

	<p><b>BODMIN TOWN COUNCIL</b></p> <p><b>POLICY: STANDING ORDERS</b></p>
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### APPROVAL:

	Date	Minute Reference
Approved by Policy Committee:	-	-
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### REVISION SUMMARY:

Revision Date	New Version Number	Summary of Changes
22/07/2021	3.1	Standing Orders rewritten to align with the NALC Model Standing Orders and, as such, meet legal and statutory requirements.



## STANDING ORDERS FOR BODMIN TOWN COUNCIL

### INTRODUCTION

These standing orders are the written rules of Bodmin Town Council. They are essential to regulate the proceedings of meetings. Bodmin Town Council may also use these standing orders to confirm or refer to various internal organisational and administrative arrangements. These standing orders are not the same as the policies of Bodmin Town Council but may refer to them.

Bodmin Town Council operates within a wide statutory framework. These standing orders incorporate and reference many statutory requirements to which this council is subject. It is not possible for these standing orders to contain or reference all the statutory or legal requirements which apply to Bodmin Town Council. For example, it is not practical for these standing orders to document all obligations under data protection legislation. The statutory requirements to which Bodmin Town Council is subject apply whether or not they are incorporated in these standing orders.

These standing orders do not include financial regulations. Bodmin Town Council's financial regulations are standing orders to regulate and control the financial affairs and accounting procedures of this council. The financial regulations, as opposed to the standing orders of Bodmin Town Council, include most of the requirements relevant to the council's Responsible Financial Officer.

The standing orders that are in **bold type** contain legal and statutory requirements. It is recommended that Bodmin Town Council does not change these standing orders, or their meaning.

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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/she 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 five 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

- 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 of Full Council 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) **The minimum three clear days' public notice for a committee meeting does not include the day on which the notice was issued or the day of the meeting.**
- 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) 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 five 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 raise his/her hand when requesting to speak and stand when

speaking (except when a person has a disability or is likely to suffer discomfort). The chair of the meeting may at any time permit a person to be seated when speaking.

- 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.
- l) **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.**
- m) **A person present at a meeting may not provide an oral report or oral commentary about a meeting as it takes place without permission.**
- n) **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.**
- o) **Subject to standing orders which indicate otherwise, anything authorised or required to be done by, to or before the chair of a committee may in his/her absence be done by, to or before the vice-chair of that committee (if there is one).**
- p) **The chair of each committee shall, if present, preside at a meeting. If the chair is absent from a meeting, the vice-chair of that committee (if there is one), 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.**
- q) **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.**
- r) **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/she gave an original vote.**  
**See standing orders 5(h) and (i) for the different rules that apply in the election of the Mayor / Chair of Bodmin Town Council at the annual meeting of the council.**
- s) **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/her**

**vote for or against that question.** Such a request shall be made before moving to the vote and will be taken in alphabetical order of those present at the meeting and eligible to vote.

- t) The minutes of a meeting shall include an accurate record of the following:
- i. the time and place of the meeting;
  - ii. the names of councillors who are present and the names of councillors who are absent;
  - iii. interests that have been declared by councillors and non-councillors with voting rights;
  - iv. the grant of dispensations (if any) to councillors and non-councillors with voting rights;
  - v. whether a councillor or non-councillor with voting rights left the meeting when matters that they held interests in were being considered;
  - vi. if there was a public participation session; and
  - vii. the resolutions made.
- u) **A councillor or a non-councillor with voting rights who has a disclosable pecuniary interest or another interest as set out in Bodmin Town 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.**
- v) **No business may be transacted at a meeting of Full Council unless at least one-third of the whole number of members of Bodmin Town Council are present, and in no case shall the quorum of a meeting be less than three.**

*See standing order 4d(viii) for the quorum of a committee or sub-committee meeting.*

- w) **If a meeting is or becomes inquorate no business shall be transacted** and the meeting shall be closed. The business on the agenda for the meeting shall be adjourned to another meeting.
- x) No business shall be transacted at a meeting after 10:00 P.M.

#### **4. COMMITTEES AND SUB-COMMITTEES**

- a) **Unless Bodmin Town 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 Bodmin Town Council.**
- c) **Unless Bodmin Town Council determines otherwise, all the members of an advisory**

**committee and a sub-committee of the advisory committee may be non-councillors.**

- d) Bodmin Town 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 Bodmin Town 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 three 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;
  - vii. shall permit a committee other than a standing 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.

**5. ORDINARY COUNCIL MEETINGS**

- a) **In an election year, the annual meeting of Bodmin Town 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 Bodmin Town Council shall be held on such a day in May as the Council decides.**

- c) **If no other time is fixed, the annual meeting of Bodmin Town Council shall take place at 6:00 P.M.**
- d) **In addition to the annual meeting of Bodmin Town Council, at least three other Full Council 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 Bodmin Town Council shall be the election of the Mayor / Chair and Deputy Mayor / Vice-Chair of the Council.**
- f) **The Mayor / Chair of Bodmin Town 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 Mayor / Vice-Chair of Bodmin Town Council, unless he/she resigns or becomes disqualified, shall hold office until immediately after the election of the Mayor / Chair of the Council at the next annual meeting of the Council.**
- h) **In an election year, if the current Mayor / Chair of Bodmin Town Council has not been re-elected as a member of the Council, he/she shall preside at the annual meeting until a successor Mayor / Chair of the Council has been elected. The current Mayor / Chair of Bodmin Town Council shall not have an original vote in respect of the election of the new Mayor / Chair 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 Mayor / Chair of Bodmin Town Council has been re-elected as a member of the Council, he/she shall preside at the annual meeting until a new Mayor / Chair of the Council has been elected. He/she may exercise an original vote in respect of the election of the new Mayor / Chair of the Council and shall give a casting vote in the case of an equality of votes.**
- j) Following the election of the Mayor / Chair and Deputy Mayor / Vice-Chair of Bodmin Town Council at the annual meeting, the business shall include:
  - i. **In an election year, delivery by the Mayor / Chair of Bodmin Town Council and councillors of their acceptance of office forms (or, if not, then to decide when they shall be delivered). In a year which is not an election year, delivery by the Mayor / Chair of Bodmin Town Council of his/her acceptance of office form (or, if not, to decide when it shall be delivered).**
  - ii. Confirmation of the accuracy of the minutes of the last meeting of Full Council;
  - iii. Review of delegation arrangements to committees, sub-committees, staff and other local authorities;
  - iv. Review of the terms of reference for committees;
  - v. Appointment of members to existing committees;

- vi. Appointment of any new committees in accordance with standing order 4;
- vii. Review and adoption of appropriate standing orders and financial regulations;
- viii. Review of arrangements (including legal agreements) with other local authorities, not-for-profit bodies and businesses.
- ix. Review of representation on or work with external bodies and arrangements for reporting back;
- x. In an election year, to make arrangements with a view to Bodmin Town Council becoming eligible to exercise the general power of competence in the future;
- xi. Review of inventory of land and other assets, including buildings and office equipment;
- xii. Confirmation of arrangements for insurance cover in respect of all insurable risks;
- xiii. Review of Bodmin Town Council's and/or staff subscriptions to other bodies;
- xiv. Review of Bodmin Town Council's complaints procedure;
- xv. Review of Bodmin Town Council's policies, procedures and practices in respect of its obligations under freedom of information and data protection legislation (*see also standing orders 11, 20 and 21*);
- xvi. Review of Bodmin Town Council's policy for dealing with the press/media;
- xvii. Review of Bodmin Town Council's employment policies and procedures;
- xviii. Review of Bodmin Town Council's expenditure incurred under s.137 of the Local Government Act 1972, or the general power of competence.
- xix. Determining the time and place of Full Council meetings of Bodmin Town Council, up to and including the next annual meeting of the Council.

## **6. EXTRAORDINARY MEETINGS OF THE COUNCIL, COMMITTEES AND SUB-COMMITTEES**

- a) **The Mayor / Chair of Bodmin Town Council may convene an extraordinary meeting of Full Council at any time.**
- b) **If the Mayor / Chair of Bodmin Town Council does not call an extraordinary meeting of Full 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 Full 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 seven days of having been requested to do so by two members of the committee or the sub-committee, any two 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 by a special motion, which requires written notice by at least nine councillors to be given to the Proper Officer in accordance with standing order 9.
- 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 Bodmin Town 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.
- b) Where more than two persons have been nominated for a position to be filled by Bodmin Town Council, the vote will be taken by a written ballot of those members present and eligible to vote. The outcome of the vote will be reported by the Town Clerk.

## **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 Bodmin Town 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 three 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 three 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.
- i) A written notice of motion shall not relate to any matter which may be considered under Bodmin Town Council's Code of Conduct, Complaints Procedure or employment policies.

#### **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) **Bodmin Town 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) **Bodmin Town 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, Bodmin Town Council's contractors and agents shall not disclose confidential information or personal data without legal justification.**

## 12. DRAFT MINUTES

- 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 committee] held on [date] in respect of [the motion] 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) **If Bodmin Town 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.**
- f) 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 Bodmin Town Council.
- 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 a meeting of Full Council, or the committee or sub-committee for which the dispensation is required, 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), a dispensation request shall be considered at the beginning of the meeting of Full Council, or the committee or sub-committee 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 Bodmin Town Council's area; or**
  - iii. it is otherwise appropriate to grant a dispensation.**

#### **14. CODE OF CONDUCT COMPLAINTS**

- a) Notification of any complaint shall remain confidential to the Proper Officer of Bodmin Town Council until such time as the matter has been concluded, when the outcome of the complaint shall be reported to a meeting of Full Council.
- b) Where the notification relates to a complaint made by the Proper Officer, the Proper Officer shall notify the Mayor / Chair or Deputy Mayor / Vice-Chair of that fact, who, upon receipt of such notification, shall nominate a person to assume the duties of the Proper Officer set out in this standing order, and who shall continue to act in respect of that matter as such until the complaint is resolved.
- c) Where a notification relates to a complaint made by an employee (not being the Proper Officer), the Proper Officer shall ensure that the employee in question does not deal with any aspect of the complaint.
- d) Bodmin Town Council may provide information or evidence where such disclosure is necessary to progress an investigation of the complaint or is required by law.
- e) Bodmin Town Council may seek information relevant to the complaint from the person or body with statutory responsibility for investigation of the matter.
- f) References to a notification shall be taken to refer to a communication of any kind which relates to a breach or an alleged breach of the code of conduct by a councillor.
- g) Upon notification by Cornwall Council that a councillor or non-councillor with

voting rights has breached Bodmin Town Council's code of conduct, Bodmin Town Council shall consider any recommendations and what, if any, action to take against him/her. Such action excludes disqualification or suspension from office and shall be limited to those sanctions recommended by the Monitoring Officer as part of the Decision Notice.

### 15. PROPER OFFICER

a) The Proper Officer shall be either (i) the Town Clerk or (ii) the Deputy Town Clerk, who shall be nominated by Bodmin Town 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 Full 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). Want of service of any such summons shall not affect the validity of the meeting (LGA 1972, sch. 12, para 10 (3)).**
- **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 Bodmin Town Council convened by councillors is signed by them).**

*See standing order 3(b) for the meaning of clear days for a meeting of 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 three days before the meeting confirming his/her withdrawal of it;

iii. **convene a meeting of Full Council for the election of a new Mayor / Chair of Bodmin Town 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. liaise, as appropriate, with the Council's Data Protection Officer (if there is one);
- x. receive and send general correspondence and notices on behalf of Bodmin Town Council except where there is a resolution to the contrary;
- xi. assist in the organisation of, storage of, access to, security of and destruction of information held by Bodmin Town 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);
- xii. arrange for legal deeds to be executed  
(see also standing order 23);
- xiii. arrange or manage the prompt authorisation, approval, and instruction regarding any payments to be made by Bodmin Town Council in accordance with its financial regulations;
- xiv. record every planning application notified to Bodmin Town Council and the Council's response to the local planning authority in a book for such purpose;
- xv. refer a planning application notified to Bodmin Town Council to the Chair or, in his/her absence, Vice-Chair of the 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 ordinary meeting of the Planning Committee;
- xvi. manage access to information about Bodmin Town Council via the publication scheme; and
- xvii. retain custody of the seal of Bodmin Town Council, which shall not be used without a resolution to that effect.  
(see also standing order 23).

#### **16. RESPONSIBLE FINANCIAL OFFICER**

- a) Bodmin Town 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 Smaller Authorities in England - Practitioners' Guide'.
- b) All payments by Bodmin Town 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 as soon as practicable after 30 June, 30 September and 31 December in each year a statement to summarise:
- i. Bodmin Town Council's receipts and payments (or income and expenditure) for each quarter;
  - ii. Bodmin Town 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,
- 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 Bodmin Town Council's receipts and payments (or income and expenditure) for the last quarter and the year to date for information; and
  - ii. to Bodmin Town 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 Bodmin Town 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) Bodmin Town 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 Bodmin Town 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 Bodmin Town 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 Full Council or a committee or sub-committee with delegated responsibility.
- e) Neither Bodmin Town 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 £181,302 for a public service or supply contract or**

**in excess of £4,551,413 for a public works contract 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.**

- 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 £363,424 for a supply, services or design contract; or in excess of £4,551,413 for a works contract; or £820,370 for a social and other specific services contract 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 Full Council is subject to standing order 11.
- b) Subject to Bodmin Town Council's policy regarding absences from work, the Town Clerk shall notify the Mayor / Chair or, if he/she is not available, the Deputy Mayor / Vice-Chair of absence occasioned by illness or other reason and that person shall report such absence to Full Council at its next meeting.
- c) The Mayor / Chair or, in his/her absence, the Deputy Mayor / Vice-Chair shall, upon a resolution, conduct a review of the performance and annual appraisal of the Town Clerk. The reviews and appraisal shall be reported in writing and are subject to approval by resolution by Full Council.
- d) Subject to Bodmin Town Council's policy regarding the handling of grievance matters, the Town Clerk or, in his/her absence, the Deputy Town Clerk shall contact the Mayor / Chair or, in his/her absence, the Deputy Mayor / Vice-Chair in respect of an informal or formal grievance matter, and this matter shall be reported back and progressed by resolution of Full Council.
- e) Subject to Bodmin Town Council's policy regarding the handling of grievance matters, if an informal or formal grievance matter raised by the Town Clerk relates to the Mayor / Chair or Deputy Mayor / Vice-Chair, this shall be communicated to another member of Full Council, which shall be reported back and progressed by resolution of Full Council.
- f) Any persons responsible for all or part of the management of staff shall treat as confidential the written records of all meetings relating to their performance, capabilities, grievance or disciplinary matters.
- g) In accordance with standing order 11(a), persons with line management responsibilities shall have access to staff records referred to in standing order 19(f).

### **20. RESPONSIBILITIES TO PROVIDE INFORMATION**

*See also standing order 21*

- a) **In accordance with freedom of information legislation, Bodmin Town Council shall publish information in accordance with its publication scheme and respond to requests for information held by the Council.**
- b) **If gross annual income or expenditure (whichever is the higher) exceeds £200,000, Bodmin Town 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) Bodmin Town Council may appoint a Data Protection Officer.
- b) **Bodmin Town Council shall have policies and procedures in place to respond to an individual exercising statutory rights concerning his/her personal data.**
- c) **Bodmin Town Council shall have a written policy in place for responding to and managing a personal data breach.**
- d) **Bodmin Town 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) **Bodmin Town 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) **Bodmin Town 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 Bodmin Town 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.

## **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 Bodmin Town Council unless authorised by a resolution.
- b) **Subject to standing order 23(a), any two councillors may sign, on behalf of Bodmin Town Council, any deed required by law and the Proper Officer shall witness their signatures.**

## **24. COMMUNICATING WITH CORNWALL COUNCIL COUNCILLORS**

- a) An invitation to attend a meeting of Full Council shall be sent, together with the agenda, to the divisional councillors of Cornwall Council representing the area

of Bodmin Town Council.

- b) Unless Bodmin Town Council determines otherwise, a copy of relevant correspondence sent to Cornwall Council shall be sent to the divisional councillors representing the area of Bodmin Town Council.
- c) At the Mayor's / Chair's discretion and with the approval of Bodmin Town Council, a divisional member may be invited to speak during any item on the agenda to make a short statement and answer any questions.

## **25. RESTRICTIONS ON COUNCILLOR ACTIVITIES**

- a) Unless duly authorised no councillor shall:
  - i. Inspect any land and/or premises which Bodmin Town Council has a right or duty to inspect;
  - ii. Issue orders, instructions or directions; or
  - iii. Incur any expenditure on behalf of the Council or issue an instruction to incur expenditure.

## **26. 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 Bodmin Town 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 three councillors to be given to the Proper Officer in accordance with standing order 9.
- c) The Proper Officer shall provide a copy of Bodmin Town 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.

## **APPENDIX**

### **27. APPENDIX 1: POWERS AND DUTIES OF TOWN AND PARISH COUNCILS**

<b>Function</b>	<b>Powers &amp; Duties</b>	<b>Statutory Provisions</b>
Access land	Power to enforce byelaws made by another authority	Countryside and Rights of Way Act 2000, s. 17
Allotments	Duty to provide allotments. Power to improve and adapt land for allotments, and to let grazing rights	Small Holdings & Allotments Act 1908, ss. 23, 26, and 42
Baths and washhouses	Powers relating to provision of public baths, washhouses and bathing huts	Public Health Act 1936, ss. 221 - 223 and 225 - 227

Burial grounds, cemeteries and crematoria	Power to acquire and maintain Power to provide Power to agree to maintain monuments and memorials Power to contribute towards expenses of cemeteries	Open Spaces Act 1906, Ss 9 and 10; Local Government Act 1972, s. 214; Parish Councils and Burial Authorities (Miscellaneous Provisions) Act 1970, s. 1 Local Government Act 1972, s. 214(6)
Bus shelters	Power to provide and maintain shelters	Local Government (Miscellaneous Provisions) Act 1953, s. 4
Byelaws	Power to make byelaws regarding pleasure grounds Cycle parks Baths and washhouses Open spaces and burial grounds Mortuaries and post-mortem rooms Public Conveniences	Public Health Act 1875, s. 164 Road Traffic Regulation Act 1984, s.57(7) Public Health Act 1936, s.223 Open Spaces Act 1906, ss.15 and 12 Public Health Act 1936, s.198 Public Health Act 1936, s. 87
Clocks	Power to provide public clocks	Parish Councils Act 1957, s.2
Closed churchyards	Powers as to maintenance	Local Government Act 1972, s.215
Commons	Power for parish council to contribute to expense relating to scheme for the regulation and management of a common	Commons Act 1899, s.5
Common pastures	Powers in relation to providing common pasture	Smallholdings and Allotments Act 1908, s.34
Conference facilities	Power to provide and encourage the use of facilities	Local Government Act 1972, s.144
Community centres	Power to provide and equip buildings for use of clubs having athletic, social or recreational objectives	Local Government (Miscellaneous Provisions) Act 1976 s.19
Crime prevention	Powers to install and maintain equipment and establish and maintain a scheme for detection or prevention of crime	Local Government and Rating Act 1997, s.31
Drainage	Power to deal with ponds and ditches	Public Health Act 1936, s.260
Entertainment and the arts	Provision of entertainment and support of the arts	Local Government Act 1972, s.145
Financial assistance	Duty to require information	Local Government Act 1972, s.137A
General powers	Power to incur expenditure for certain purposes	Local Government Act 1972, s. 137
Gifts	Power to accept	Local Government Act 1972, s.139

Highways	<p>Power to maintain footpaths and bridleways</p> <p>Power to light roads and public places</p> <p>Provision of litter bins</p> <p>Powers to provide parking places for bicycles and motorcycles, and other vehicles</p> <p>Power to enter into agreement as to dedication and widening</p> <p>Power to provide roadside seats and shelters</p> <p>Consent of parish council required for ending maintenance of highway at public expense, or for stopping up or diversion of highway</p> <p>Power to complain to highway authority as to unlawful stopping up or obstruction of highway or unlawful encroachment on roadside wastes</p> <p>Power to provide traffic signs and other objects or devices warning of danger</p> <p>Power to plant trees and lay out grass verges etc. and to maintain them</p>	<p>Highways Act 1980, ss.43,50</p> <p>Parish Councils Act 1957, s.3;</p> <p>Highways Act 1980, s.301</p> <p>Litter Act 1983, ss.5,6</p> <p>Road Traffic Regulation Act 1984, ss.57,63</p> <p>Highways Act 1980, ss.30,72</p> <p>Parish Councils Act 1957, s.1</p> <p>Highways Act 1980, ss.47,116</p> <p>Highways Act 1980, s.130</p> <p>Road Traffic Regulation Act 1984, s.72</p> <p>Highways Act 1980, s.96</p>
Investments	Power to participate in schemes of collective investment	Trustee Investments Act 1961, s.11
Land	<p>Power to acquire by agreement, to appropriate, to dispose of</p> <p>Power to accept gifts of land</p>	<p>Local Government Act 1972, ss.124, 126, 127</p> <p>Local Government Act 1972, s.139</p>
Litter	Provision of receptacles	Litter Act 1983, ss.5,6
Lotteries	Powers to promote	Lotteries and Amusements Act 1976, s.7
Mortuaries and post mortem rooms	Powers to provide mortuaries and post mortem rooms	Public Health Act 1936, s.198
Open spaces	Power to acquire land and maintain	<p>Public Health Act 1875, s.164</p> <p>Open Spaces Act 1906, ss.9 and 10</p>
Parish documents	Powers to direct as to their custody	Local Government Act 1972, s.226
Public buildings and village hall	Power to provide buildings for public meetings and assemblies	Local Government Act 1972, s.133

Public conveniences	Powers relating to provision of public conveniences	Public Health Act 1936, s.87
Recreation	Power to acquire land for or to provide public walks, pleasure grounds and open spaces and to manage and control them Power to provide gymnasiums, playing fields, holiday camps Provision of boating pools	(see Local Government Act 1972, Sched.14 para.27) Public Health Act 1875, s.164 Public Health Acts Amendment Act 1890 s.44 Open Spaces Act 1906, ss.9 and 10 Local Government (Miscellaneous Provisions) Act 1976, s.19 Public Health Act 1961, s.54
Town and country planning	Right to be notified of planning applications	Town and Country Planning Act 1990, Sched.1, para.8
Tourism	Power to encourage visitors and provide conference and other facilities	Local Government Act 1972, s.144
Traffic calming	Powers to contribute financially to traffic calming schemes	Highways Act 1980, s.274A
Transport	Powers in relation to car-sharing schemes, taxi fare concessions and information about transport Powers to make grants for bus services	Local Government and Rating Act 1997, s.26, 28 and 29 Transport Act 1985, s.106A
War memorials	Power to maintain, repair, protect and alter war memorials	War Memorials (Local Authorities' Powers) Act 1923, s.1; as extended by Local Government Act 1948, s.133
Water supply	Power to utilise well, spring or stream and to provide facilities for obtaining water from them	Public Health Act 1936, s.125

## 28. APPENDIX 2: SCHEME OF DELEGATION TO COUNCIL, COMMITTEES AND OFFICERS

This section sets out how Bodmin Town Council has delegated powers and responsibilities.

This Scheme of Delegation is not comprehensive and is subject to being implemented in accordance with the law, the Council's Standing Orders and Financial Regulations.

The power to delegate functions is set out in the Local Government Act 1972 s101.

The intention of the delegation scheme is to allow the Council to act with all reasonable speed.

Decisions should be taken at the most suitable level. Therefore, the Town Clerk and his/her officers are given powers over the day-to-day administration of the Council and Committees to decide matters within their Terms of Reference.

Matters of major policy should be recommended to Full Council.

Whilst delegation is necessary, it is the Council's policy that members of the press and public should always have the fullest information available to them. Therefore, the Town Clerk reports all major decisions taken under delegated powers at the next available Council meeting.

The Town Clerk shall be the Proper Officer and carry out functions as provided by the Local Government Act 1972.

The Council may also appoint a Responsible Financial Officer in accordance with the Accounts and Audit Regulations in force at any given time.

### **Delegated Powers and Responsibilities**

In addition to the responsibilities set out in the Town Clerk's job description, the Town Clerk and his/her officers have the delegated authority to undertake the following matters on behalf of Bodmin Town Council:

- Day-to-day administration of services, together with routine inspections and control.
- Authorisation to call any extra meetings of Full Council or any Committees as necessary, having consulted with the Mayor / Chair or, in his/her absence, the Deputy Mayor / Vice-Chair of Full Council or the Committee in question.
- Authorisation to respond immediately to any correspondence requiring or requesting information relating to previous decisions of the Council, but not correspondence requiring an opinion to be taken by the Council or its Committees.
- Authorisation of expenditure in accordance with Financial Regulations and managing the timely transfer of funds between the Council's bank accounts to maintain adequate cashflow.
- Preparation and submission of comments to Planning Applications where the Council's agreed stance is known.
- Handling of requests for information under the Freedom of Information Act 2000 and the Data Protection Act 1988 or General Data Protection Regulation (whichever is in force at the time of request).
- Issuing press releases and statements to the press on the Council's known policies.
- Updating and managing the content of the Council's website.
- Disposal of Council records according to legal restrictions and the Council's Data Protection Policy.
- Taking appropriate actions arising from urgent matters or emergencies in consultation with the Mayor / Chair or, in his/her absence, the Deputy Mayor / Vice-Chair of the Council or the Committee in question. Such actions shall immediately be notified to all councillors in writing and confirmed by written report to the next meeting of Full Council or the appropriate committee.
- Exercising day-to-day supervision of all staff and contractors employed by the Council.
- Undertaking training or attendance at conferences, as previously authorised within budgets.

This Scheme will be reviewed and amended as required due to changes in legislation, or upon the employment of a new Town Clerk.

Otherwise, the Scheme is confirmed at each Annual General Meeting of the Council.

### 29. APPENDIX 3: MONETARY VALUES

Financial Regulation No.	Item	Monetary Value 2020/21 £
3.5	Emergency expenditure authorised by the Town Clerk.	£3,000
5.5(a)	Petty Cash Limit.	£750
6.3	Online/Debit Card Payment methods authorised by the <a href="#">RFO</a>	£300, up to a maximum of £1,000 per month
9.4	Maximum level of bad debt write-off by RFO.	£100 in line with Credit Management Code of Practice
10.3	As per 11.1 (b) (ii)	£1,500
11.1(b)(i)	Maximum expenditure for which Town Clerk or duly authorised officer shall have executive power.	£3,000
11.1(b)(ii)	Expenditure requiring three quotations.	£1,500
11.1 (b) (iii)	Tender process covered by the Public <a href="#">Contracts</a> Regulations 2015	£25,000
11.1(b)(iv)	Expenditure subject to formal tender process or the preferred bidder route as expressly approved by the Council for each project.	£50,000
11.1(g)	Arrangements where less than three tenders.	£50,000
11.1(l)	Performance Bonds.	£100,000

### 30. APPENDIX 4: CANCELLATION OF COUNCIL MEETINGS

Schedule 12 of the Local Government Act 1972 provides that a Council may (in addition to their annual meeting) hold such other meetings during the year as they may determine. Such other meetings shall be held at such hour and on such days as the Council may determine.

It is clear from Schedule 12, therefore, that it is entirely within the remit of Bodmin Town Council to decide when its meetings are held. The Council's Standing Orders do not at the present time contain any provision which would allow the Mayor / Chair, the Committee Chairs, or the Town Clerk to change dates of Council meetings already approved by the Council.

It must be said that it is not entirely free from doubt as to how far a Standing Order could go in allowing the Mayor / Chair, the Committee Chairs, or the Town Clerk to cancel a meeting. Schedule 12 provides that, subject to the provisions of the 1972 Act, a local authority may make Standing Orders for the regulation of their proceedings and business and may vary or revoke any such orders. The Mayor / Chair also has several common law powers, but these are more pertinent to the actual conduct of the meeting itself. (It has been held, for example, that a Mayor /

Chair has no common law power to postpone a meeting once it has been properly convened). Given that Schedule 12 itself regulates the timing and frequency of Council meetings, it could be argued that a Standing Order which sought to interfere with the Council's prerogative on setting dates was ultra vires. It is worth noting that the power to call an extraordinary meeting at any time vested in the Mayor / Chair of the Council is expressly provided for in Schedule 12.

It may, however, be possible (although not yet clearly established by any court) for the Council to delegate the cancellation of a Council meeting (e.g., using the powers in S101 of the Local Government Act 1972) in limited circumstances, such as when there is clearly no business whatsoever to transact. In considering such a motion, however, it is important that the Council has full regard to the implications on members' other constitutional rights, particularly the right to put motions on notice and questions on notice (for this reason, it would not be recommended that meetings could be cancelled until it was clear that no motions or questions had been received). It has been established by the Courts that, when any proposal to change or suspend Standing Orders which regulates the authority's business and proceedings is being considered, it is necessary for the Council to consider the implications of Members' democratic rights.

There is very little evidence of any widespread use of the power to cancel Council meetings. That having been said, there have been examples where the Mayor / Chair or Town Clerk may cancel a meeting in consultation with political group leaders where there is no business to be transacted.

It is recommended that limited delegation be given to the Mayor / Chair and Committee Chairs (or otherwise to the Town Clerk), in consultation with political group leaders, to cancel a meeting in circumstances where there is no business to transact (i.e., no motions or questions or reports or recommendations which, in the ordinary course of events, would have been before the Council on that occasion).

There is a further related issue of the cancellation or postponement of any meeting of the Council in circumstances where an emergency or external force otherwise makes the holding of a meeting impossible or particularly difficult (e.g., snow, fog, interruption of power supply). It is recommended that the Council endorse this practice.

### **31. APPENDIX 5: JOINT PANEL ON ACCOUNTABILITY AND GOVERNANCE: PRACTITIONERS' GUIDE**

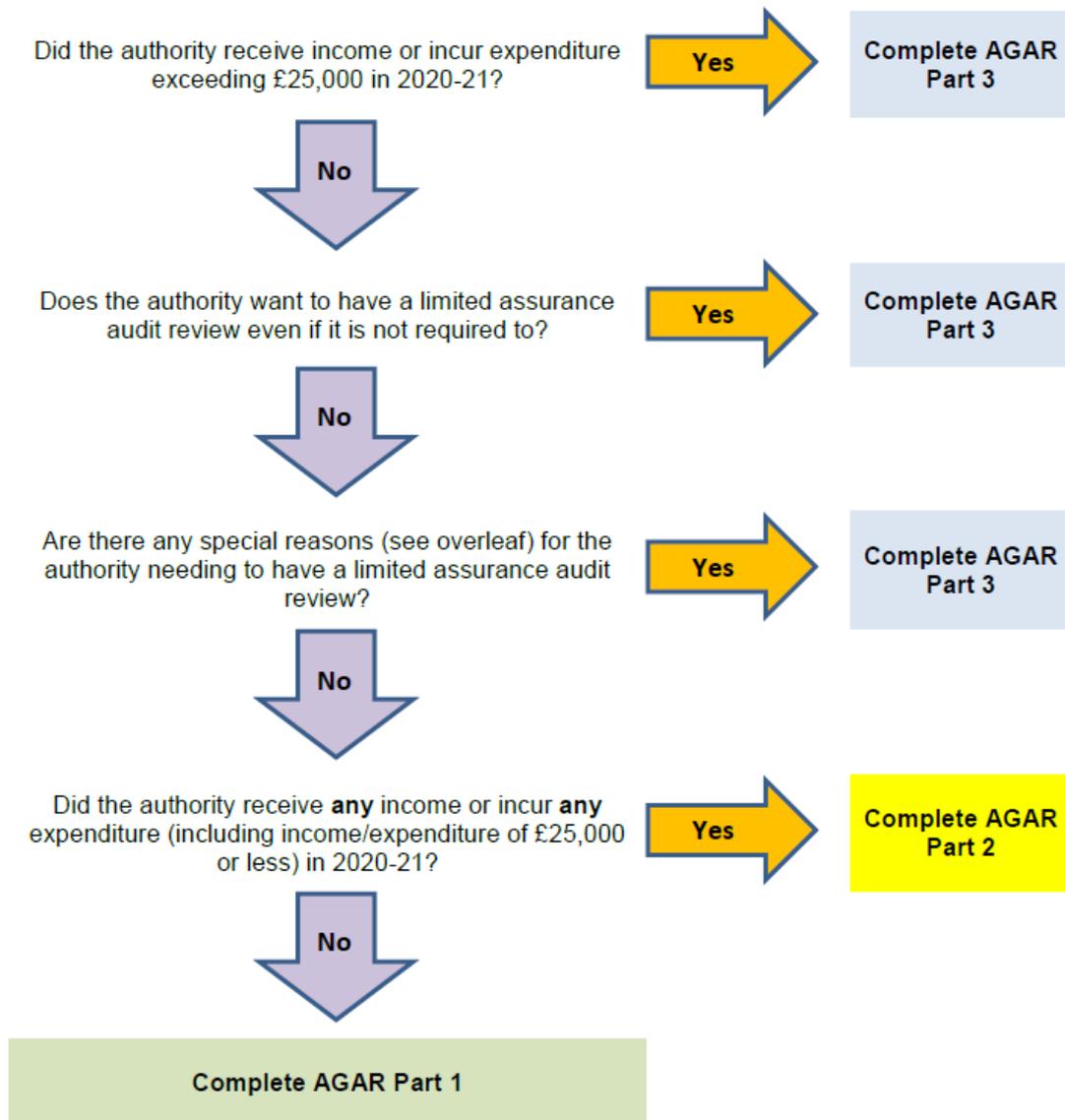
The Practitioners' Guide is issued by the Joint Panel on Accountability and Governance (JPAG) to support the preparation by smaller authorities in England of statutory annual accounting and governance statements found in the Annual Governance and Accountability Return.

Please visit the following web link to read the 2021 edition of the guide:

<https://www.nalc.gov.uk/library/our-work/jpag/3479-practitioners-guide-2021/file>

### **32. APPENDIX 6: ANNUAL GOVERNANCE AND ACCOUNTABILITY RETURN FLOWCHART**

### A. All authorities other than parish meetings



**Please note that where an authority chooses or is required to complete AGAR Part 3 a fee will be payable**

### 33. APPENDIX 7: CASUAL VACANCIES

According to section 87 of the Local Government Act 1972, a casual vacancy occurs when:

- a) a councillor fails to deliver his/her declaration of acceptance of office at the proper time; or
- b) a councillor resigns; or
- c) a councillor dies; or
- d) on the expiry of the period allowed for making an appeal or, if an appeal has been made, the date on which that appeal is finally disposed of if a councillor becomes disqualified under section 34 of the Localism Act 2011; or

e) on the date of a report or certificate of an election court that declares an election void; or

f) a person ceases to be qualified to be a councillor for a reason not mentioned above; or

g) a councillor fails to attend meetings for six consecutive months.

In most instances of a casual vacancy arising, Bodmin Town Council must give public notice of it as soon as practicable after the casual vacancy is deemed to have occurred in accordance with the requirements of section 232 of the 1972 Act. Section 232 confirms public notice of a casual vacancy is effected by the Council giving notice in conspicuous place(s) in its area and in any such other manner, if any, as appears to the Council to be desirable for giving publicity.

Where a casual vacancy arises in any of the three circumstances set out below the Council must (i) forthwith declare the office vacant (unless the High Court has already done so) (section 86(1) of the 1972 Act) and (ii) give public notice of the vacancy in accordance with the requirements of section 232 of the 1972 Act immediately after it declares the office vacant (section 87(2)(a) of the 1972 Act). The three circumstances are that a member of the Council :

a) ceases to be qualified to be a member of the Council; or

b) becomes disqualified for being a member of the Council otherwise than under the Audit Commission Act 1998, section 34 of the Localism Act 2011, or by virtue of a conviction or a breach of any provision of Part II of the Representation of the People Act 1983; or

c) ceases to be a member of the Council by reason of failure to attend meetings for six consecutive months without approval of his/her absence from the Council.

If, within 14 days after public notice has been given, at least ten electors give written notice to the Proper Officer of Cornwall Council of a request for an election to fill the vacancy, then a by-election must be held except where the vacancy occurs within six months before the date when the councillor in question would have regularly retired (e.g., four days after the next ordinary election). If a by-election is called and an insufficient number of candidates is nominated those nominated are elected (see section 39(5) (b) of the 1983 Act) and Bodmin Town Council must call a further by-election to fill the remaining vacancy or vacancies (see section 39(1) (b) of the 1983 Act).

If no by-election is called the Council must as soon as practicable after the expiry of the 14-day period fill the vacancy by co-option. If the vacancy falls within the six-month period the Council may, but need not, fill the vacancy. It must, however, in the latter case, give public notice of the vacancy.

The Council may co-opt whom it pleases to fill a vacancy, provided the person is qualified to be a councillor. The person co-opted must receive a majority of the votes of those councillors present and voting at the meeting where the co-option takes

place. Where there are more than two candidates for one vacancy, this rule means that a person must get a majority of votes over all the other candidates. Thus, where candidate A receives four votes, and candidates B and C each receive two, A is not elected because he has the same number of votes as B and C put together and does not have a majority over their combined votes. Where there are more than two candidates it is desirable to eliminate the candidate with the least number of votes, so that the final vote is between two candidates only. The Council may use model standing order 8a on to confirm the voting process for a casual vacancy which is contested.