

Exmouth Town Council

Chairmanship

Basic Principles

1. The officers and agents of the Council must act as the Council's executive and carry out its decisions. They cannot do this properly unless they have instructions they can understand.
2. It is the primary, if not the only, function of the Council to frame instructions upon which people can act; even a decision to take no action, is such an instruction.
3. The Council's instructions are conveyed by resolutions and it is the purpose of the Council's proceedings to *reach, without unreasonable delay, an intelligible and lawful decision for the right reasons*. The whole duty of a Chairman is to ensure that this purpose is achieved and to this end they must:-
 - (a) protect the Council against *outside interference*;
 - (b) ensure that everything to be discussed is *lawful*;
 - (c) ensure that the Council is invited to deal with *clear issues*;
 - (d) ensure that as far as possible *information is complete*;
 - (e) permit every point of view to have a *fair hearing*;
 - (f) ensure that opinions expressed are *relevant* to the matter in hand;
 - (g) ensure that business is transacted with *reasonable speed*;
 - (h) ensure as far as possible that proceedings are *cordial* and *free from personalities*;
 - (i) co-operate with the officers and councillors.

THE AUTHORITY OF THE CHAIR

Origin

4. The office of Chairman of a local authority is created by statute, which has conferred upon the occupant of the chair a second or casting vote on all occasions but one. The scope of the authority of the chair, however, depends upon ancient customs which are perfectly logical and arise from the necessities of the case.

Nature and Limitations

5. Whether or not the Council has passed any standing orders, the Chairman's procedural authority is derived from the Council as a whole and an individual councillor must obey these rulings because they are the rulings of the Council itself. It follows from this, however, that the Chairman cannot overrule the Council and that a councillor who is dissatisfied by the Chairman's ruling may invite the Council to disagree with it. Such appeals against the chair are (and ought to be) very rare.
6. The authority of the Chairman, as such, is limited to matters of procedure and neither increases nor decreases rights (in comparison with other members) to discuss the merits of a

particular case. It is one of the most difficult tasks to remember that, whilst the Chair gives authority on matters of procedure, it confers no additional rights (other than the casting vote) on matters of policy above those possessed by other members.

PRELIMINARY

7. Before any meeting, the Chairman should study the items on the agenda with either the Clerk or any other officers, and should in effect ask in respect of each item the following questions:-
 - What does it mean?
 - Is it lawful?
 - Do we know enough about it?
 - Has any member special knowledge of this problem?
 - Is there any member who may have a prejudicial interest?

OUTSIDE INTERFERENCE

Public Disturbances

8. No one is entitled to interrupt or obstruct the proceedings of the Council or its committees. In general it is best to stop an interruption at once before the habit spreads to the rest of the audience; and though naturally not wishing to be rude, the Chairman should cut an interrupter short, and if good humour and conciliation fail to produce silence may have to warn the individual(s) that they will be ejected if they do it again; if the warning is ignored it should be resolved, without discussion, that the interrupter(s) be excluded, and if they fail to leave they should be removed by force. Care should be taken to use no more force than necessary. It is not essential to call the police, but may be necessary.
9. The Chairman should never argue or allow argument with an interrupter. If the public becomes disorderly it may eventually be necessary to close the meeting or to adjourn to a more private place. It is, however, illegal to decide to exclude the public from any future meeting. The press is in a privileged position inasmuch as its representatives must so far as possible be given facilities for taking their reports.

Personal and Prejudicial Interests

10. The law requires that where a member has a personal interest in any matter they must disclose the existence and nature of that interest. If the personal interest is also prejudicial the member should withdraw from the meeting and take no further part in the relevant proceedings or seek to influence those proceedings. The Chairman should before a meeting consider whether any member (including the Chairman) may have any such interest, and may draw the individual member's attention to the possibility before it starts. However, ultimately, it is for the member to decide whether or not to disclose any relevant interest. Failure to disclose an interest (personal or prejudicial) can lead to an investigation by the Standards Board (England). It is recommended by the Standards Officer that, to avoid any suggestion of a

conflict of interest, the member should withdraw from the meeting whether or not the interest is thought to be prejudicial.

Rulings on notices

11. The Chairman must be satisfied that the meeting is lawful. Personal knowledge that the proper notices and summonses have been issued is not required, but if complaints are made a ruling based upon the essential justice of the matter must be given. A meeting is not necessarily illegal because someone has not received a notice to which they are entitled, but where an irregularity appears to be intentional or important the meeting should be adjourned until it has been corrected.

Quorum

12. No business can be transacted if no quorum is present. This rule applies not only to cases of physical absence but to cases of disqualification by interest. A situation may, therefore, sometimes arise where the Council cannot act because it is impossible to obtain a disinterested quorum. In such a case the Chairman should adjourn the matter until it can be next dealt with. Those members with an interest should consider making an application for dispensation to their standards committee where appropriate.

Ultra Vires Proposals

13. The Chairman should be satisfied that any proposal involving expenditure is lawful and should rule any unlawful proposal or amendment out of order. Where there is any doubt, advice should be sought well before the meeting and in time to delete it, if necessary, from the agenda

A CLEAR ISSUE

14. *Every* decision of the Council must be made by an affirmative vote of a majority of those present and voting (including, where necessary, the Chairman's second or casting vote). The members must, therefore, know exactly what they are being asked to decide and each proposition must be put to them in a form which can be answered by a simple "Yes" or "No". From this there follow certain practical consequences:-

- (a) All motions should be affirmative in form; it is never necessary to move that a resolution be rejected;
- (b) Where there is more than one solution to a problem each solution must be separately put to the vote.

The affirmative Form

15. The most exact method of putting a question to the vote is by the use of the following formula:-

"The resolution is as follows: -

(e.g.) ‘That the Clerk’s salary be raised to £XXXXXX a year.’

The motion is that this resolution be agreed to.

(Note: A *resolution* is a proposal of the action intended to be taken: for example “That the Council buy a mower”. A *motion* is the procedural formula by which the Council disposes of business: for example “The motion is that the resolution be amended by.....” or “The motion is that the Council do now adjourn”.)

Separating the Issues

16. In attempting to reach a decision a Council may from time to time be faced with alternative solutions. Some alternatives may be mutually exclusive; others may be matters of detail subsidiary to the principal issue.

17. Where the alternatives are mutually exclusive it may be desirable in the first instance to discuss the resolutions embodying them together until the general trend of opinion is apparent and then to put one of them in the form of an amendment to the other; for instance, if a Council considers that it can afford either a swimming pool or a new playing field but not both, a decision to provide the one in practice excludes the other. Therefore, the resolution on behalf of each should be discussed together and the issue at this stage may be informally stated thus:-

“If the Council is to spend its money would it prefer a swimming pool or a playing field?”

In more formal language the issue is put to the vote by substantive resolution and amendment: -

“The resolution is that the swimming pool be provided. To this the following amendment has been moved: -

leave out the words ‘swimming pool’ and substitute the words ‘new playing field.’

The motion is “that this amendment be agreed to.”

18. A vote on an amendment does not end the matter: it merely decides what shall be discussed next. Thus, in the example, if the amendment is carried, all further discussion of the swimming pool becomes out of order, but the Council has yet to decide whether the major operation shall be carried out at all. This is done by putting *the resolution as amended(The Substantive Motion) to the vote.*

METHOD OF VOTING

19. The rules on the manner in which decisions are taken are peremptory and admit of no exceptions. Every decision must be reached by a majority of those voting. Appointments must be decided in the same way as other questions.

COMPLETENESS OF INFORMATION

20. Sensible decisions cannot be reached without reasonably complete information, which it is usually the duty of the clerk to supply. The Chairman should before the meeting consider whether enough information is available or likely to be made available, and at the meeting should make a point of asking any member with special knowledge to give their opinion. If it appears at the meeting that information is still insufficient consideration should be adjourned until more is known, and sometimes it may be desirable to frame questions and to request the clerk to obtain the answers by a specified date.

IMPARTIALITY

21. When differences of opinion develop in discussion it is the duty of the Chairman to give a fair hearing to all points of view including their own, if they have one. It is not the duty of Chairmen to suppress their own convictions nor the privilege to impose their opinions. Experience has shown that the safest and least controversial course is for the Chairmen to call upon speakers for and against a proposal to speak alternately and themselves to avoid speaking first or last.
22. Some people are better at putting a case than others and the Chairman ought to allow reasonable latitude to the less eloquent. For this reason mechanical rules of debate limiting, for instance, the time allowed for a speech or the number of times a member may speak, may in certain circumstances be undesirable, and the Chairman should have some latitude to exercise judgement in applying them.

RELEVANCE

General Rule

23. A speech must be directed to the point under discussion and nothing else. This rule is easy to state, but not always easy to apply fairly, because the relevance of what is being said may be understood by the speaker before it is grasped by the listener; whilst the rule should not be made a cover for “barracking from the chair” it is probably true that if Chairmen enforced it more strictly, business would be much more quickly and efficiently conducted than is often the case, and many unnecessary arguments and even some quarrels would be avoided. Bad feeling originates in irrelevancies more often than in any other way. On the other hand, it is sometimes advantageous to allow irrelevance in order to “clear the air”. Too harsh suppression can breed ill will and a sense of grievance. However the Chairman has a duty to keep focus on the topic in hand and avoiding over complicating the issue by adding superfluous side issues to muddy the waters

Personalities

24. Chairmen should do their best to prevent observations in discussion; the custom whereby the speeches are in a form addressed to the Chairman, should only be observed because it forces members to employ an impersonal mode of expression. If a member makes an offensive personal observation, the Chairman should immediately intervene to seek immediate apology to an offended member. If this is directed at the Chairman it is important to nip such offensive personal observations in the bud as respect for the Chair should always be observed. A Councillor should always remember that they may one day be required to take the Chair and to do the job they will need the respect that the position of Chairman should command if they are to be effective.

Methods of Enforcement

25. Where a speech is obviously irrelevant the Chairman should stop the speaker and invite them to return to the point or sit down. Where the irrelevance is not quite so obvious the Chairman may often find it convenient to ask the speaker to explain how their remarks relate to the issue.

Revival of Decided Issues

26. The Chairman should not allow a matter that has been decided to be reopened at the same meeting. An attempt to “hark back” to a previous agenda item should be firmly ruled out of order as irrelevant to the matter now under discussion, even if the member who raises it was not present when the item was considered.

Minutes

27. One of the commonest irrelevances is the practice of attempting to discuss the merits of what is contained in the minutes, on a motion for their signature as a correct record. On such a motion the only issue is whether the words of the minutes accurately record the events at the meeting of which they are a record.

Other Problems

28.

- (a) If any substantial issue arises on a matter dealt with in the Minutes, it is better to have a separate agenda item as there can be no ‘Any Other Business’ at statutory meetings. The public is entitled to know what is on the agenda for a meeting issued in advance.
- (b) Letters received by the Council should not normally be read out verbatim: this provokes irrelevant discussion on wording and is liable to lead to misunderstanding by the public. On the very rare occasions that the exact text is needed by every councillor the clerk should issue copies. Normally it is sufficient to report the main issue in the letter: for example “Mrs Smith of _____ has written asking the Council to get the pile of rubbish removed from outside 48 Lane”.

REASONABLE DESPATCH

Pace of Meetings and Balance

29. It is important that business should be transacted with reasonable speed (Speed as opposed to unseemly haste). Long meetings bore the members and the public and so reduce the level of attentiveness and public spirit, and long intervals between meetings lead to missed opportunities and lack of continuity. The Chairman has a duty to set the pace of the meeting and keep the business moving creating a drive and sense of achievement as opposed to letting things drift on and on.
30. The Chairman should ensure that general and irrelevant matter introduced by Councillors is limited and there is always a clear motion on the table being considered. The Chairman should always be seeking to achieve a decision on the motion by ensuring that all relevant information and relevant views have been brought into the open. This should be without the need for repetition or over emphasis by vociferous members which may sway a decision in a way that defies logical consideration. The Chairman should seek to ensure that information is correct and that half truths or information based on poor research is identified so that emphasis on the facts is clear. Deferment is preferable if information introduced as fact at a meeting has not been checked fully for its veracity.

Obstruction at Meetings

31. Deliberate obstruction is rare, but must be firmly dealt with when it occurs. It is difficult to be directly obstructive for long without being irrelevant, and therefore deliberate obstruction sometimes takes the form of raising a succession of points of order. In dealing with this type of obstruction it is well to remember that a point is not necessarily a point of order because the person who makes it labels it as such.

Repetition

32. If it is evident that nothing new can be said on either side in a particular discussion, a Chairman is justified in putting the matter to the vote even though there are still members wishing to speak. Usually, however, the state of affairs is not so clear and in such cases the Chairman should ask leave of the Council to put the matter to the vote. Every Councillor does not have to speak on every point and there is no right to speak because a Councillor decides they want to. The Chairman must be allowed to judge when enough is enough.

References

33. All deliberative bodies have a natural tendency to refer questions to someone else (e.g. an officer or a committee) for consideration or report. These are frequently unnecessary because they are often used only when a Council is unwilling to make a final decision. The question of what can 'We' as an organisation do? Is often preferable to 'Passing the Buck'. The result

may be that the Council can offer support, help, partnership to/with another organisation which is often preferable than 'Blaming' other organisations but offering nothing positive in turn.

SOME PROCEDURAL POINTS

Points of Order

34. Points of Order relate to procedure only and take precedence of all other business; it is the duty of the Chairman to deal with them. If a point relates to the substance of a matter under discussion it is not a point of order and should be ruled out of order by the Chairman. The person raising the matter of substance in this way should be told to save it for their speech on the business. For instance, if the provision of a swimming pool is being discussed and someone interrupts the speaker by saying "On a point of order, can we afford it?" the interruption should be ruled out of order because this is not a procedural question. It is part of the merits of the business and must therefore be decided by discussion. The person interrupted may of course answer the point when they continue their speech or ignore it as they think appropriate. If, however, the interruption had been "On a point of order, have we power to do this?" the Chairman (in consultation with the clerk) must give a ruling, if the answer is "No", and the Council has no power to act as proposed the business ought not to be under discussion.

Procedural Resolutions

35. Procedural resolutions should normally be put without discussion. The usual exceptions are resolutions to (a) correct minutes, (b) alter the order of business, (c) refer to committee.

Closure Motions

36. The following are the respective effects of closure resolutions:-

- (a) On the passing of a resolution to proceed to "**next business**" proceedings on the business in hand come to a stop and no decision upon it can be taken.
- (b) On the passing of a resolution that the "**question be now put**" the mover is usually entitled to reply before the matter is put to the vote. By custom the chairman may refuse to accept such a resolution until the matter has been sufficiently debated.
- (c) A resolution to "**adjourn a discussion or a meeting**" stops the discussion at the moment it is passed and no decision is taken on the business; therefore the discussion may later be resumed at the point where it was interrupted.

Amendments

37. (a) An amendment, which in substance negates the principle resolution, should not be allowed because it is confusing and unnecessary.

(b) An amendment should always be put to the vote before the resolution that it seeks to amend.

“Any Other” Business

38. The summons to a meeting of a Local Council must by law **specify** the business to be transacted; a Local Council cannot legally decide to take any action under the general heading of “any other business” because these words do not specify any item of business. The rule prevents the Council deciding any business which will have either expenditure consequences or lead the Council into a legal situation: for example by making a contract.

“Urgent” Business

39. The law makes no provision for dealing with “urgent” business. If it is “urgent” only because it was not notified in time to appear on the agenda, it should be left till the next meeting. If it is genuinely “urgent”, that is it was too late for the agenda *and* it will be too late for action if left till the next ordinary meeting there is an item for Urgent Business by the direction of the Chairman. This is not a substitute for Urgent Business and must not be used to commit expenditure which has not been budgeted for or to raise controversial issues which require proper consideration and need to be placed on an agenda for another meeting. **It is contrary to local government law for the Chairman or any other single member to take a decision binding the Council.**

USE OF CHAIRMAN’S VOTES

40. Save on one occasion Chairmen have both an ordinary and a casting vote. There is no rule of law which requires them to give their ordinary vote at the same time as the other members are voting, but it is obviously undesirable and undignified for them to wait and then say “the voting is 5 to 4 against; I therefore vote in favour which makes it even.”

41. Where there is an equality of votes Chairmen may be faced with an embarrassing problem. A resolution requires a majority and therefore, since an equality is not majority, they may declare the resolution *not* carried. This course is, however, sometimes regarded as irresponsible or lacking in courage; in such circumstances the Chairman ought to give a casting vote, if at all possible, in such a way that the matter can be considered again; for instance, on a motion to accept a particular tender a vote in favour will conclude the matter, but a vote against will leave the way open for further negotiations or reconsideration. It is at the discretion of the Chairman how s/he uses their casting vote.

PRESENCE OF THE PUBLIC AND PRESS

41. In principle, the public and the press are entitled to be present at all meetings of the Council, its committees and sub-committees. The Council or a committee or sub-committee, however, may exclude the public for a particular item of business, providing such exclusion is reasonable and in the public interest. Where the public and press have been excluded the decisions made in the closed session must be minuted: a record should be kept of who was present at the session. Business is ‘confidential’ if its discussion must be kept secret: it is

‘special’ and the reasons for secrecy must be stated in any case where the need for secrecy is not obvious.

MALADMINISTRATION

42. Parish and Community Councils are not subject to the jurisdiction of the Local Ombudsman. There is, therefore, no outside body that can adjudicate on complaints about the procedures of a local council if the law has not been broken. It is, however, important for the good name of the Council that complaints be handled properly and fairly. The National Association has therefore published *National Circular 2/86 – Code of Practice in Handling Complaints*, which recommends a standard and formal procedure to all Councils. In light of the Local Government Act 2000, Councils are recommended to agree, with their Standards Committee, a form of complaint procedure for matters falling outside the jurisdiction of the Standards Board.

PUBLIC PARTICIPATION

43. The public cannot, of course, take part in the proceedings of the Council, but an increasing number of Councils have created and sustained public interest in their work by arranging for a short period in meetings when members of the public are permitted to put questions to the Council or to make observations. Such periods can be either before, during the meeting (by adjournment) or at its end.

LENGTH OF MEETINGS

44. Experience suggests that a meeting should never be allowed to continue for more than two hours without a break. Some organisations embody this idea in a Standing Order. This has not been done here, but councillors may well find it advantageous to establish a custom. In Exmouth the custom is for the Chairman to ask at 9pm. if the Council wishes to adjourn or continue to conclusion of business.