

Landrake with St Erney Parish Council

Standing Orders

Approved during Landrake with St Erney's remote Parish Council meeting

Held on 13th October 2020, Minute 10(iii)

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1. Power and duties of the Chairman

The Chairman of the Council:

- holds a statutory post as defined in law.
- is a member of the Council and is elected annually. **Local Government Act, section 15(1)**
- unless the Chairman resigns or become disqualified, they shall continue in office until their successor becomes entitled to act as chairman at the next annual meeting of the council. **Local Government Act, section 15(4)**
- is responsible for ensuring that effective and lawful decisions are taken at meetings of the council and assisted by the clerk, guides activities by managing the meetings of the council.
- is responsible for involving all councillors in discussion and ensuring that councillors keep to the point. The Chairman summarises the debate and facilitates the making of clear resolutions and is responsible for keeping discussions moving so that the meeting is not too long. (SLCC)
- will often be the public face of the council and will represent the council at official events. He/she may be asked to speak on behalf of the council and, in such circumstances, should only express the agreed views of the council and not give his or her personal views. (SLCC)
- Has the casting vote: **Local Government Act 1972, c70, schedule 12, 39(2)** ' In the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote' and in the in the case of an equality of votes in the election of a chairman, the person presiding at the meeting shall give a casting vote in addition to any other vote he may have. **Local Government Act 1972, c70, section 15(3)**

The Chairman cannot legally make a decision on behalf of the council. **Under s. 101, LGA 1972 the council can arrange for the discharge of any of its functions by an officer of that authority (as well as by a committee or sub-committee, or by any other local authority).**

Chairmanship of meetings

The person presiding at a meeting may exercise all the powers and duties of the Chairman in relation to the conduct of the meeting.

Local Government Act 1972, Schedule 12, paragraph 11

- (1) At a meeting of a parish council the chairman of the council, if present, shall preside.
- (2) If the chairman of the council is absent from a meeting of the council, the vice-chairman of the council, if present, shall preside.
- (3) If both the chairman and vice-chairman of the council are absent from a meeting of the council, such councillor as the members of the council present shall choose shall preside.

If both the chairman and vice-chairman are absent the council, as stated in the LGA 1972, Schedule 12, paragraph 11(3), the council is required to appoint a chairman for the meeting from amongst those councillors' present. In such circumstances, it is usual for the clerk to draw attention to the absence of the chairman and vice-chairman and to ask one member to ask for nominations from the other members present for chairman of the meeting. If more than one member is proposed a vote will need to be taken.

If, there is an item of business to be transacted in respect of which the chairman has declared an interest, the chairman shall hand over the conduct of the meeting for that item to the vice chairman (if present) or to another member. The procedures for declaring pecuniary or

The declaration of interest and transfer of the chair will be duly recorded in the minutes.

Extraordinary meetings

The chairman may, on three clear days' notice, convene a meeting of the council at any time (**LGA 1972, Sch. 12, paras 9(1), 10(2), 25(1) and 26(2)**), and on seven (or in certain cases fourteen or thirty) clear days' notice, he may convene the parish or community meeting at any time (**Sch. 12, paras 15 (1), (2) and (3), and 30(1), (2) and (3)**).

A chairman may be required, by a requisition signed by two members of the council and presented to him/her, to call an extraordinary meeting. If he/she refuses, or if he/she fails to call the meeting within seven days of receipt of the requisition, any two members of the council may then convene it. The

Declaration of office (Chairman)

At the meeting at which the chairman is elected (or before or at a later meeting if the local council permits) he or she must make in the presence of a member of that council or the proper officer (the clerk), and deliver to the council, a declaration of acceptance of office.

The declaration of acceptance of office must be in the form as prescribed in the Local Elections (Declaration of Acceptance of Office) Order 2012 (SI 2012 No 1465) or the Local Elections (Declaration of Acceptance of Office) (Wales) Order 2004 (SI 2004 No 1508).

Resignation of office (Chairman)

The chairman of a local council may resign from his/her office at any time by giving written notice to the council. Note that the giving of such notice to the clerk is not sufficient (s. 84(1)(a) and (d), LGA 1972). The resignation takes effect immediately upon receipt and the office then becomes vacant. There is no scope for the council to reject a resignation.

Local Government Act 1972, c70 part, Acceptance, resignation and vacation of office, and casual vacancies.

2. Councillors

Councillors Code of conduct

In England, local authorities are responsible for councillor standards and conduct. They must maintain a code of conduct and a register of disclosable pecuniary interests, and deal with allegations of breaches in the code and failure to register pecuniary interests.

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 right to participate and vote on that matter.

Localism Act 2011, Chapter 7: Duty to promote and maintain high standards of conduct.

- a All councillors and non-councillors with voting rights shall observe the code of conduct adopted by the Council.
- b Unless they have 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 has a disclosable pecuniary interest. They may return to the meeting after it has considered the matter in which he had the interest.
- c Unless they have 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 has another interest if so required by the Council's code of conduct. They may return to the meeting after it has considered the matter in which he 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 a meeting of the Council.
- f A dispensation request contain the following information:
 - 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.

Code of conduct complaints

Cornwall Council's Code of Conduct (General principals of public life) sets out the standards of behaviour expected from all councillors in Cornwall.

Cornwall Council's Standards Committee is responsible for promoting and maintaining ethical standards in public life.

3. Proper Officer

Landrake Parish Council's Proper Officer of the Council is the Clerk.

Under the section 112 of the Local Government Act (LGA) 1972, a parish or town (local) council shall appoint such officers as necessary for the proper discharge of their functions. Under section 101 of the LGA 1972, a local council may delegate its functions to the clerk.

Landrake Parish Council's Clerk also undertakes the role of Responsible Finance Officer.

Under Section 151 of the Local Government Act 1972, a local council must appoint 'An officer to administer their finances and ensure all legislation to meet the Transparency and Accountability regulations.'

The Proper Officer will assist with updating the Council on new legislation and changes to legislation, responding to requests made under freedom of information legislation and rights exercisable under data protection legislation.

Other duties and responsibilities of the Clerk are as laid down in the contract of employment and job description.

3. Meetings

Schedule 12 of the Local Government Act 1972 sets out the procedure relating to parish meetings.

Quorum

The quorum is the number of councillors who must be present. If enough councillors are present then the meeting is said to be quorate. If it is not quorate then business cannot be discussed.

Four members shall constitute a quorum for Landrake with St Erney Parish Council. If a quorum is not present when the Council meets or if during the meeting the number of members, for whatever reason, falls below the quorum, the business not transacted at that meeting shall be transacted at the next meeting or on such other days as the Chairman shall decide.

Local Government Act 1972, c70, schedule 12, paragraph 12: Subject to paragraph 45 (*Where more than one-third of the members of a local authority become disqualified at the same time, then, until the number of members in office is increased to not less than two-thirds of the whole number of members of the authority, the quorum of the authority shall be determined by reference to the number of members of the authority remaining qualified instead of by reference to the whole number of members of the authority*), No business shall be transacted at a meeting of a parish council unless at least one-third of the whole number of members of the council are present at the meeting; but, notwithstanding anything in that paragraph, in no case shall the quorum be less than three.

Voting

Members shall vote by a show of hands unless the meeting decides otherwise

If the meeting so requires, the clerk shall record the names of the members who voted on any motion and how they voted.

The Chairman may give an original vote on any matter put to the vote, and in the case of equality of votes, may give a casting vote, whether or not an original vote was given.

The Local Government Act 1972 schedule 12 paragraph 13: 13 (1) Unless otherwise provided by the council's standing orders the manner of voting at meetings of a parish council shall be by a show of hands.

Open Forum

Parishioners and other individuals may, at the Chairman's discretion address the Parish Council immediately before the start of a Council meeting on any subject relevant to Council business. Such individuals may speak for no more than five minutes. Any other individuals wishing to speak on the same subject may also, at the Chairman's discretion, address the Council for not more than three minutes. Once the parish Council meeting itself starts no one apart from the members of the Parish Council may speak at the meeting.

Order of Business

The order of business shall be stated on an agenda paper which shall be distributed to each member at least three clear days prior to the date of the meeting, along with the summons convening the meeting. **Local Government Act 1972, c70, Schedule 12, Part II, 10(2)**

Resolutions moved on notice

Except as provided by these Standing Orders, no resolution may be moved unless the business to which it relates has been included on the agenda.

Members may put an item or notice of resolution on the agenda by giving the Clerk written notice of the item or resolution at least seven clear days prior to meeting which that agenda relates. If insufficient notice is provided the decision on whether to include the item on the agenda will be at the discretion of the Clerk in consultation with the Chairman and Vice Chairman.

Every resolution, amendment or recommendation shall be relevant to some subject over which the Council has the power or which affects its area.

Resolutions moved without notice

Resolutions on procedure matters may be moved without notice including those which to vary the order of business on grounds of urgency or procedural efficiency. Such resolutions shall be put to the vote without discussion.

Rules of debate

All remarks shall be addressed to the Chairman.

In discussion on the approval of the minutes of the previous meeting, only their accuracy is to be discussed. Corrections to the minutes shall be made by resolution and must be initialled by the Chairman. Any follow up discussion on these minutes is to be raised, subject to the discretion of the Chairman, in 'Matters Arising from the previous meeting'.

A member shall, except as provided by these Standing Orders, only be permitted to speak once on any motion or amendment.

A member shall direct comments to the question under discussion or to a personal explanation or to a point of order.

Each member may only speak for up to five minutes on an agenda item but may speak, with the Chairman's consent, for a subsequent three minutes on new matters raised after their initial speech.

The ruling of the Chairman on a point of order on the admissibility of any item shall not be discussed.

A representative of the local constabulary shall be allowed to speak at Council meetings at the discretion of the Chairman.

Whenever the Chairman rises to his feet during a debate all other members shall be seated and silent.

Closure

A motion of closure of a debate may be moved at any time but must be proposed and seconded without comment. The Chairman may refuse such motions if he feels that the question before the Council has not been sufficiently debated.

Rescission of previous resolutions

A decision of the Council shall not be reversed within six months except by a special resolution, the written notice of which bears the names of at least three members of the Council. When such a resolution has been disposed of, no similar resolution may be moved within a further six months.

Confidential business

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

Pursuant to section 1 (2) of the Public Bodies (Admission to Meetings) Act 1960 and the Local Government Act 1972 S100 (2) a resolution should be passed that the public and press be excluded from the meeting because of the confidential nature of the business to be transacted

Cornwall Councillors

Cornwall Councillors, who are not also Parish Councillors, shall be invited to attend the meetings and shall be sent copies of the agendas, minutes and other relevant

documentation. At the discretion of the Chairman of the meeting, they may be allowed to speak.

Length of meetings

Except at the discretion of the Chairman, all meetings of the Council shall finish not later than two and half hours after commencement. Any business not transacted shall be carried over to the next meeting or such date as the Chairman may decide. The time of the closure of each meeting shall be recorded in the minutes of the meeting.

Suspension of Standing Orders

These Standing Orders may be suspended at any time and for any period of time by resolution.

4. Finance

It shall be the duty of the Council to review the Financial Regulations of the Council from time to time. The Clerk shall make arrangements to monitor changes in legislation or proper practices and shall advise the Council of any requirement for a consequential amendment to these financial regulations.

5. Standing Orders General

A copy of the Standing Orders shall be given to all members.

The Standing Orders shall be reviewed at least annually.