

Cyngor Cymunedol COEDPOETH Community Council



COEDPOETH COMMUNITY COUNCIL **GOVERNING DOCUMENTS**

1. **Standing Orders** (pages 2 – 201)
2. **Financial Regulations** (pages 22– 30)
3. **Protocol** – Roles, Responsibilities and Councillor/Officer Relations (pages 31 - 35)
4. **Councillors' Code of conduct** (summary incorporating the Nolan Principles) (pages 36 -38)

Adopted at Council Meeting
held on
Agenda item No.

COEDPOETH COMMUNITY COUNCIL



STANDING ORDERS

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1.0 MEETINGS

- 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 When calculating the four (4) clear days for notice of a meeting to councillors and the public, the day on which the 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 shall not count.
- c 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.
- d Subject to standing order 1(c) above, councillors of the public are permitted to make representations, answer questions and give evidence in respect of any item of business included in the agenda.
- e The period of time which is designated for public participation in accordance with standing order 1(d) shall not exceed fifteen (15) minutes.
- f Subject to standing order 1(e) above, each councillor of the public is entitled to speak once only in respect of business itemised on the agenda and shall not speak for more than five (5) minutes.
- g In accordance with standing order 1(d) above, a question asked by a councillor of the public during a public participation session at a meeting shall not require a response or debate at the meeting.
- h In accordance with standing order 1(g) above, the Chair may direct that a response to a question posed by a councillor of the public be referred to a Councillor for an oral response or to an employee for a written or oral response.
- i A record of a public participation session at a meeting shall be included in the minutes of that meeting.
- j A person shall raise his hand when requesting to speak.
- k Any person speaking at a meeting shall address his comments to the Chair.
- l Only one person is permitted to speak at a time. If more than one person wishes to speak, the Chair shall direct the order of speaking.

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- m Photographing, recording, broadcasting or transmitting the proceedings of a meeting by any means is not permitted without the Council's prior, written, consent.
- n In accordance with standing order 1(c) above, the press shall be provided reasonable facilities for the taking of their report of all or part of any 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 may in his absence be done by, to or before the Vice-Chair (if any).
- p The Chair, if present, shall preside at a meeting. If the Chair is absent from a meeting, the Vice-Chair, 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 standing order 1 (y) below, all questions at a meeting shall be decided by a majority of the Councillors present and voting thereon.
- r The Chair may give an original vote on any matter put to the vote, and in the case of an equality of votes may exercise his casting vote whether or not he gave an original vote.
- s Unless standing orders provide otherwise, such as a secret ballot for appointing the chair and vice chair, voting on any question shall be by a show of hands. At the request of a Councillor, the voting on any question shall be recorded so as to show whether each councillor present and voting gave his vote for or against that question. Such a request shall be made before moving on to the next item of business on the agenda. t.
- t The minutes of a meeting shall record the names of councillors present and absent.
- u If, prior to a meeting, a Councillor has submitted reasons for his absence at the meeting which is then approved by a resolution, such reason shall be recorded in the minutes of the meeting at which the approval was given.
- v The councillors code of conduct shall apply to councillors in respect of the entire meeting.
- w An interest arising from the councillors code of conduct adopted by the Council, the existence and nature of which is required to be disclosed by a Councillor at a meeting, shall be recorded in the minutes. (*See also standing orders 7 and 8 below*).
- x No business may be transacted at a meeting unless at least five (5) councillors are present.

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- y If a meeting is or becomes inquorate no business shall be transacted and the meeting shall be adjourned. Any outstanding business of a meeting so adjourned shall be transacted at a following meeting.
- z Meetings shall not exceed a period of two and one half (2.5) hours.

2.0 ORDINARY COUNCIL MEETINGS

See also standing order 1 above

- a In an election year, the annual meeting of the Council shall be held on or within 14 days following the day on which the new councillors elected take office.
- b In a year which is not an election year, the annual meeting of a Council shall be held on such day in May as the Council may direct.
- c If no other time is fixed, the annual meeting of the Council shall take place at 7.30pm.
- d In addition to the annual meeting of the Council, other ordinary meetings may be held in each year on such dates and times as the Council may direct.
- e The election by secret ballot of the Chair and Vice-Chair (if any) of the Council shall be the first business completed transacted at the annual meeting of the Council.
- f The Chair of the Council, unless s/he has resigned or becomes disqualified, shall continue in office and preside at the annual meeting until their successor is elected at the next annual meeting of the Council.
- g The Vice-Chair of the Council, if any, unless s/he resigns or becomes disqualified, shall hold office until immediately after the election of the Chair of the Council at the next annual meeting of the Council.
- h In an election year, if the current Chair of the Council has not been re-elected as a councillor of the Council, he shall preside at the meeting until a successor Chair of the Council has been elected by secret ballot. The current Chair of the Council shall not have an original vote in respect of the election of the new Chair of the Council but must give a casting vote in the case of an equality of votes.
- i In an election year, if the current Chair of the Council has been re-elected as a councillor of the Council, he shall preside at the meeting until a new Chair of the Council has been elected by secret ballot. He may exercise an original vote in respect of the election of the new Chair of the Council and must give a casting vote in the case of an equality of votes.

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- j Following the election of the Chair of the Council and Vice-Chair (if any) of the Council at the annual meeting of the Council, the order of business shall be as follows.
 - i. In an election year, delivery by councillors of their declarations of acceptance of office.
 - ii. Confirmation of the accuracy of the minutes of the last meeting of the Council and to receive and note minutes of and/or to determine recommendations made by committees.
 - iii. Review of delegation arrangements to committees, sub-committees, employees and other local authorities.
 - iv. Review of the terms of references for committees.
 - v. Receipt of nominations to existing committees.
 - vi. Appointment of any new committees, confirmation of the terms of reference, the number of councillors (including, if appropriate, substitute councillors) and receipt of nominations to them.
 - vii. Review and adoption of appropriate standing orders and financial regulations.
 - viii. Review of any arrangements, including any charters, with other local authorities and review of contributions made to expenditure incurred by other local authorities.
 - ix. Review of representation on or work with external bodies and arrangements for reporting back.
 - x. Review of inventory of land and assets including buildings and office equipment.
 - xi. Review and confirmation of arrangements for insurance cover in respect of all insured risks.
 - xii. Review of the Council's and/or employees' councillorships of other bodies.
 - xiii. Establishing or reviewing the Council's complaints procedure.
 - xiv. Establishing or reviewing the Council's procedures for handling requests made under the Freedom of Information Act 2000 and the Data Protection Act 1998.
 - xv. Establishing or reviewing the Council's policy for dealing with the press/media.
 - xvi. Setting the dates, times and place of ordinary meetings of the full Council for the year ahead.

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3.0 PROPER OFFICER

- a The Council's Proper Officer shall be the Clerk or such other employee as may be nominated by the Council from time to time. The Proper Officer and the employee appointed to act as such during the Proper Officer's absence shall fulfil the duties assigned to the Proper Officer in standing orders.
- b The Council's Proper Officer shall do the following.
 - i. Sign and serve on councillors a summons confirming the time, date, venue and the agenda of a meeting of the Council at least four (4) clear days before the meeting.
 - ii. Give public notice of the time, date, venue and agenda at least five (5) clear days before a meeting of the Council.
 - iii. Subject to standing orders 4(a)–(e) below (p8), include in the agenda all motions in the order received unless a councillor has given written notice at least four (4) days before the meeting confirming their withdrawal of any motion that they have submitted.
 - iv. Convene a meeting of full Council for the election of a new Chair of the Council, occasioned by a casual vacancy in his office.
 - v. Make available for inspection the minutes of meetings.
 - vi. Receive and retain copies of byelaws made by other local authorities.
 - vii. Receive and retain declarations of acceptance of office from councillors.
 - viii. Retain a copy of every councillor's register of interests and any changes to it and keep copies of the same available for inspection.
 - ix. Keep proper records required before and after meetings;
 - x. Process all requests made under the Freedom of Information Act 2000 and the Data Protection Act 1998.
 - xi. Receive and send general correspondence and notices on behalf of the Council except where there is a resolution to the contrary.
 - xii. Manage the organisation, storage of and access to information held by the Council in paper and electronic form.
 - xiii. Arrange for legal deeds to be signed by two (2) councillors and witnessed (*See also standing order 14*).

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- xiv. Arrange for the prompt authorisation, approval, and instruction regarding any payments to be made by the Council in accordance with the Council's financial regulations (pages 22-30).
- xv. Record every planning application notified to the Council and the Council's response to the local planning council.
- xvi. Refer planning applications received to Council.
- xvii. Action or undertake activity or responsibilities instructed by resolution or contained in standing orders.

4.0 MOTIONS REQUIRING NOTICE

- a In accordance with standing order 3(b)(iii) above, no motion may be moved at a meeting unless it is included in the agenda and the mover has given written notice of its wording to the Council's Proper Officer at least six (6) clear days before the next meeting.
- b The Proper Officer may, before including a motion in the agenda received in accordance with standing order 4(a) above, correct obvious grammatical or typographical errors in the wording of the motion.
- c If the Proper Officer considers the wording of a motion received in accordance with standing order 4(a) above is not clear in meaning, the motion shall be rejected until the mover of the motion resubmits it in writing to the Proper Officer in clear and certain language at least five (5) clear days before the meeting.
- d If the wording or nature of a proposed motion is considered unlawful or 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 or rejected from the agenda.
- e Having consulted the Chair or councillors pursuant to standing order 4(d) above, the decision of the Proper Officer as to whether or not to include the motion in the agenda shall be final.
- f Notice of every motion received in accordance with the Council's standing orders shall be numbered in the order received and shall be entered in a permanent record, which shall be open to inspection by all councillors.
- g Every motion rejected in accordance with the Council's standing orders shall be duly recorded in the minutes with a note by the Proper Officer giving reasons for its rejection.
- h Every motion and resolution shall relate to the Council's statutory functions, powers and lawful obligations or shall relate to an issue which specifically affects the Council's area or its residents.

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5.0 MOTIONS NOT REQUIRING WRITTEN NOTICE

- a Motions in respect of the following matters may be moved without written notice.
 - i. To appoint a person to preside at a meeting.
 - ii. To approve the absences of councillors.
 - iii. To approve the accuracy of the minutes of the previous meeting.
 - iv. To correct an inaccuracy in the minutes of the previous meeting.
 - v. To dispose of business, if any, remaining from the last meeting.
 - vi. To alter the order of business on the agenda for reasons of urgency or expedience.
 - vii. To proceed to the next business on the agenda.
 - viii. To close or adjourn debate.
 - ix. To refer by formal delegation a matter to a committee or to a sub-committee or an employee.
 - x. To appoint a committee or sub-committee.
 - xi. To receive nominations to a committee or sub-committee.
 - xii. To dissolve a committee or sub-committee.
 - xiii. To note the minutes of a meeting of a committee or sub-committee.
 - xiv. To consider a report and/or recommendations made by a committee or a sub-committee or an employee.
 - xv. To consider a report and/or recommendations made by an employee, professional advisor, expert or consultant.
 - xvi. To authorise legal deeds.
 - xvii. To authorise emergency repairs not exceeding £1,000.
 - xviii. To amend a motion relevant to the original or substantive motion under consideration which will not have the effect of nullifying it.
 - xix. To extend the time limit for speeches.
 - xx. To exclude the press and public for all or part of a meeting (see 1.c above).

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- xxi. To silence or exclude from the meeting a Councillor or a councillor of the public for disorderly conduct.
 - xxii. To give the consent of the Council if such consent is required by standing orders.
 - xxiii. To suspend any standing order except those which are mandatory by law.
 - xxiv. To adjourn the meeting.
 - xxv. To appoint representatives to outside bodies and to make arrangements for those representatives to report back the activities of outside bodies.
 - xxvi. To answer questions from councillors.
- b If a motion falls within the terms of reference of a committee or sub-committee or within the delegated powers conferred on an employee, a referral of the same may be made to such committee or sub-committee or employee provided that the Chair may direct for it to be dealt with at the present meeting for reasons of urgency or expedience.

6.0 RULES OF DEBATE

- a Motions included in an agenda shall be considered in the order that they appear on the agenda unless the order is changed at the Chair's direction for reasons of expedience.
- b Subject to standing orders 4(a)–(e) above, a motion shall not be considered unless it has been proposed and seconded.
- c Subject to standing order 3(b)(iii) above, a motion included in an agenda not moved by the councillor who tabled it, may be treated as withdrawn.
- d A motion to amend an original or substantive motion shall not be considered unless proper notice has been given after the original or substantive motion has been seconded and notice of such amendment, shall, if required by the Chair, be reduced to writing and handed to the Chair who shall determine the order in which they are considered.
- e A Councillor may move amendments to his own motion. If a motion has already been seconded, an amendment to it shall be with the consent of the seconder.
- f Any amendment to a motion shall be either:
 - i. to leave out words;
 - ii. to add words;
 - iii. to leave out words and add other words.

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- g A proposed or carried amendment to a motion shall not have the effect of rescinding the original or substantive motion under consideration.
- h Only one amendment shall be moved and debated at a time, the order of which shall be directed by the Chair. No further amendment to a motion shall be moved until the previous amendment has been disposed of.
- i Subject to Standing Order 6(h) above, one or more amendments may be discussed together if the Chair considers this expedient but shall be voted upon separately.
- j Pursuant to standing order 6(h) above, the number of amendments to an original or substantive motion, which may be moved by a councillor, is limited to one.
- k If an amendment is not carried, other amendments shall be moved in the order directed by the Chair.
- l If an amendment is carried, the original motion as amended shall take the place of the original motion and shall become the substantive motion upon which any further amendment may be moved.
- m The mover of a motion or the mover of an amendment shall have a right of reply, not exceeding five (5) minutes.
- n Where a series of amendments to an original motion is carried, the mover of the original motion shall have a right of reply in respect of the substantive motion at the very end of debate and immediately before it is put to the vote.
- o Subject to standing orders 6(m) and (n) above, a councillor may not speak further in respect of any one motion except to speak once on an amendment moved by another councillor or to make a point of order or to give a personal explanation.
- p During the debate of 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 considers has been breached or specify the irregularity in the meeting about which he is concerned.
- q A point of order shall be decided by the Chair and his or her decision shall be final.
- r With the consent of the seconder and/or of the meeting, a motion or amendment may be withdrawn by the proposer. A councillor shall not speak upon the said motion or amendment unless permission for the withdrawal of the motion or amendment has been refused.
- s Subject to standing order 6(o) above, when a councillor's motion is under debate no other motion shall be moved except:

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- 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 silent or for him 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;
 - ix. to suspend any standing order, except those which are mandatory.
- t In respect of standing order 6(s)(iv) above, the Chair shall first be satisfied that the motion has been sufficiently debated before it is seconded and put to the vote. The Chair shall call upon the mover of the motion under debate to exercise or waive his right of reply and shall put the motion to the vote after that right has been exercised or waived. The adjournment of a debate or of the meeting shall not prejudice the mover's right of reply at the resumption.

7.0 CODE OF CONDUCT (Wales)

- a All councillors shall observe the code of conduct adopted by the Council.
- b All councillors shall undertake training in the code of conduct within six (6) months of the delivery of their declaration of acceptance of office.
- c Councillors may exercise rights contained in standing order 7(d) below, only if councillors of the public are permitted to (i) make representations, (ii) answer questions and (iii) give evidence relating to the business being transacted.
- d Councillors who have a prejudicial interest in relation to any item of business being transacted at that meeting may (i) make representations, (ii) answer questions and (iii) give evidence relating to the business being transacted but must, thereafter, leave the room or chamber.

8. QUESTIONS

- a A councillor may seek an answer to a question concerning any business of the Council provided five (5) clear days' notice of the question has been given to the Proper Officer.
- b Questions not related to items of business on the agenda for a meeting shall only be asked during the part of the meeting set aside for such questions.

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9. MINUTES

- a If a copy of the draft minutes of a preceding meeting has been circulated to councillors no later than the day of service of the summons to attend the scheduled meeting they shall be taken as read.
- b No discussion of the draft minutes of a preceding meeting shall take place except in relation to their accuracy. A motion to correct an inaccuracy in the minutes shall be raised in accordance with standing order 5(a)(iv) above.
- c Minutes, including any amendment to correct their accuracy, 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, s/he 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 were a correct record but his or her view was not upheld by the majority of the Council and the minutes are confirmed as an accurate record of the proceedings.”
- e Upon a resolution which confirms the accuracy of the minutes of a meeting, any previous draft minutes or records of the meeting shall be destroyed.

10. DISORDERLY CONDUCT

- a No person shall obstruct the transaction of business at a meeting or behave offensively or improperly.
- b If, in the opinion of the Chair, there has been a breach of standing order 10(a) above, the Chair shall express that opinion and thereafter any councillor (including the Chair) may move that the person be silenced or excluded from the meeting, and the motion, if seconded, shall be put forthwith and without discussion.
- c If a resolution made in accordance with standing order 10(b) above, is disobeyed, the Chair may take such further steps as may reasonably be necessary to enforce it and/or s/he may adjourn the meeting.

11. RESCISSION OF PREVIOUS RESOLUTIONS

- a A resolution (whether affirmative or negative) of the Council shall not be reversed within six (6) months except either by a special motion, the written notice whereof bears the names of at least five (5) councillors of the Council.

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- b When a special motion or any other motion moved pursuant to standing order 11(a) above has been disposed of, no similar motion may be moved within a further six (6) months.

12. VOTING ON APPOINTMENTS

- a Where more than two (2) persons have been nominated for a position to be filled by the Council and none of those persons has received an absolute majority of votes in their favour, the name of the person having the least number of votes shall be struck off the list and a fresh vote taken. This process shall continue until a majority of votes is given in favour of one person. Any tie may be settled by the Chair's casting vote.

13. EXPENDITURE

- a Any expenditure incurred by the Council shall be in accordance with the Council's financial regulations.
- b The Council's financial regulations shall be reviewed once a year.
- c The Council's financial regulations may make provision for the authorisation of the payment of money in exercise of any of the Council's functions to be delegated to a committee, sub-committee or to an employee.

14. EXECUTION OF LEGAL DEEDS

See also standing order 5(a)(xvi) above

- a A legal deed shall not be executed on behalf of the Council unless the same has been authorised by a resolution. In accordance with a resolution made under standing order 14, any two councillors of the Council, may sign, on behalf of the Council, any deed required by law and the Proper Officer shall witness their signatures.

15. COMMITTEES

See also standing order 1 above

- a The Council may, at its annual meeting, appoint standing committees and may at any other time appoint such other committees as may be necessary, and:
 - i. shall determine their terms of reference;
 - ii. may permit committees to determine the dates of their meetings;
 - iii. shall appoint and determine the term of office of councillor or non-councillor councillors of such a committee (unless the appointment of non-councillors is prohibited by law) so as to hold office no later than the next annual meeting;

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- iv. may appoint substitute councillors to a committee whose role is to replace ordinary councillors at a meeting of a committee if ordinary councillors of the committee have confirmed to the Proper Officer four (4) days before the meeting that they are unable to attend;
- v. an ordinary councillor of a committee who has been replaced at a meeting by a substitute councillor (in accordance with standing order 15(a)(iv) above) shall not be permitted to participate in debate or vote on business at that meeting and may only speak during any public participation session during the meeting;
- vi. may dissolve a committee at any time.

16. SUB-COMMITTEES

See also standing order 1 above

- a Unless there is a Council resolution to the contrary, every committee may appoint a sub-committee whose terms of reference and councillors shall be determined by resolution of the committee.

17. EXTRAORDINARY MEETINGS

See also standing order 1 above

- a The Chair of the Council may convene an extraordinary meeting of the Council at any time.
- b If the Chair of the Council does not or refuses to call an extraordinary meeting of the Council within seven (7) days of having been requested to do so by two councillors, those two councillors may convene an extraordinary meeting of the Council. The statutory public notice giving the time, venue and agenda for such a meeting must be signed by the two councillors.

18. ADVISORY COMMITTEES

See also standing order 1 above

- a The Council may appoint advisory committees comprised of a number of councillors and non-councillors.
- b Advisory committees and any sub-committee(s) may consist wholly of persons who are not councillors.

19. ACCOUNTS AND FINANCIAL STATEMENT

- a All payments by the Council shall be authorised, approved and paid in accordance with the Council's financial regulations, which shall be reviewed at least annually.

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- b The Clerk/Responsible Financial Officer shall supply to each councillor a monthly budget statement. This statement should include a comparison with the budget for the financial year. A Financial Statement prepared on the appropriate accounting basis (receipts and payments, or income and expenditure) for a year to 31 March shall be presented to each councillor before the end of the following month of May. The Statement of Accounts of the Council (which is subject to external audit), including the annual governance statement, shall be presented to Council for formal approval before 30 June.

20. ESTIMATES AND PRECEPTS

- a The Council shall approve written estimates for the coming financial year at its meeting before the end of December.
- b Any committee desiring to incur expenditure shall give the Proper Officer a written estimate of the expenditure recommended for the coming year no later than 1 November.

21. CANVASSING OF AND RECOMMENDATIONS BY COUNCILLORS

- a Canvassing councillors or the councillors of a committee directly or indirectly, for appointment to or by the Council shall disqualify the candidate from such an appointment. The Proper Officer shall disclose the requirements of this standing order to every candidate.
- b A councillor or a councillor of a committee or sub-committee shall not solicit a person for appointment to or by the Council or recommend a person for such appointment or for promotion; but, nevertheless, any such person may give a written testimonial of a candidate's ability, experience or character for submission to the Council with an application for appointment.
- c This standing order shall apply to tenders as if the person making the tender were a candidate for an appointment.

22. INSPECTION OF DOCUMENTS

- a Subject to standing orders to the contrary or in respect of matters which are confidential, a councillor may, for the purpose of their official duties (but not otherwise), inspect any document in the possession of the Council and request a copy for the same purpose. The minutes of meetings of the Council, its committees or sub-committees shall be available for inspection by councillors.

23. UNAUTHORISED ACTIVITIES

Unless authorised by a resolution, no individual councillor shall in the name or on behalf of the Council inspect any land and/or premises which the Council has a right or duty to inspect; or issue orders, instructions or directions.

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24. CONFIDENTIAL BUSINESS

- a Councillors and employees shall not disclose information given in confidence or which they believe, or ought to be aware, is of a confidential nature.
- b A councillor in breach of the provisions of standing order 24(a) above may be removed from a committee or a sub-committee by a resolution of the Council.

25. MATTERS AFFECTING COUNCIL EMPLOYEES

- a If a meeting considers any matter personal to a Council employee, it shall not be considered until the Council has decided whether or not the press and public shall be excluded pursuant to standing order 1(c) above.
- b All absences from work will be notified to the Council.
- c The Chair of the Council or, in his absence, the Vice-Chair, shall upon a resolution conduct a review of the performance and/or appraisal of the Clerk and shall keep a written record of it.
- d Subject to the Council's policy regarding the handling of grievance matters, the Council's most senior employee (or other employees) shall contact the Chair of the Council or in his absence, the Vice-Chair, and this matter shall be reported back and progressed by means of a resolution of the Council.
- e Subject to the Council's policy regarding the handling of grievance and disciplinary matters, if an informal or formal grievance matter raised by a councillor or staff relates to the Chair or Vice-Chair of the Council, this shall be communicated to another councillor of the Council appointed by the Council which shall be reported back and progressed by a resolution of the Council.
- f Any persons responsible for all or part of the management of Council employees shall keep written records of all meetings relating to their performance, and capabilities, grievance and disciplinary matters.
- g The Council shall keep written records relating to employees secure. All paper records shall be secured under lock and electronic records shall be password protected.
- h Records documenting reasons for an employee's absence due to ill health or details of a medical condition shall be made available only to those persons with responsibility for the same.
- i Only persons with line management responsibilities shall have access to employee records referred to in standing orders 25(g) and (h) above if so justified.

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- j Access and means of access by keys and/or computer passwords to records of employment referred to in standing orders 25(g) and (h) above shall be provided only to the Clerk and/or the Chair of the Council.

26. FREEDOM OF INFORMATION ACT 2000

- a All requests for information held by the Council shall be processed in accordance with the Council's policy in respect of handling requests under the Freedom of Information Act 2000.
- b Correspondence from, and notices served by, the Information Commissioner shall be referred by the Proper Officer to the chair of the Council and reported to Council.

27. DATA PROTECTION ACT

The Council will abide by the Data Protection Act 1998 which defines UK law on the processing of data on identifiable living people. The Key Principles which the Council will uphold are the eight data protection principles:

1. must process data fairly and lawfully
2. must be obtained for one or more specific and lawful purposes and only processed in a manner compatible with them
3. must be adequate, relevant and not excessive for the purposes defined
4. must be accurate and where necessary kept up to date
5. shall not be kept for longer than is necessary
6. must be processed in accordance with the data subject's rights
7. must be kept secure
8. must not be transferred outside the European Economic Area unless there is adequate protection for the rights of data subjects

28. RELATIONS WITH THE PRESS/MEDIA

- a All requests from the press or other media for an oral or written statement or comment from the Council shall be processed in accordance with the Council's policy in respect of dealing with the press and/or other media.
- b In accordance with the Council's policy in respect of dealing with the press and/or other media, councillors shall not, in their official capacity, provide oral or written statements or written articles to the press or other media.

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29. LIAISON WITH COUNTY BOROUGH COUNCILLORS

- a An invitation to attend a meeting of the Council shall be sent, together with the agenda, to the councillors of Wrexham County Borough Councillor representing the two wards of Coedpoeth Community Council.

30. FINANCIAL MATTERS

- a The Council shall consider and approve financial regulations drawn up by the Responsible Financial Officer, which shall include arrangements in respect of the following:
 - i. the accounting records and systems of internal control;
 - ii. the assessment and management of financial risks;
 - iii. the work of the Internal Auditor 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;
- b Any proposed contract for the supply of goods, materials, services and the execution of works with an estimated value in excess of £25,000 shall be procured on the basis of a formal tender as summarised in standing order 30(c) below.
- c Any formal tender process shall comprise the following steps:
 - i. a specification of the goods, materials, services and the execution of works shall be drawn up;
 - ii. tenders are to be sent, in a sealed marked envelope, to the Proper Officer by a stated date and time;
 - iii. tenders submitted are to be opened, after the stated closing date and time, by the Proper Officer and at least one councillor of the Council;
 - iv. tenders are then to be assessed and reported to Council.
- d Neither the Council, nor any committee, is bound to accept the lowest or any tender, estimate or quote.
- e Where the value of a contract is likely to exceed the threshold specified by the Office of Government Commerce from time to time the Council must consider whether the Public Contracts Regulations 2006 (SI No. 5, as amended) and the Utilities Contracts Regulations 2006 (SI No. 6, as amended) apply to the contract and, if either of these Regulations applies, the Council must comply with EU procurement rules.

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31. ALLEGATIONS OF BREACHES OF THE CODE OF CONDUCT

- a On receipt of a notification that there has been an alleged breach of the code of conduct the Proper Officer shall refer it to the Council and then to Wrexham County Borough Council's Monitoring Officer and the Ombudsman for Wales.
- b Where the notification relates to a complaint made by the Proper Officer, the Proper Officer shall notify the Chair of the Council of that fact, who, upon receipt of such notification, shall nominate a person to assume the duties of the Proper Officer set out in the remainder of this standing order, who shall continue to act in respect of that matter 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 The subject matter of notifications shall be confidential and, insofar as it is possible to do so by law, the Council (including the Proper Officer and the Chair of the Council) shall take the steps set out below, together with other steps considered necessary, to maintain confidentiality.
 - i. Ensure that any background papers/correspondence are not made public.
 - ii. Ensure that the public and press are excluded from meetings as appropriate.
 - iii. Ensure that the minutes of meetings preserve the confidentiality of the contents of any correspondence from the Ombudsman for Wales.
- e Consider any liaison that may be required with the Ombudsman for Wales with statutory responsibility for the investigation of the matter.
- f Standing order 31(d) above should not be taken to prohibit the Council (whether through the Proper Officer or the Chair) from disclosing information to councillors and officers of the Council or to other persons where such disclosure is necessary to deal with the complaint or is required by law.
- g The Council shall have the power to:
 - i. seek documentary and other evidence from the person or body with statutory responsibility for investigation of the matter;
 - ii. seek and share information relevant to the complaint;
 - iii. grant the councillor involved a financial indemnity in respect of legal costs, which shall be in accordance with the law and subject to approval by a meeting of the full Council.

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- c References in standing order 31 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.

32. VARIATION, REVOCATION AND SUSPENSION OF STANDING ORDERS

- a Any or every part of the standing orders, except those which are mandatory by law, may be suspended by resolution in relation to any specific item of business.
- b A motion to add to or vary or revoke one or more of the Council's standing orders, not mandatory by law, shall be proposed by a special motion, the written notice whereof bears the names of at least five (5) councillors.

33. STANDING ORDERS GIVEN TO COUNCILLORS

- a The Proper Officer shall provide a copy of the Council's standing orders to a councillor upon delivery of his declaration of acceptance of office.
- b The Chair's decision as to the application of standing orders at meetings shall be final.
- c A councillor's failure to observe standing orders more than three (3) times in one meeting may result in him being excluded from the meeting in accordance with standing orders.

Approved

COEDPOETH COMMUNITY COUNCIL



FINANCIAL REGULATIONS

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1. GENERAL

- 1.1 These financial regulations govern the conduct of financial management by the Council and may only be amended or varied by resolution of the Council. The Council is responsible in law for ensuring that its financial management is adequate and effective and that the council has a sound system of financial control which facilitates the effective exercise of the council's functions, including arrangements for the management of risk and for the prevention and detection of fraud and corruption. These financial regulations are designed to demonstrate how the council meets these responsibilities.
- 1.2 The Responsible Financial Officer (RFO) is a statutory office and shall be appointed by the council. The Clerk has been appointed as RFO for this council and these regulations will apply accordingly. The RFO, acting under the policy direction of the Council, shall administer the Council's financial affairs in accordance with proper practices. The RFO shall determine on behalf of the council its accounting records and accounting control systems. The RFO shall ensure that the accounting control systems are observed and that the accounting records of the council are maintained and kept up to date in accordance with proper practices.
- 1.3 The RFO shall produce financial management information as required by the council.
- 1.4 At least once a year, prior to approving the annual return, the council shall conduct a review of the effectiveness of its system of internal control which shall be in accordance with proper practices.
- 1.5 In these financial regulations, references to the Accounts and Audit Regulations shall mean the Regulations issued under the provisions of section 27 of the Audit Commission Act 1998 and then in force.
- 1.6 In these financial regulations the term 'proper practice' or 'proper practices' shall refer to guidance issued in Governance and Accountability in local Councils in England and Wales – a Practitioners' Guide which is published jointly by the National Association of Local Councils (MALC) and the Society of Local Council Clerks (SLCC) and updated from time to time..

2. ANNUAL ESTIMATES (BUDGET)

- 2.1 At the November meeting Councillors will be given the opportunity to submit proposals to the Council in respect of revenue and capital including the use of reserves and sources of funding for the following financial year.
- 2.2 Detailed estimates of all receipts and payments including the use of reserves and all sources of funding for the year shall be prepared each year by the RFO in the form of a budget to be considered by the Council.
- 2.3 The Council shall review the budget by the December meeting each year and shall fix the Precept to be levied for the ensuing financial year. The RFO shall issue the precept to the billing council and shall supply each councillor with a copy of the approved budget.

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2.4 The annual budget shall form the basis of financial control for the ensuing year.

3 BUDGETARY CONTROL

3.1 Expenditure on revenue items may be incurred up to the amounts included for that class of expenditure in the approved budget.

3.2 No expenditure may be incurred that will exceed the amount provided in the revenue budget for that class of expenditure. During the budget year and with the approval of council having considered fully the implications for public services, unspent and available amounts may be moved to other budget headings or to an earmarked reserve as appropriate.

3.3 The RFO shall regularly provide the Council with a budget statement comparing actual expenditure to the appropriate date against that planned as shown in the budget. These statements are to be prepared monthly.

3.4 The Clerk may incur expenditure on behalf of the Council which is necessary to carry out any repair replacement or other work which is of such extreme urgency that it must be done at once, whether or not there is any budgetary provision for the expenditure, subject to a limit of £750. The Clerk shall report the action to the Council as soon as practicable thereafter.

3.5 Unspent provisions in the revenue budget shall not be carried forward to a subsequent year unless placed in an earmarked reserve by resolution of the council.

3.6 No expenditure shall be incurred in relation to any capital project and no contract entered into or tender accepted involving capital expenditure unless the Council is satisfied that the necessary funds are available, or the requisite borrowing approval has been obtained.

3.7 All capital works shall be administered in accordance with the Council's standing orders and financial regulations relating to contracts.

4. ACCOUNTING AND AUDIT

4.1 All accounting procedures and financial records of the Council shall be determined by the RFO in accordance with the Accounts and Audit Regulations.

4.2 The RFO shall complete the annual financial statements of the Council, including the council's annual return, as soon as practicable after the end of the financial year and shall submit them and report thereon to the Council.

4.3 The RFO shall complete the Accounts of the Council contained in the Annual Return and shall submit the Annual Return for approval and authorisation by the Council within the timescales set by the Accounts and Audit Regulations.

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- 4.4 The RFO shall ensure that there is an adequate and effective system of internal audit of the Council's accounting, financial and other operations in accordance with proper practices. Any officer or councillor of the Council shall, if the RFO or Internal Auditor requires, make available such documents of the Council which appear to the RFO or Internal Auditor to be necessary for the purpose of the internal audit and shall supply the RFO or Internal Auditor with such information and explanation as the RFO or Internal Auditor considers necessary for that purpose.
- 4.5 The Internal Auditor shall be appointed by and shall carry out the work required by the council in accordance with proper practices. The Internal Auditor, who shall be competent and independent of the operations of the Council, shall report to Council in writing, or in person, on a regular basis each financial year. In order to demonstrate objectivity and independence, the internal auditor shall be free from any conflicts of interest and have no involvement in the financial decision making, management or control of the council.
- 4.6 The RFO shall make arrangements for the opportunity for inspection of the accounts, books, and vouchers and for the display or publication of any Notices and statements of account required by Law (See 4.3).
- 4.7 The RFO shall, as soon as practicable, bring to the attention of all councillors any correspondence or report from the Internal or External Auditor, unless the correspondence is of a purely administrative nature.

5. BANKING ARRANGEMENTS

- 5.1 The Council's banking arrangements, including the Bank Mandate, shall be made by the RFO and approved by the Council. They shall be regularly reviewed for effectiveness, efficiency and accountability.
- 5.2 A schedule of the payments required, forming part of the Agenda for the Meeting, shall be prepared by the Clerk together with the relevant invoices, to be presented to Council. If the schedule is in order it shall be authorised by a resolution of the Council and shall be initialled by the Chair of the Meeting. If more appropriate the detail may be shown in the Minutes of the Meeting.
- 5.3 All payments shall be made electronically.

6 PAYMENT OF ACCOUNTS

- 6.1 All invoices for payment shall be examined, verified and certified by the Clerk. The Clerk shall satisfy him/herself that the work, goods or services to which the invoice relates shall have been received, carried out, examined and approved.
- 6.2 The RFO shall examine invoices in relation to arithmetical accuracy and shall analyse them to the appropriate expenditure heading. The Clerk shall take all steps to settle all invoices submitted, and which are in order, at the next available Council Meeting.

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- 6.3 If a payment is necessary to avoid a charge of interest under the Late Payment of Commercial Debts (Interest) Act 1998, and the due date for payment is before the next scheduled Meeting of Council, where the Clerk and RFO certifies that there is no dispute or other reason to delay payment, the Clerk may (notwithstanding paragraph 6.3) take all steps necessary to settle such invoices provided that a list of such payments shall be submitted to the next appropriate meeting of Council.
- 6.4 The Council will not maintain any form of cash float. All cash received must be banked intact. Any payments made in cash by the Clerk or RFO (for example for postage or minor stationery items) shall be refunded on a regular basis, at least quarterly.
- 6.5 If thought appropriate by the council, any payment may be made by variable Direct Debit provided that the instructions are signed in accordance with the bank mandate and that any payments are reported to council as made. The approval of the use of a variable Direct Debit shall be renewed by resolution of the council at least every two years.

7 PAYMENT OF SALARIES

- 7.1 As an employer, the council shall make arrangements to meet fully the statutory requirements placed on all employers by PAYE and National Insurance legislation. The payment of all salaries shall be made in accordance with payroll records and the rules of PAYE and National Insurance currently operating and salaries shall be as agreed by Council.
- 7.2 Payment of salaries and payment of deductions from salary such as may be made for tax, national insurance and pension contributions, may be made in accordance with the payroll records and on the appropriate dates stipulated in employment contracts, provided that each payment is ratified at the next available Council Meeting.
- 7.3 The Council will enter into a Service Level Agreement (SLA) with any external party providing payroll facilities for the Council.

8 LOANS AND INVESTMENTS

- 8.1 All loans and investments shall be negotiated in the name of the Council and shall be for a set period in accordance with Council policy.
- 8.2 The council shall consider the need for an Investment Policy which, if drawn up, shall be in accordance with relevant regulations, proper practices and guidance. Any Policy shall be reviewed at least annually.
- 8.3 All investments of money under the control of the Council shall be in the name of the Council.
- 8.4 All borrowings shall be effected in the name of the Council, after obtaining any necessary borrowing approval.
- 8.5 All investment certificates and other documents relating thereto shall be retained in the custody of the RFO.

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9 INCOME

- 9.1 The collection of all sums due to the Council shall be the responsibility of and under the supervision of the RFO.
- 9.2 Particulars of all charges to be made for any work done, services rendered or goods supplied shall be agreed annually by the Council, notified to the RFO and the RFO shall be responsible for the collection of all accounts due to the Council.
- 9.3 The Council will review all fees and charges annually, following a report of the Clerk.
- 9.4 Any sums found to be irrecoverable and any bad debts shall be reported to the Council and shall be written off in the year.
- 9.5 All sums received on behalf of the Council shall be banked intact as directed by the RFO. In all cases, all receipts shall be deposited with the Council's bankers with such frequency as the RFO considers necessary.
- 9.6 The origin of each receipt shall be entered on the paying-in slip.
- 9.7 Personal cheques shall not be cashed out of money held on behalf of the Council.
- 9.8 The RFO shall promptly complete any VAT Return that is required. Any repayment claim due in accordance with VAT Act 1994 section 33 shall be made at least annually coinciding with the financial year end.

10 ORDERS FOR WORK, GOODS AND SERVICES

- 10.1 An official order or letter shall be issued for all work, goods and services unless a formal contract is to be prepared or an official order would be inappropriate. Copies of orders shall be retained.
- 10.2 Order books shall be controlled by the RFO.
- 10.3 All councillors and Officers are responsible for obtaining value for money at all times. An officer issuing an official order shall ensure as far as reasonable and practicable that the best available terms are obtained in respect of each transaction, usually by obtaining three or more quotations or estimates from appropriate suppliers, subject to any de minimis provisions in Regulation 11 (l) below.
- 10.4 The Clerk shall verify the lawful nature of any proposed purchase before the issue of any order, and in the case of new or infrequent purchases or payments, the Clerk shall ensure that the statutory council shall be reported to the meeting at which the order is approved so that the Minutes can record the power being used.

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11 CONTRACTS

11.1 Procedures as to contracts are laid down as follow:

- (a) Every contract shall comply with these financial regulations, and no exceptions shall be made otherwise than in an emergency provided that these regulations shall not apply to contracts which relate to items (i) to (vi) below:
 - (i) for the supply of gas, electricity, water, sewerage and telephone services;
 - (ii) for specialist services such as are provided by solicitors, accountants, surveyors and planning consultants;
 - (iii) for work to be executed or goods or materials to be supplied which consist of repairs to or parts for existing machinery or equipment or plant;
 - (iv) for work to be executed or goods or materials to be supplied which constitute an extension of an existing contract by the council;
 - (v) for additional audit work of the external Auditor up to an estimated value of £250 (in excess of this sum the Clerk shall act after consultation with the chair and vice chair of council);
 - (vi) for goods or materials proposed to be purchased which are proprietary articles and/or are only sold at a fixed price.
- (b) Where it is intended to enter into a contract exceeding £5,000 in value for the supply of goods or materials or for the execution of works or specialist services other than such goods, materials, works or specialist services as are excepted as set out in paragraph (a) the Clerk shall invite tenders from at least three firms.
- (c) When applications are made to waive financial regulations relating to contracts to enable a price to be negotiated without competition the reason shall be embodied in a recommendation to the Council.
- (d) Any invitation to tender shall state the general nature of the intended contract and the Clerk shall obtain the necessary technical assistance to prepare a specification in appropriate cases. The invitation shall in addition state that tenders must be addressed to the Clerk in the ordinary course of post. Each tendering firm shall be supplied with a specifically marked envelope in which the tender is to be sealed and remain sealed until the prescribed date for opening tenders for that contract.
- (f) All sealed tenders shall be opened at the same time on the prescribed date by the Clerk in the presence of at least one councillor of the Council.
- (g) If fewer than three tenders are received for contracts above £5,000 or if all the tenders are identical the Council may make such arrangements as it thinks fit for procuring the goods or materials or executing the works.

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- (h) When it is to enter into a contract less than £5,000 in value for the supply of goods or materials or for the execution of works or specialist services other than such goods, materials, works or specialist services as are excepted as set out in paragraph (a) the Clerk or RFO shall obtain three (3) quotations (priced descriptions of the proposed supply); where the value is below £1,000 the Clerk shall strive to obtain three (3) estimates. Otherwise, Regulation 10 (3) above shall apply.
- (j) The Council shall not be obliged to accept the lowest or any tender, quote or estimate.

12. PAYMENTS UNDER CONTRACTS FOR BUILDING OR OTHER CONSTRUCTION WORKS

- 12.1 Payments on account of the contract sum shall be made within the time specified in the contract by the RFO upon authorised certificates of the architect or other consultants engaged to supervise the contract (subject to 5% withholding as may be agreed in the particular contract).
- 12.2 Where contracts provide for payment by instalments the RFO shall maintain a record of all such payments. In any case where it is estimated that the total cost of work carried out under a contract, excluding agreed variations, will exceed the contract sum by 5% or more a report shall be submitted to the Council.
- 12.3 Any variation to a contract or addition to or omission from a contract must be approved by the Council and the Contractor in writing, the Council being informed whether the final cost is likely to exceed the financial provision.

13 STORES AND EQUIPMENT

- 13.1 The clerk shall be responsible for the care and custody of stores and equipment in that section.
- 13.2 Delivery Notes shall be obtained in respect of all goods received into store or otherwise delivered and goods must be checked as to order and quality at the time delivery is accepted.
- 13.3 Stocks shall be kept at the minimum levels consistent with operational requirements.
- 13.4 The RFO shall be responsible for periodic checks of stocks and stores and at least annually.

14 ASSETS, PROPERTIES AND ESTATES

- 14.1 The Clerk shall make appropriate arrangements for the custody of all title deeds of properties owned by the Council. The RFO shall ensure a record is maintained of all properties owned by the Council, recording the location, extent, plan, reference, purchase details, nature of the interest, tenancies granted, rents payable and purpose for which held in accordance with Accounts and Audit Regulations.

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14.2 No property shall be sold, leased or otherwise disposed of without the council of the Council, together with any other consents required by law, save where the estimated value of any one item of tangible movable property does not exceed fifty pounds (£50).

14.3 The RFO shall ensure that an appropriate and accurate Register of Assets and Investments is kept up to date. The continued existence of tangible assets shown in the Register shall be verified at least annually.

15 INSURANCE

15.1 Following the annual risk assessment (per Financial Regulation 17), the RFO shall effect all insurances and negotiate all claims on the Council's insurers.

15.2 The RFO shall keep a record of all insurances effected by the Council and the property and risks covered thereby and annually review it.

15.3 The RFO shall be notified of any loss, liability or damage or of any event likely to lead to a claim, and shall report these to the Council at the next available meeting.

15.4 All appropriate employees of the Council shall be included in a suitable fidelity guarantee insurance which shall cover the maximum risk exposure as determined by the Council.

16 CHARITIES

16.1 Where the Council is sole trustee of a charitable body the RFO shall ensure That separate accounts are kept of the funds held on charitable trusts and separate financial reports made in such form as shall be appropriate, in accordance with Charity Law and legislation. The RFO shall arrange for any Audit or Independent Examination as may be required by Charity Law or any Governing Document.

17 RISK MANAGEMENT

17.1 The Council is responsible for putting in place arrangements for the management of risk. The Clerk shall prepare, for approval by the council, risk management policy statements in respect of all activities of the council. Risk policy statements and consequential risk management arrangements shall be reviewed by the Council at least annually.

17.2 When considering any new activity, the Clerk shall prepare a draft risk assessment for consideration and adoption by the council.

18 REVISION OF FINANCIAL REGULATIONS

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

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COEDPOETH COMMUNITY COUNCIL



PROTOCOL – ROLES, RESPONSIBILITIES AND COUNCILLOR/OFFICER RELATIONS

1.0 INTRODUCTION

- 1.1 Councillors and Officers are servants of the public and they are indispensable to one another. Their responsibilities, however, are distinct. Councillors are elected by and responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council and their job is to give advice to Councillors and to the Council, and to carry out the Council's work under the direction and control of the Council and relevant committees.
- 1.2 A root cause of any difficulties is often a failure of mutual recognition of roles.
- 1.3 Mutual trust and respect between Councillors and Officers is essential to ensure good governance.
- 1.4 This Protocol is intended to assist Councillors and Officers in approaching many of the sensitive circumstances which arise in a challenging working environment.

2.0 THE ROLE OF THE CHAIR

- 2.1 The first business of the council at the annual council meeting is to elect a Chair. A council is not properly constituted until it has appointed a chair and any business carried out before the election of a chair is void. However, anyone elected to the office of Chair cannot act in that office until the prescribed declaration of acceptance of office has been made.
- 2.2 The Chair of a council, if present at meetings, must preside. S/he generally has both an original and a casting vote unless s/he has not been elected as a councillor in the new council, when s/he does not have an original vote. Where there is an equality of votes in the election of a new chair the presiding chair has, and must use, a casting vote to break an equality of votes, whether s/he has an original vote or not.
- 2.3 In law, the Chair has few special powers (a casting vote, the right to convene, attend, chair the meeting and to sign minutes). S/he cannot be given delegated council to act on behalf of the Council, and the Chair has no right in law to give any directions other than those approved by the full Council. In particular, for example, the Chair of Council has no powers to suspend or

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dismiss the Officers of the Council. The powers and duties of the chair are generally derived from standing orders and common law.

- 2.4 At common law it is the duty of the chair “to preserve order, and to take care that the proceedings are conducted in a proper manner and the sense of the meeting is properly ascertained”. The Chair at a meeting has control of its procedure for the purpose of enforcing the law and maintaining good order. S/he must prevent decisions being taken on matters which are not on the agenda.
- 2.5 Other responsibilities pertaining to meetings said to fall to the Chair include:
1. Determining that the meeting is properly constituted and quorate;
 2. Informing himself or herself as to the business and objects of the meeting;
 3. Confining discussion within the scope of the meeting and within reasonable time limits;
 4. Deciding on the validity of motions and amendments and points of order;
 5. Adjourning the meeting (when circumstances justify and bearing in mind that the right to adjourn is vested in the meeting).

3.0 ROLE OF THE CLERK TO THE COUNCIL

- 3.1 The current statutory basis for employing a Clerk is Section 112 of the Local Government Act 1972. The Clerk to the Council is “The Proper Officer” of the Council, i.e. the person responsible for formal acts and to whom all correspondence is addressed in the normal course of events and for the service of legal documents.
- 3.2 The Clerk is responsible for the following:
- Administration of the affairs of the Council
 - Advising the Council on policy matters
 - Guiding the Chair on procedural issues
 - Ensuring that Council decisions after due deliberation are conducted according to the relevant rules, regulations and procedures.
- 3.3 It is the duty of the Clerk as the Proper Officer to assist Councillors of the Council on matters of fact and law. Councillors (even where it is contrary to their personal wishes or expectations) should take fully into account the advice and guidance given by the Clerk to the Council on the existence and applicability of the relevant facts or the law. Councillors should then seek means to make their policy decisions taking into account such guidance.
- 3.4 The Clerk to the Council may take any of the actions necessary to continue the running of the Council, where no decision between alternative courses of action is needed – without waiting for a decision of a Council Meeting. Normally such a decision would be made in consultation with the Chair and reported to the next Council meeting.

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- 3.5 If a Councillor resigns his or her seat, the Clerk acts as soon as the written notice reaches the Chair or the Clerk to the Council. This is an automatic administrative function within the responsibilities of the Clerk to the Council as the Proper Officer. Other situations may be covered by the Council having given delegated powers to the Clerk to the Council.
- 3.5 The Clerk to the Council is in the position of a non-partisan and independent Officer at the same time as being an employee. They must carry out the work and lawful instructions of the Council irrespective of any personal opinion or preference.
- 3.6 The post of the Clerk to the Council should be seen as similar to that of the Chief Executive in a County or County Borough Council.
- 3.7 Councillors should not take any responsibility for administrative or managerial tasks because these are discharged by the Clerk. Problems will occur when Councillors sometimes try to take over the role of Clerk, particularly in drafting the minutes of meetings or writing letters from the Council.
- 3.8 Councils should remind themselves that the Clerk's role is wide-ranging and that it could embrace the following:

| | | |
|--------------------|--------------------------|-------------------------------|
| Office Manager | Legal Officer | Responsible Financial Officer |
| Purchasing Officer | Public Relations Officer | Researcher |
| Editor | IT Manager | Training Officer |
| Property Manager | Project Manager | Burial Officer |
| Venue Manager | Committee Secretary | Liaison Officer |

A Council should not consider the Clerk to be a Secretary or a Clerk Typist but as a hands-on multi-skilled manager.

4.0 COUNCILLORS AS INDIVIDUALS

- 4.1 It is the role of Councillors as individuals to represent their communities and bring their views, experience and skills into the Council's decision-making process. Whilst they can deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances, they will also need to balance different interests and represent their Ward as a whole. They will also need to be available to represent their Council on other bodies.
- 4.2 Individuals cannot act as a councillor until they have signed a formal declaration of acceptance of office. This must be done in the prescribed form at or before the first meeting attended; unless the Council agrees that it can be done at a subsequent meeting. Councillors must also sign an agreement to abide by the code of conduct adopted by their council in which they agree to act openly, honourably and in the public interest in accordance with the Nolan Principles. They must never use their position to secure advantage for themselves, family or friends, and must not do anything that brings the council into disrepute. Councillors are under a duty to report any perceived breach of the Code.

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- 4.3. Councillors also have a duty to register specific financial interests within 28 days of election and must declare a personal interest as soon as they are aware that they might benefit, more than most other people in the village, from the outcome of a discussion on the agenda. Where judgement of the public interest could be prejudiced, then this personal interest becomes a prejudicial interest and they must leave the meeting room for that agenda item; this must also be minuted.
- 4.4 Individuals have a duty to act properly as a councillor. In particular they have a responsibility to:
1. attend meetings when summoned to do so; the notice to attend a council meeting is, in law, a summons, because councillors have a duty to attend;
 2. prepare for meetings by studying the agenda and making sure they are properly informed about issues to be discussed;
 3. take part in meetings and form sound judgements based on what is best for the community – and then to abide by majority decisions;
 4. ensure, with other councillors, that the council is properly managed;
 5. represent the whole electorate, and not just those who voted for them; listen, and then represent the views of the community when discussing council business and working with outside bodies;
 6. maintain proper standards of behaviour as an elected representative

5.0 THE RELATIONSHIP BETWEEN THE CLERK AND THE COUNCIL

- 5.1 A local Council only functions well through partnership-working between the Chair, the Clerk to the Council and the Councillors. The most effective Councils are those where a climate of mutual respect has been achieved and is maintained. The relationship between Councillors and officers is an essential ingredient that goes into the successful working of the organisation. This relationship within the council is characterised by mutual respect, informality and trust. Councillors and officers feel free to speak to one another openly and honestly.
- 5.2 Certain officers, for example the Clerk and/or the Responsible Financial Officer have responsibilities in law over and above their obligations to the Council and to individual Councillors. Councillors must respect these obligations and must not obstruct officers in the discharge of these responsibilities. The Clerk and other officers of the Council are the employees of the Council corporate. No one Councillor, or group of Councillors may require the Clerk to the Council, or other Officers, to carry out any duty or function within the scope of their employment that does not have the sanction of the full Council acting under a majority decision. The Council has power to delegate functions to a Committee or Sub-Committee of the Council, or to the Clerk to the Council, or other Officers.

6.0 THE COUNCIL AS A CORPORATE BODY

- 6.1 A Community Council is a body corporate. It is an instance of the corporate status that the council, rather than the individuals who comprise it, has legal significance. A councillor in their individual capacity has no executive powers and can exercise no lawful council.

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6.2 A Council has a legal identity as a corporate body and is separate and distinct from the persons who comprise an council for the time being. As such, it can hold property, employ staff and sue or be sued in its own name. This means that individual councillors are not personally liable for acts done in good faith by the Council. However, Local Authorities derive their powers from statute and do not exist independently of it. This means that, although they may properly lobby for changes in the law, in their day-to-day conduct of affairs they must act within the law as it stands. It also means that councils are subject to the “ultra vires” doctrine and cannot act beyond the powers bestowed upon them by statute.

6.3 As employers, councils have a duty to ensure the health, safety and welfare at work of all employees. They must also arrange for the proper administration of their financial affairs.

7.0 **PROCEDURE TO ADOPT IN RESPECT OF A BREAK-DOWN IN MUTUAL TRUST**

7.1 **STEP 1:** The Chair and/or Vice Chair to talk to the parties concerned with a view to resolving the issue(s) in the interests of the Community Council. In carrying out this role the Chair/Vice Chair will:

- Remain calm
- Show respect to both parties
- Discuss and debate the issue(s)
- Concentrate on the facts
- Look for a compromise

If Step 1 fails consider steps 2, 3 & 4.

7.2 **STEP 2:** Seek mediation. This is a process whereby a neutral third party consults with those involved in a conflict to see whether the problem can be presented in a way which facilitates a resolution. The mediator may simply listen and ask questions or s/he may suggest other ways of looking at the problem or even suggesting possible solutions. Classically this is the approach used in most relationship counselling.

7.3 **STEP 3:** Seek conciliation. This is a similar process to mediation but a little more activist on the part of the third party who will normally attempt to find a solution by proposing a 'third way'.

7.4.1 **STEP 4:** Seek arbitration. This is a process involving a third party who, from the beginning, is invited by the conflicting parties to propose a solution. The two parties may originally have agreed merely to consider the proposed solution (non-binding arbitration) or they may have agreed in advance to accept the decision of the arbitrator (binding arbitration). This approach is often used in industrial disputes.

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COUNCILLORS CODE OF CONDUCT - SUMMARY (INCORPORATING THE NOLAN PRINCIPLES)

1.0 WHAT IS THE CODE OF CONDUCT?

1.1 Every council is required to adopt a code of conduct which sets out rules governing the behaviour of its councillors. All elected, co-opted and councillors of local authorities, including community councils, fire, police and national parks authorities are covered by the code.

2.0 ARE ALL COUNCILS BOUND BY THE CODE?

2.1 Each council must include the provisions of a model code of conduct approved by Parliament. Authorities can choose to add their own local rules to the model code if they wish, although most adopt the model code without additions. Any local rules must be in keeping with the spirit of the code of conduct and not make it unenforceable.

3.0 WHAT SORT OF THINGS DOES THE CODE COVER?

3.1 The code of conduct covers areas of individual behaviour such as councillors not abusing their position and not misusing their council's resources. In addition, there are rules governing disclosure of interests and withdrawal from meetings when councillors have relevant interests. Councillors are also required to record their financial and other interests.

4.0 INTERESTS AND BIAS

4.1 Councillors have a general duty under the code of conduct to register and, where applicable, declare personal interests at meetings. They must also consider whether their personal interest gives rise to a prejudicial one and, if so, take the relevant steps as set out below. Whilst interests can apply to many scenarios, Community Councillors often have particular queries with regards to councillorship of lobby groups and being a dual-hatted councillor.

4.2 Councillors should act in accordance with the general principles which underpin the code and in particular:

- a. You should serve the public interest only;
- b. You should not place yourself in a situation where your honesty and integrity may be questioned;

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- c. You should reach your own conclusions on the issues before you;
- d. You should take decisions fairly on the merits of the issue;
- e. You may take into account the views of others, including your political group, but should reach your own conclusions on the issues before you act in accordance with those conclusions.

4.3 Personal interests - The Code of conduct requires you to declare a personal interest in any matter relating to an interest you must include in your register of interests.

- a. You are required to declare a personal interest if you are a councillor of a group that lobbies or campaigns about an issue that comes up for discussion or decision at your council.
- b. You should declare the existence and nature of your interest at the meeting so that councillors of the public are informed about interests that may relate to your decisions.
- c. You can continue to participate unless the interest is also prejudicial (see the section on prejudicial interests below).
- d. You may not have a personal interest in a related discussion or decision of your council if you merely campaigned on an issue as an individual and not as councillor of a relevant lobby group - for example, if you tackled an issue as part of your election campaign. However, you should still consider the general test for personal and prejudicial interests and whether there is any other reason why you should not participate in the decision, including the possibility of bias.
- e. You may want to discuss your circumstances with your monitoring officer.

4.4.1 Prejudicial interests - Under the Code of conduct, you only have to withdraw from a meeting where your personal interest is also prejudicial. General test for prejudicial interests - Would a councillor of the public, who knows the relevant facts, reasonably think your personal interest is so significant that it is likely to prejudice your judgment of the public interest?

5 NOLAN PRINCIPLES

5.1 The code of conduct seeks to ensure that councillors observe the highest standards of conduct in their civic role. The current Code incorporates the Ten Principles of Public Life based on the seven 'Nolan' principles set out by the Committee on Standards in Public Life.

5.2 The Ten General Principles are:

Selflessness - Councillors should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity - Councillors should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

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Objectivity - Councillors should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability - Councillors should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness - Councillors should be as open as possible about their actions and those of their council, and should be prepared to give reasons for those actions.

Personal Judgement - Councillors may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others - Councillors should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the council's statutory officers, and its other employees.

Duty to Uphold the Law - Councillors should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship - Councillors should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership - Councillors should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.