

Report to the Finance and General-Purpose Committee - Scheme of delegation, terms of reference and Committee membership

Louise Harrison, Town Clerk to Ferndown Town Council, 15 October 2020

1. Ferndown Town Council did not undertake its usual committee membership process at the start of the current governance year due to the current COVID-19 situation and Town Clerk vacancy.
2. Debates have recently taken place during some committee meetings relating to concerns around committee vacancies and membership.
3. The Town Clerk has taken this opportunity to review Council's scheme of delegation, terms of reference and process of allocating committee memberships.
4. The Town Clerk has liaised with NALC and other town councils of a similar size and makeup to establish what other recommended methods are employed.
5. Section 15 of the Local Government and Housing Act 1989 makes reference to the duty of a relevant authority and its committees to:
 - review the representation of different political groups on that body where the members of the authority are divided into different political groups,
 - allocate seats to political parties as long as not all the seats on the body are allocated to the same political group and the majority of seats on the committee are proportionate to the total seats.
6. Parish and town councils are not 'relevant authorities' for the purpose of the above legislation; however, it is the Town Clerk's strong recommendation, following consultation with NALC, that Ferndown Town Council apply the same principles as enshrined in section 15 of the Local Government Act 1989 to its committee membership allocation, namely membership based on the percentage of the political parties for the whole of Council:

Councillor	Political party affiliation
Julie Robinson	Independent
Lawrence Wilson	Independent Voice for Ferndown Residents
Rod Adkins	Conservative
John Baxter	Independent Voice for Ferndown Residents
Terry Cordery	Independent
Ian Flay	Independent Voice for Ferndown Residents
Stuart Fleetham	Conservative
Paul Hanson Graham	Independent Voice for Ferndown Residents
Cathy Lugg	Conservative
Ann Miller	Independent
Mike Parkes	Conservative
Krissy Stamp	Independent
Matthew Stickley	Independent
Nick Wellstead	Independent Voice for Ferndown Residents
Mandy Willis	Independent
Harry Worth	Conservative
Vacancy	?
Total Conservative's – 5 / 30%	
Total Independent Voices of Ferndown Resident's – 5 / 30%	
Total Independent's – 6 / 40%	

NB - the Town Clerk has followed a 'rounding up' and 'rounding down' principles when the amount is over/under point 5.

7. The Town Clerk also believes the committee structure also requires a review as the current structure does not facilitate progress.
8. Alternative structure suggested:
 - (i) Terminate the Personnel Committee and incorporate it into the Finance and General-Purpose Committee.
 - (ii) Terminate the Barrington Centre Management Committee and incorporate it into the current Recreation, Leisure and Amenities Committee.
 - (iii) Re-name the Recreation, Leisure and Amenities Committee to the Services and Facilities Committee whose remit will include all facilities and agreed services.
 - (iv) Terminate the Natural Environment Committee and incorporate it into a new Committee called the Community Engagement and Environment Committee that would also incorporate consultations and projects involving the community.
 - (v) Rename the Planning Committee the Planning and Road Traffic Committee which would incorporate the Traffic Working Group.
9. Based on the above structure and a quorate of 3 councillors for all committees the political membership ratio would look like:

Committee	Total number	Membership
Finance and General-Purpose	7	Conservatives x 2 (2.1) I V F R x 2 (2.1) Independents x 3 (2.5)
Assets and Facilities (Allotments WP report back)	7	As above
Planning and Traffic Consultative	7	As above
KGV Management	7	As above
Community Engagement and Environment e.g. Ferndown Matters, new projects for consultation, footpat maps and trails)	7	As above

Nb. The Town Clerk has followed a 'rounding up' principle when the amount is .5.

10. For Scheme of Delegation and Terms of Refence for Full Council and FGPC please see suggestions below.

Scheme of Delegation and Terms of References

1. *Introduction to Council's Scheme of Delegation*
 - 1.1 *This scheme of delegation also forms part of Council's Standing Orders and Financial Regulations and will be reviewed at the Annual Meeting of the Town Council or as required and after all committees have reviewed their terms of references.*
 - 1.2 *The aim of the scheme is to clearly define the parameters within which committees and officers (delegation to the Town Clerk includes reference to the Town Clerk as the Proper Officer and RFO, and Deputy Town Clerk in the Town Clerk's absence) of Council are able to act without any reference to Town Council or a committee with delegated powers. Where consultation with others is a requirement it is also clearly set out with whom the consultation should take place.*
 - 1.3 *Any deviation from this scheme should be reported to Council at the earliest opportunity with an explanation of the circumstances of the breach.*

2. Exempt Business

- 2.1 Under Section 1(2) of the Public Bodies (Admission to Meetings Act 1960) the Town Council, Committee or Sub-Committee may exclude the public or press from the meeting. A motion must be passed at the meeting to that effect. Exclusion of the public and press must be minuted (public not confidential) but it does not have to be on the agenda.
- 2.2 The exclusion of the public and press should be used prudently - Council must be clear on the reasons for doing so and should not exclude from a meeting simply because the subject matter may be embarrassing to the Council.
- 2.3 Exclusion can be made (but is not limited) for the following reasons:
 - to discuss terms and conditions of employment, or to discuss the conduct and dismissal of a member of staff,
 - terms, proposals and counter proposals in negotiating contracts,
 - preparation in legal proceedings,
 - early stages of a dispute,
 - early stages of agreeing tender/quotation details,
 - approval of tender/quotation details.
- 2.4 The wording for a motion to exclude the public and press: “publicity would be prejudicial to the public interest by reason on {special}{confidential} nature of the business about to be transacted on agenda item ... namely...(state nature of business¹), it is advisable in the public interest that the public and press be temporarily excluded from this meeting and they are herewith instructed to withdraw”.

3. Principles of delegated powers:

- 3.1 Section 101 of the Local Government Act 1972 provides:
 - a. Council may delegate its powers (except those incapable of delegation) to a committee or officer.
 - b. A committee may delegate its powers to an officer.
 - c. The delegating body may exercise powers that have been delegated.
 - 3.2 Any delegation to a committee or the Town Clerk shall be exercised in compliance with the Council’s Financial Regulations, Standing Orders, any other policies or conditions imposed by the Council and with the law.
 - 3.4 Where the Town Clerk is contemplating any action under delegated powers, which is likely to have a significant impact in a particular area, they should also consult Council and must ensure that they obtain appropriate legal, financial and other specialist advice before action is taken.
 - 3.5 Committees and working groups may co-opt non-councillors as members of that committee or working group as that committee or working group sees fit, except in the case of the Finance and General-Purpose Committee.
 - 3.6 The Town Clerk and committees have the responsibility to act within the Council’s approved policies, procedures and framework and within the law in conjunction with delegated powers.
 - 3.7 Council may, at any time without prejudice to executive action taken already, revoke any executive power delegated to a committee or officer.
 - 3.8 It will be appropriate for the Town Clerk to refer a matter to Council where the determination of that matter is likely to be controversial or raise issues of policy which would be appropriate for Council to determine or expose Council to major corporate risk.
 - 3.9 In any case where a committee Chairman or Vice Chairman are either unsure whether or not any matter falls within delegated powers, or whether or not any matter should be determined by them, they should refer that matter to the Town Council. A delegated power does not always have to be exercised.
 - 3.10 Decisions under delegated powers by committees will be recorded in minutes as “RESOLVED” (the Town Clerk will advise councillors whether or not a particular item under discussion is within the committee’s delegated powers). If delegated powers are not in place, the decision
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will be recorded as “RECOMMENDED” and will be brought to the next Town Council meeting for approval via the committee’s or working groups minutes/notes.

3.11 Powers specifically delegated to the Town Clerk:

- expenditure on items where the Council budget (or Committee under delegated powers) has agreed the expenditure.
- In conjunction with the Finance and General-Purpose Committee appropriately invest Council’s monies as per Council’s Investment Strategy.
- authorised expenditure as specified in Council’s Financial Regulations section 4.5 and 5.5 (NB. Town Clerk recommends this is increased from £1000 to £5000)
- the power to act as Council’s “Proper Officer” in all cases where any legislation requires the appointment of such an officer,
- authorised actions as specified in Council’s Standing Orders section 26 e and f,
- to act as the Responsible Officer for health and safety and finance matters,
- to be responsible for the day to day administration of Council’s functioning including internal management, organisation of tasks and policies set by Council, closure arrangements of Council offices over Christmas and the new year period subject to agreement with the Chairman, the daily management of Council’s facilities and assets including land and property, and the management and payment of staff (including employment of temporary employees within budget),
- enter day to day contracts on behalf of Council (e.g. utilities),
- notify Dorset Council Returning Officer of any casual vacancies that arise in the membership of Council as required by statute and to liaise with him or her regarding conduct of elections and councilor vacancies,
- act as Council’s Designated Officer for requests under the Freedom of Information Act 2000 and GDPR 2018.
- recommend national pay awards and conditions of service to the Finance and General-Purpose Committee for implementation, and
- recommend tender and quotation processes for contractors and services as approved by budget and Council’s financial Regulations.

4. Administration and governance of Council meetings

4.1 The Town Clerk or other appropriately qualified officer will administer meetings and is responsible for the proper administration of Committees, management of documents and records necessary for the effective fulfilment of Council and Committee’s duties as listed below.

4.2 Members of the public and press are welcome to attend and participate (during the specific section on the agenda) in all Council meetings except when Exempt Business applies, and have no voting rights,

4.3 The minimum amount of serving councillors required to attend a Town Council meeting for the meeting to go ahead is seven, referred to quorum (one third of total membership, rounded up) and in any event, there must be no fewer than three members (paragraphs 12 and 45 of schedule 12 to the Local Government Act 1972).

4.4 If a councillor wants their absence from a meeting to be approved by Council, they should submit their written request together with the reason for absence before the meeting takes place to the officer administering the meeting. A councillor cannot continue in office if they fail to attend a meeting of Council or a committee for a period of six consecutive months and the reason for his absence has not been formally approved before the expiry of the six month period (s.85 (1) of the Local Government Act 1972).

The minutes of the meeting must record if it resolved to approve a councillor’s absence from the meeting, and if possible, the councillor’s reason for absence (without divulging personal or sensitive personal data in accordance with Council’s obligations under data protection legislation - Council cannot disclose the details of the councillor’s physical or mental health without his permission).

Approval cannot be retrospective.

- 4.5 *The Local Government (Electronic Communications) (England) Order 2015 facilitates the email of summonses and agendas to councillors and paragraph 10(2) (b) schedule 12 of the Local Government Act 1972 facilitates the service of summonses and agendas by postal delivery or delivery by hand of schedule 12 to the 1972 Act to permit email service of the summons and agenda.*
- 4.6 *The Town Clerk or officer administering the meeting will issue the summons to every councillor in three clear days before the meeting, requiring all councillors to attend the meeting and specifying the business to be transacted as per Council's Standing Orders (15 b i). Council cannot lawfully transact any business which is not included on the agenda. The preparation of the agenda is usually the responsibility of the Town Clerk or officer administering the meeting. A councillor is entitled to submit a motion for the agenda which is relevant to the forthcoming meeting. If there is a dispute as to the items to be included in the agenda, the final decision should be made by the Town Clerk, having first consulted the Chairman of the forthcoming meeting (Council's Standing Orders 9e-f).*
- 4.7 *The Town Clerk or officer administering the meeting will produce draft minutes and submit them to the Chairman (including Chairman of committees) for agreement before they are formally approved at the next meeting. The minutes should be informative and relevant, yet concise and not include personal data unless necessary for the performance of Council's statutory powers, functions and contracts must record the resolutions passed at the meeting. Resolutions to be recorded in the minutes include those made when the public were excluded (Exempt business). The minutes should also record the names of the councillors present and absent, the declaration of councillors' interests, if councillors left the meeting room because of their interests, and the public participation session. The draft minutes, once formally approved and duly signed by the Chairman of the meeting, serve as a legal record of what has taken place at the meeting to which they relate. Before a meeting approves the minutes of a preceding meeting by resolution, the meeting may, by resolution, correct any inaccuracies in the draft minutes. The attendance (or otherwise) of the Chairman or those voting in favour to amend or approve of the minutes is irrelevant. Minutes should not be altered once signed unless inaccuracy in the minutes is discovered after they have been signed. Inaccuracies in the signed minutes can be amended by resolution at a subsequent meeting.*
- 4.8 *The Town Mayor and Deputy Town Mayor are ex officio members of every Committee and Sub-Committees of the Council with full voting rights.*
- 4.9 *Councillors must sign a Declaration of Acceptance of Office and an agreement to abide by the Council's adopted Code of Conduct when accepted into office.*
- 4.10 *No business may be transacted at any Council meeting unless at least one-third of the whole number of members of the Council are present and in no case shall the quorum of a meeting be less than three - for Town Council meetings 1/3 of membership is 6 Members and the principle of 'rounding up' practice is also reflected in committee membership.*

5 Terms of Reference

5.3 Town Council

Current mission statement:

The primary objective of Ferndown Town Council is to work with other agencies to provide a safe, high-quality environment to meet the needs of residents and visitors and defend the best interests of the Town for the benefit of everyone.

Ferndown Town Council aims to enable residents of Ferndown and its surroundings to enjoy high-quality social, recreational and cultural facilities within the Town and seek the continuing improvements and development of these facilities in accordance with the wishes of its residents by:

- encourage and promote the economic and commercial vitality of Ferndown,*
- preserve the unique identity of Ferndown and promote its heritage,*
- ensure that harmony exists between commercial, ecological and residential requirements,*

- *consult with and take due regard of all comments received from other statutory bodies, voluntary organisations and individuals, to ensure an improving standard of service to meet local needs,*
- *to represent the views and wishes of the people of Ferndown,*
- *provide a democratic representational voice for the Ferndown community*
- *to help create a socially inclusive and caring community, which embraces all residents, irrespective of their circumstances*
- *provide a supportive working environment for all its employees and members to achieve our aims. (NB. This point has been added by the Town Clerk as copied for Council's Corporate Objectives.)*

(NB. The Town Clerk recommends Council's mission statement is reviewed as some of the points are not achievable).

The Town Council is made up of all 17 members and is the final authority on matters of policy and the powers of duties exercised by Council, and is solely responsible for:

- *convene parish meetings, hold an annual parish council meeting and annual parish meeting of parishioners,*
- *make byelaws,*
- *initiate requests for boundary reviews and commenting during such reviews,*
- *power of raising loans and setting the precept,*
- *power of incurring capital expenditure not specifically included in Council's approved estimates of expenditure for the current budget,*
- *appointment or dismissal of the Town Clerk,*
- *appointment of Committees; Chairmen and Vice Chairmen, Town Mayor and Deputy Mayor,*
- *appointment of representatives on outside bodies,*
- *annual subscriptions,*
- *Standing Orders as to the conduct of the Council's business and Financial Regulations as to the proper administration of the financial affairs of Council (including receiving the Annual Statement of Audited Accounts and the reports of both the External and Internal Auditors following recommendations from the Finance and General-Purpose Committee),*
- *committee structure including terms of reference, membership etc,*
- *deal with any matters not specifically referred to any other committee of Council,*
- *co-opt new Councillors following any uncontested vacancies, make arrangements as may be necessary for the appointment of a Casual Vacancy for the position of Town Councillor and liaise with Dorset Council for election purposes,*
- *approve a calendar of meetings of the Council and its committees,*
- *authorise the disposal of surplus items of plant, furniture and equipment (this may be delegated to the Finance and General-Purpose Committee),*
- *approve the purchase of and repairs and maintenance to any civic insignia and to authorise and/or incur expense for items relating to civic events or civic matters and approve the purchase of civic gifts,*
- *authorise support for an objection to any relevant Bill during its passage through Parliament,*
- *if applicable approve eligibility for the General Power of Competence,*
- *approve and resolve responses to consultations and controversial planning applications as referred by the Planning and Traffic Consultative Committee.*
- *Any matters of an urgent nature requiring settlement before the next meeting of the Council may be dealt with by the Town Clerk after consultation with the Mayor and/or Deputy Town Mayor but must be submitted for approval or otherwise to the next meeting of the Council.*
- *The Town Council is the sole trustee of the King George v Fields Charity and councillors are the managing trustees of the registered charity (No. 301136).*

Ferndown Town Council operates and governs under a committee system with delegated powers and subject to the provisions of the Council's Standing Orders and Financial Regulations except as

otherwise determined by the Council. The Town Council can revoke any executive power delegated to a Committee Consider

Finance and General-Purpose Committee

- to study the long term aims and objectives of the Town Council in line with Council's 5 year Corporate (should this be 'Business'?) and annual Action Plan and recommend forward programmes, projects and other steps necessary to achieve the Council's objectives in whole or in part during specific time spans,
- consider all the following matters and have executive powers once general policy and expenditure has been approved by the Town Council:
 - (i) ensure that the financial status of the Council is maintained within its agreed budget (income and expenditure),
 - (ii) approve all financial matters and accounts for payment as provided for by Council's Financial Regulations,
 - (iii) recommend the annual budget and precept to Town Council,
 - (ii) review and approve annual estimates, SLAs and regular contractor quotes,
 - (iv) consider Grant Aid requests within budget,
 - (v) review Council's governance documents and recommend any amendments as appropriate for adoption by Council,
 - (vi) ensure Council's financial practices comply with the Audit Commission, Central Government and Council's adopted Financial Regulations including Council's system of internal control and audit,
 - (vii) receive the Annual Statement of Audited Accounts and reports on the internal and external auditor and make recommendations to Council on any actions required,
 - (viii) overview the deliberations and actions of all Council's committees and create coordination between committees ensuring the efficient use of resources,
 - (ix) review Council's insurance policy requirements,
 - (x) review Council's asset register,
 - (xi) town partnership agreements (e.g. BID),
 - (xii) review Christmas lighting and town centre events/festivals,
 - (xiii) review and approve rent and hire charges,
 - (xiv) acquire and maintain IT and other office equipment and facilities, including a web and social media presence, to enable council staff to carry out their duties effectively.
 - (xv) authorise the disposal of Council assets,
 - (xvi) in relation to HR matters:
 - advise Council on all HR matters relating to Council and its employees in line with Council's **Performance Management Policy**,
 - review staffing levels and structure that will enable Council to continue to deliver high quality services and facilities,
 - undertake the management of the Town Clerk's probation period, annual appraisal and agreed annual objectives,
 - handle staff grievances and disciplinary action in line with Council's policies,
 - authorise the attendance of employees at conferences or courses including the incurring of necessary expenditure,
 - review employees' contracts and conditions of employment, job descriptions, gradings and allowances annually or as required and make recommendations to Full Council,
 - oversee the recruitment selection and induction of staff with the Town Clerk in line with Council's **Selection, Recruitment and Induction Policy**,
 - review HR governance documents,
 - review staff training requirements within the agreed training budget and in line with Council's **Training and Development Policy** and evaluate,
 - review regularly staff absences,

- review employee's annual appraisal process undertaken by the Town clerk,
- consider annual pay awards for all employees and make recommendations to Council,
- liaise with Council's external HR contractor to obtain advice, guidance and information where appropriate,
- power to terminate employment of employees on disciplinary grounds subject to the terms and conditions of service (including Code of Conduct, **Officer Member Protocol**, and **Disciplinary Procedures**) or **Capability Policy** or ill-health grounds,
- dismiss employees during the course of reviewing terms and conditions of employment subject to following the appropriate process and obtaining medical and HR advice,
- convene the **Council's Disciplinary and Grievance Appeals Panel** (see appendix 1 below).

NB. Policies highlighted in yellow are being worked on by the Town Clerk

- (xvii) review and approve all staff and councillor allowances annually,
- (xviii) review and manage Council's risk management strategy
- (xix) review health and safety requirements in relation to assets and employees and liaise with Council's external health and safety contractor for advice, guidance and information when required,
- (xx) consider and recommend training requirements for councillors within the agreed training budget.

(highlighted areas – documents being prepared by the Town Clerk for approval)

At the first municipal meeting of the Town Council shall elect a chairman and vice-chairman, town mayor and deputy town mayor, for the forthcoming year from amongst its members. The Chairman and Vice-Chairman may be re-elected.

The Town Clerk and Deputy Clerk will provide administrative support for the Committee. Membership of the Committee shall be appointed at the annual meeting of the Town Council and shall comprise of seven Town Councillors, made up of the Chair and Vice Chair of the following committees: Planning and Traffic Consultative Committee, RLA/Assets and Facilities Committee, NE/Community Engagement and Environment, KGV Management Committee, plus Deputy Mayor and other members as required to fill the satisfy the membership number. The quorum of the Committee shall be three.

Appendix 1 – Disciplinary and Grievance Appeals Panel

1. The Appeals Panel will be empowered to consider an appeal by any employee of the Council referred to it in accordance with the appropriate Disciplinary Rules and Procedures or Employee Grievance Procedure, on behalf of, in the name and without further reference back to the Council or a Committee of the Council, and to endorse, rescind or amend the original decision on disciplinary action as it sees fit.
2. The Appeals Panel will be made up of not less than three members of the Full Council who have had no previous involvement in the case.
3. Members of the Disciplinary Appeals Committee will not normally be members of the Finance and General-Purpose Committee, unless the circumstances of the case mean that other councillors are not able to fulfil this role. This may occur for example in the case of lengthy absence of other Councillors, or where other Councillors have been directly involved in the case. In these exceptional circumstances, it may be necessary to include members of the Finance and General-Purpose Committee that did not hear the previous stages.
4. Members of the Appeals panel will be decided by the whole Council, and the Council's decision will be final.