints, how the matter may be investigated and the possible sanctions.
- There could be a conflict if the Town Council policy was to provide legal support for a Councillor in any matter despite the Councillor being found to be in breach of the Code of Conduct.
- Predetermination by the Town Council must be avoided.
- Surprise that support for Councillors is not available through the Association of Local Councils.
- Important that any advice for councillors is completely independent of the Town Council
- Councillors should be able to access support in a similar way to staff accessing support through a trade union.

Note 19:28hrs Councillor Smith left 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.
- There may need to be a range of options to suit differing circumstances.
- At the present time there is no protection or support for Councillors unless they make their own arrangements.

RESOLVED that the meeting be adjourned for 5 minutes to enable Councillor Andrews to try and resolve the difficulties with her phone.

Note:

- (i) *the meeting adjourned at 19:35hrs and resumed at 19:40hrs but Councillor Andrews did not re-join the meeting*
- (ii) *Councillor Guest left the meeting upon its resumption*

- The Town Council has no current information of what other councils do in respect of Councillor legal support.
- Councillor Guest had tried to raise this matter with the Policy, Finance and Personnel Committee but unfortunately the meeting was not quorate and thought the matter should be referred to Council for consideration.
- The possibility of reimbursement of support costs when the outcome of a complaint is determined as the Councillor not having broken the CoC.
- Councillors may not have the means to fund support if a complaint is made against them.
- The possibility that without some sort of support, that there will be difficulty in attracting new Councillors and that there may be resignations of existing members.
- Ideally there needs to be something in place that means the Town Council doesn't have to make a decision about whether or not to reimburse costs before there is an outcome to a complaint
- There was feeling that, whilst an insurance based policy may be the solution at present no such policy has been found and it was felt that the association of Local Councils should have a scheme 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 e.g. 1 hour to a Councillor in the event of a complaint being made against individual members.
- It was emphasised that the Town Council is insured for decisions made as a Council – it is individual Code of Conduct complaints that are not covered.

Note: 19:56 Councillor Guest was readmitted to the meeting

RESOLVED to adjourn the meeting for 10 minutes in order for meeting attendees to participate in the weekly applause for key workers.

Note: the meeting resumed at 20:07hrs

RESOLVED

- (i) 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.
- (ii) That Cullompton Town Council create mechanism(s), either using existing insurance or legal support arrangements or some other means to ensure all Cullompton Town Councillors have access to legal support including for Code of Conduct allegations.

(c) Councillor Guest has had to pay private legal fees to defend his actions as chair of the Cullompton Town Council Planning committee. He requested 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.

- Councillor Guest stated that MDDC stated that the result of the Monitoring Officer's investigation 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 to exclude the public and press from the meeting to enable the Council to obtain information regarding the complaint made against Councillor Guest on the grounds that publicity would be prejudicial to the public interest by reason of its confidential nature (complaint under investigation)

Councillor Guest explained the circumstances and substance of the complaint made against him and confirmed he has yet to receive notification of the Monitoring Officer's findings.

RESOLVED that the meeting returns to public session.

Note:

- (i) The meeting went into closed session at 20:17hrs and returned to open session at 20:33hrs*
- (ii) 20: 34hrs Councillor Guest left the meeting having declared a pecuniary interest.*

RESOLVED that the matter of reimbursing Councillor Guests legal fees is deferred until such time as the Monitoring Officer has made a determination on the Code of Conduct Complaint.

Note: 20:38hrs Councillor 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:

- (i)** That the Public Participation Policy (attached as Annex 1 to these minutes) is adopted with immediate effect.
- (ii)** That the Standing Orders to complement the Public Participation Policy, as recommended by the Policy, Finance and Personnel Committee are adopted with immediate effect.

8. Chair of Planning and Licensing Committee

Consideration was given to Councillor Guest resuming the duties and responsibilities of the Chair of the Planning and Licensing Committee

RESOLVED that Councillor Guest is reinstated as Chair of the Planning and Licensing Committee.

Note 20:50hrs Councillors Jones and Murch left the meeting.

9. Parish Charter

Consideration was given to the Town Council's response to Mid Devon District Council's current consultation on a review of the Parish Charter.

Discussion on this agenda topic included:

- 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.
- Length of time given to local councils to respond to consultations
- Allocation section 106 money
- Play park and leisure provision
- Towns and taxpayers throughout the district need to be treated equally when it comes to double taxation e.g. cemetery, market, emptying bins, sport & leisure

Note: 21:03 Councillor Murch left the meeting.

RESOLVED that the Town Clerk responds to the consultation and includes the following points in the response:

- That Mid Devon District Council treats all towns and indeed tax payers equally and fairly in respect of double and triple taxation. As examples - Cemeteries, Cullompton tax payers pay for Cullompton Cemetery via the Town Council precept but also for Crediton and Tiverton Cemeteries via the MDDC precept; Markets are funded at Tiverton but not at Cullompton
- that the charter emphasises that District Councillors are required regularly to attend Parish and Town Council meetings.
- More thorough consultation with longer time lines is required on the spending of available discretionary funding including s106 monies.
- Lack of equality in sport and leisure provision; MDDC transfers Cullompton play areas to the Town Council whilst funding many of Tiverton's play areas, which again, Cullompton tax payers partially fund through the MDDC precept.

Payments

The accounts due for payment were considered.

RESOLVED that accounts due for payment are approved

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 was 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.

Legal advice on this matter has been sought and research is ongoing into the practice of other public authorities but this had not been received at the time of the meeting.

RESOLVED:

- (i) that this matter is deferred until such time as Legal advice has been received and that best practice has been established and
- (ii) Until such time as legal advice has been received and best practice has been established, a full recording, (video and audio) of formal meetings will be made and retained by the Town Council but not published whilst recognising that if a Freedom of Information request is received, the Town Council will be obliged to release such recording.

The meeting closed at 21:15hrs

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| 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.