

Buckfastleigh Town Council

Constitution



Standing Orders

**AMENDED AND ADOPTED BY BUCKFASTLEIGH TOWN
COUNCIL ON 13.06.2018**

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1. Meetings

Text in bold is required by statute.

- a) **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) **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.**
- c) **Councillors are expected to attend meetings.**
- d) **Meetings shall be open to the public unless their presence is prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons. The public's exclusion from part or all of a meeting shall be by a resolution which shall give reasons for the public's exclusion.**
- e) A part in the agenda be expressly allocated for Members of the public to make representations, raise questions and speak about issues that are not on the agenda, as recognised by the chair. The time for each contribution and the overall time allowed to be regulated by the Chair.
- f) Members of the public, may be allowed to contribute towards any agenda item where appropriate on recognition by the Chair, or be asked to contribute by the Chair on matters of information. The time for each contribution to be regulated by the Chair. Members of the public are asked to raise their hands and wait until they are recognised by the Chair before speaking during meetings and to respond to direction from the Chair.
- g) Detailed questions from the public may be answered at a later date at the discretion of the Chair.
- h) A summary record of public participation at a meeting shall be included in the minutes of the meeting.
- i) **Photographing, recording, broadcasting or transmitting the proceedings of a meeting by any means is permitted with the Council's consent.**
- j) **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.**

- k) 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 absence be done by, to or before the Deputy Chair of the Council.**
- l) The Chair, if present, shall preside at a meeting. If the Chair is absent from a meeting, the Deputy Chair, if present, shall preside. If both the Chair and the Deputy Chair are absent from a meeting, a Councillor as chosen by the Councillors present at the meeting shall preside at the meeting.**
- m) All questions at a meeting shall be decided by a majority of the Councillors present and voting thereon.**
- n) The Chair may give an original vote on any matter put to the vote, and in the case of an equality of votes may exercise their casting vote whether or not he gave an original vote.**
- o) 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.**
- p) The minutes of a meeting shall record the names of the Councillors present at the beginning of the meeting or when they arrive afterwards and/or leave before the end.**
- q) The code of conduct adopted by the Council shall apply to Councillors in respect of the entire meeting.**
- r) An interest arising from the code of conduct adopted by the Council, the existence and nature of which is required to be disclosed by a Councillor at the meeting shall be recorded in the minutes.**
- s) A Councillor with voting rights who has a disclosable pecuniary 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 their right to participate and vote on that matter.**
- t) No business may be transacted at a meeting unless at least one third of the whole number of members of the Council or committee are present and in no case shall the quorum of a meeting be less than three.**
- u) If a meeting is or becomes inquorate no business shall be transacted and the meeting shall be adjourned. Any outstanding business shall be transacted at a following meeting. Public forum may continue at the discretion of the Chair.**

2. 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 new Councillors elected take office.**
- b) **In a year which is not an election year, the annual meeting of a Council shall be held on such day in May as the Council may direct.**
- c) **In addition to the Annual Town Council meeting of the Council, at least three other ordinary meetings shall be held on such dates and times as the Council directs.**
- d) **The election of the Chair and Deputy Chair of the Council shall be the first business completed at the annual meeting of the Council.**
- e) **The Chair of the Council, unless they have resigned or become disqualified, shall continue in office and preside at the annual meeting until their successor is elected at the next annual meeting of the Council.**
- f) **The Deputy Chair of the Council, if any, unless they resign or become disqualified, shall hold office until immediately after the election of the Chair of the Council at the next annual meeting of the council.**
- g) **In an election year, if the current Chair of the Council has not been re-elected as a member of the council, he shall preside at the meeting until a successor Chair of the Council has been elected. The current Chair of the Council shall not have an original vote in respect of the election of the new Chair of the Council but must give a casting vote in the case of an equality of votes.**
- h) **In an election year, if the current Chair of the Council has been re-elected as a member of the Council, they shall preside at the meeting until a successor Chair of the Council has been elected. They may exercise an original vote in respect of the election of the new Chair of the Council and must give a casting vote in the case of an equality of votes.**
- i) Following the election of the Chair of the Council and Deputy Chair of the Council at the annual meeting of the Council, the order of business shall be as follows:
 - i. **In an election year, delivery by Councillors of their declarations of acceptance of office forms and to grant permission for absent Councillors to sign their declarations in the presence of the Clerk outside of the Annual Meeting.**

- ii. **In a non-election year, delivery by the Chair of their acceptance of office form.**
- iii. Confirmation of the accuracy of the minutes of the last annual town Council meeting;
- iv. Review delegation arrangements to committees and sub-committees and make appointments where appropriate;
- v. Review terms of reference for committees;
- vi. Appointment of members to existing committees;
- vii. Approve the Council's Standing Orders;
- viii. Set the dates, times and place of ordinary meetings of the Council and any committees and sub-committees agreed for the year ahead.

3. Extraordinary meetings of the Council

- a) **The Chair of the Council may convene an extraordinary meeting of the Council at any time.**
- b) **If the Chair of the Council does not or refuses to 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. The statutory public notice giving the time, venue and agenda for such a meeting must be signed by the two councillors.**

4. Committees, sub-committees and working parties

- a) The Council may appoint standing committees and sub-committees at any meeting.
- b) The terms of reference, membership and Chair of any committee or sub-committee shall be approved by Council.
- c) The Council will determine whether the public may participate at a meeting of the committee or sub-committee.
- d) The Council may dissolve a committee or sub-committee at any meeting.
- e) The members of a committee may include non-councillors unless it is a committee which regulates and controls the finances of the Council.
- f) Subject to Standing Order 4 (e) above, the Council, any committee or sub-committee may appoint working parties and/or open public forum groups comprised solely of Councillors, of both Councillors and non-Councillors or entirely of non-Councillors.

- g) The terms of reference of any working party or public forum shall be agreed by the appointing body.

5. Agenda Items and the Decision-making process

- a) i) **Agenda Items** - Agenda Items for discussion or Motions (concrete proposals), should be placed on the agenda by giving notice to the Proper Officer at least three clear working days before the meeting. Clear days do not include the day of the notice or the day of the meeting. This is to enable all councillors to have time to inform themselves about the issues to be discussed.
- ii) **Motions** – Councillors may put forward (propose or ‘move’) Motions either before a meeting (see a above) or during a meeting where it is relevant to an appropriate Agenda Item.
- iii) **Process** - The Chair will decide when enough discussion has taken place on any Agenda Item, Motion or Amendment. The Chair may require a seconder for any proposed Motion or Amendment before it be voted on or may allow it to go to immediate vote.
- iv) **Resolution** – If a majority of the Councillors present vote in favour of the Motion, it is considered carried (Resolved) and will be adopted and should be recorded as such.
- v) **Amendments** – Prior to voting on a Motion, or subsequent to a failed vote to pass a Motion, Councillors may propose Amendments to a Motion and these will be dealt with in the same way as Motions – see i) above. If a majority of Councillors vote in favour of the Amendment, it is applied to the Motion and the amended Motion can then proceed as in iii) & iv) above.
- c) **Exceptions** - If the wording or nature of a final motion is considered unlawful or improper, the Proper Officer shall suggest to the Chair that the motion be revised to make it lawful or proper before voting, or if it has already been carried by the Council, the motion as it stands will not be implemented and the motion will be subsequently reconsidered and revised by the Council.
- d) The following motions may be moved at a meeting without written notice to the Proper Officer;
- i. to appoint a person to preside at a meeting;
 - ii. to approve the absences of Councillors;
 - iii. to approve the accuracy of the minutes of the previous meeting;
 - iv. to dispose of business, if any, remaining from the last meeting;
 - v. to alter the order of business on the agenda;
 - vi. to proceed to the next business on the agenda;
 - vii. to close or adjourn debate;
 - viii. to move to a vote;
 - ix. to defer consideration of a motion;

- x. to require a written report;
- xi. to extend the time limits for speaking;
- xii. to exclude the press and public for all or part of a meeting;
- xiii. to silence or exclude from the meeting a Councillor or a member of the public for disorderly conduct;
- xiv. to temporarily suspend the meeting;
- xv. **to suspend any Standing Order except those which are mandatory by law;**
- xvi. to appoint representatives to outside bodies and to make arrangements for those representatives to report back
- xvii. to adjourn the meeting; or
- xviii. to close a meeting.

6. Rules of debate at meetings

- a) The Chair shall decide the order in which amendments are considered and dealt with.
- b) Only one amendment shall be moved at a time.
- c) The mover of a motion or the mover of an amendment shall have the right of reply.
- d) During a meeting Councillors should wait for recognition by the Chair before speaking if the Chair requires this.
- e) A point of order shall be decided by the Chair and their decision shall be final.
- f) The Chair shall be satisfied that a motion has been sufficiently debated before it is put to a vote.

7. Code of Conduct

- a) All councillors and non-councillors with voting rights shall observe the code of conduct adopted by the Council on 11 July.2012.
- b) Unless they have been granted a dispensation a Councillor or non-councillor with voting rights shall not take part in the discussion in a meeting when it is considering a matter in which they have a disclosable pecuniary interest. They may provide information only in response to direct questions from the Chair, if required to inform the discussion. They may not take part in any vote. At the discretion of the Chair, they may be asked to withdraw from the meeting for any part of the discussion and vote on the matter in which they have an interest.

Definition: *A disclosable pecuniary interest is where someone would benefit financially or materially by a decision which is made and includes a Member's employment, office,*

trade, profession or vocation, any sponsorship of the Member including contributions towards their election expenses and, for clarity, specific reference to trade union sponsorship, any contracts between the Member and the authority, any land the Member has an interest in and lies within the area of the authority, any licences the Member hold to occupy land in the area, any corporate tenancies, and certain securities the Member may hold.

- c) **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.
- d) A decision as to whether to grant a dispensation shall be made by a meeting of the Council, or committee or sub-committee for which the dispensation is required and that decision is final.
- e) 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.
- f) Subject to standing orders 7(c) and (e) 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.
- g) **A dispensation may be granted in accordance with standing order 7(d) above if having regard to all relevant circumstances the following applies:**
 - 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 or**
 - 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.**

8. Disorderly Conduct

- a) No person shall obstruct the transaction of business at a meeting or behave offensively or improperly.

- b) If, in the opinion of the Chair, there has been a breach of Standing Order 8 (a) above, the Chair shall express that opinion and thereafter any Councillor (including the Chair) may move that the person be silenced or excluded from the meeting, and the motion, if seconded, shall be put forth with and without discussion.
- c) If a resolution made in accordance with Standing Order 8(b) is disobeyed, the Chair may take such further steps as may reasonably be necessary to enforce it and / or they may adjourn the meeting.

9. Minutes

- a) Minutes, including any amendment to correct their accuracy shall be confirmed by resolution at the subsequent Council meeting.
- b) A motion to correct an inaccuracy can be moved and agreed amendments shall be noted on the document.
- c) Every page shall be signed and dated by the Chair of the meeting and stand as an accurate record of the meeting to which the minutes relate.

10. 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.
- b) This process shall continue until a majority of votes is given in favour of one person. Any tie may be settled by the Chair's casting vote.

11. Handling confidential or sensitive information

- a) Councillors and staff should not disclose information given to them in confidence, or which they believe or ought to be aware, is of a confidential nature.

12. Proper Officer

- a) The Council shall appoint a Proper Officer who shall be the Town Clerk and an Administrative Assistant who will undertake the work of the Proper Officer when the Proper Officer is absent.

- b) The Proper Officer shall:
- i. **give public notice of the time, date, venue and agenda at least three working clear days before a meeting of the Council or a meeting of a committee or sub-committee (provided that the public notice with agenda of an extraordinary meeting of the council convened by councillors is signed by them);**
 - ii. send to Councillors the date, time, venue and agenda of the meetings of the Council at least three clear days before the meeting, by delivery, post or electronically;
 - iii. **convene a meeting of Council for the election of a new Chair of the Council, occasioned by a casual vacancy in their office;**
 - iv. attend Council meetings;
 - v. make the minutes of meetings available for inspection by the public;
 - vi. **receive and retain copies of byelaws made by other local authorities;**
 - vii. **receive and retain declarations of acceptance of office forms from Councillors;**
 - viii. retain a copy of every councillor's register of interests and any changes to it and make it available for inspection by the public ;
 - ix. process all requests made under the Freedom of Information Act 2000 and General Data Protection Regulation 2016;
 - x. receive and send general correspondence and notices on behalf of the Council except where there is a resolution to the contrary;
 - xi. manage the organisation, storage of, access to and destruction of information held by the Council in paper and electronic form;
 - xii. arrange for legal deeds to be executed;
 - xiii. arrange or manage the prompt authorisation, approval, and instruction regarding any payments to be made by the council in accordance with the Council's financial regulations;
 - xiv. record every planning application notified to the council and the council's response to the local planning authority in a book for such purpose;
 - xv. have overall managerial responsibility for the organisation, including staff;
 - xvi. implement the decisions of the Council via delegated authority;
 - xvii. provide objective, professional advice on all matters.

13. Financial Matters

The Council shall appoint the Proper Officer to be the Responsible Financial Officer. The Administrative Assistant shall undertake the work of the Responsible Financial Officer when the Responsible Financial Officer is absent.

- 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. procurement policies including the setting of values for different procedures where a contract has an estimated value of less than £25,000.
- b) Financial regulations shall be reviewed regularly and at least every three years for fitness of purpose.

14. Financial controls and procurement

- a) **Financial regulations shall confirm that a proposed contract for the supply of goods, materials, services and the execution of works with an estimated value in excess of £25,000 shall be procured on the basis of a formal tender as summarised in standing order 15(b) below.**
- b) 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.
- c) Neither the Council, nor a committee or a sub-committee with delegated responsibility for considering tenders, is bound to accept the lowest value tender.
- Where the value of a contract is likely to exceed £138,893 (or other threshold specified by the Office of Government Commerce from time to time) the council must consider whether the Public Contracts Regulations 2006 (SI No. 5, as**

amended) and the Utilities Contracts Regulations 2006 (SI No. 6, as amended) apply to the contract and, if either of those Regulations apply, the Council must comply with EU procurement rules.

15. 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 (England)]
- 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 each councillor on a monthly basis at the Finance Committee (no meetings held in August and December) a statement to summarise:
 - i. the Council’s payments for each month (or two months if no preceding meeting);
 - ii. the Council’s aggregate payments for the year to date;
 - iii. 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 for the last year to date for information; and
 - ii. to the full Council the accounting statements for the year in the form of Section 1 of the annual 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 applying the form of accounts determined by the council (receipts and payments, or income and expenditure) for a year to 31 March. A completed draft annual return shall be presented to each councillor before the end of the following month of June.
- f) The annual return of the Council, which is subject to external audit, including the annual governance statement, shall be presented to Council for consideration and formal approval before 30 June.

16. Annual budget and precept

- a) At least one community participatory budget event will take place prior to the annual budget setting by the Council.

- b) **The Council shall approve a budget for the coming financial year** before the end of January and instruct the Responsible Financial Officer to submit the precept demand to the District Council.

17. Execution and sealing of legal deeds

- a) A legal deed shall not be executed on behalf of the Council unless authorised by a resolution.
- b) **Subject to standing order 18(a) above, any two councillors may sign, on behalf of the Council, any deed required by law and the Proper Officer shall witness their signatures.**

The above is applicable to a Council without a common seal.

18. Allegations of Breaches of the Code of Conduct

- a) On receipt of an alleged breach of the code of conduct by a Councillor, the Proper Officer shall report this to the Council.
- b) Where the notification relates to a complaint made by the Proper Officer, the Proper Officer shall notify the Chair of Council and they shall nominate another staff member to assume the duties of the Proper Officer set out in the remainder of this Standing Order.
- c) The Council may:
 - i. provide information or evidence where such disclosure is necessary to progress an investigation of the complaint or is required by law;
 - ii. seek information relevant to the complaint from the person or body with statutory responsibility for investigation of the matter.
- d) **Upon notification by the district or Unitary Council that a Councillor has breached the Council's code of conduct, the Council shall consider what, if any, action to take. Such action excludes disqualification or suspension from office.**

19. Handling staff matters

- a) A matter personal to a member of staff that is being considered by a meeting of Council OR the Personnel Committee is subject to standing order 11 above.
- b) Subject to the Council's policy regarding absences from work, the Council's most senior member of staff shall notify the Chair of the Council (who is also the Chair of the Personnel Committee) or, if they are not available, the Deputy Chair committee of

absence occasioned by illness or other reason and that person shall report such absence to the Personnel Committee or an extraordinary meeting of the Personnel Committee.

- c) The Chair of the Personnel Committee or in their absence, the Deputy Chair shall upon a resolution conduct a review of the performance and annual appraisal of the work of Proper Officer. The reviews and appraisal shall be reported in writing and is subject to approval by resolution by Personnel Committee.
- d) Subject to the Council's policy regarding the handling of grievance matters, the council's most senior employee shall contact the Chair of the Council or in his absence, the Deputy Chair of the Council in respect of an informal or formal grievance matter, and this matter shall be reported back and progressed by resolution of the Personnel Committee.
- e) Subject to the Council's policy regarding the handling of grievance matters, if an informal or formal grievance matter raised by Proper Officer relates to the Chair or Deputy Chair of the Town Council, this shall be communicated to another member of the Personnel Committee which shall be reported back and progressed by resolution of the Personnel committee OR the Town Council.
- f) 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.
- g) The Council shall keep all written records relating to employees secure.
- h) Only persons with line management responsibilities shall have access to staff records referred to in standing orders 19(f) and (g) above if so justified.
- i) Access and means of access to records of employment referred to in standing orders 19(f) and (g) above shall be provided only to the Clerk and the Chair of the Council.

20. Requests for information

- a) Councillors and staff must comply with the new General Data Protection Regulation (GDPR) effective from 25th May 2018. The Town Clerk/Proper Officer is the appointed Data Controller for the Town Council.
- b) Requests for information held by the Council shall be handled in accordance with the Council's policy in respect of handling requests under the Freedom of Information Act 2000 and the GDPR 2016.
- c) Correspondence from, and notices served by, the Information Commissioner shall be referred by the Proper Officer to the Chair of the Council. The Town Council shall have

the power to do anything to facilitate compliance with the Freedom of Information Act 2000.

21. 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.

22. Communicating with District and County Councillors

- a) An invitation to attend a meeting of the Council shall be sent, together with the agenda, to the ward councillor(s) of the District and County Council representing the area of the Council.

23. Restrictions on Councillor activities

- a) Unless authorised by a resolution, 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.

24. Standing Orders generally

- a) All or part of a standing order, except one that incorporates mandatory statutory 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 requirements, shall be proposed by a special motion, the written notice by at least 3 councillors to be given to the Proper Officer in accordance with standing order 5 above.
- c) The Proper Officer shall provide a copy of the Council's standing orders to a councillor as soon as possible after he has delivered his acceptance of office form.
- d) The decision of the Chair of a meeting as to the application of standing orders at the meeting shall be final.

[ENDS]