

Chairmanship

(NOTE: In this part the word 'Chairman' means the person actually presiding at a meeting and 'Council' includes 'committee' where any function has been delegated. The Standing Orders in Part II may be applied or modified accordingly).

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 which they can understand.
2. It is the primary, if not 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 he 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 *friendly* 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. (For which see Standing Order 11 (2) on page ...). The scope of his authority, 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 his rulings must be obeyed by an individual councillor 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 ought to be very rare.

The authority of the Chairman as such is limited to matters of procedure and neither increases nor decreases his right (in comparison with other members) to discuss the merits

of a particular case. It is one of his most difficult tasks to remember that while the Chair gives him authority on matters of procedure, it confers no rights (other than the casting vote) on matters of policy which are not possessed by other members.

PRELIMINARY

6. Before any meeting the Chairman should study the subjects for the agenda with 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

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 he will naturally not wish to be rude, the Chairman should cut an interrupter short, and if good humour and conciliation fail to produce silence he may have to warn him that he will be turned out if he does it again; if the warning is ignored it should be resolved, without discussion, that the interrupter be excluded, and if he fails to leave he should be removed by force. Care should be taken to use no more force than is necessary. It is not essential to call the police, but may be necessary

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 in as much as its representatives must so far as possible, be given facilities for taking their reports.

Personal and Prejudicial Interests

The law requires that where a member has a personal interest in any matter he must disclose the existence and nature of that interest. If the personal interest is also prejudicial (England) or requires withdrawal (Wales), the member should withdraw from the room or chamber 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 himself) 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) or the Commission (Wales).

Rulings on Notices

The Chairman must be satisfied that the meeting is lawful. He does not need to have personal knowledge that the proper notices and summonses have been issued, but if

complaints are made he must give a ruling based upon the essential justice of the matter. A meeting is not necessarily illegal because someone has not received a notice to which he is entitled, but where an irregularity appears to be intentional or important the meeting should be adjourned until it has been corrected.

Quorum

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 next be dealt with. Those members with a prejudicial interest (England) or a personal interest requiring withdrawal (Wales) should consider making an application for dispensation to their standards committee where appropriate.

Ultra Vires Proposals

13. The Chairman should satisfy himself that any proposal involving expenditure is lawful and should rule any lawful 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. The section 137 power (contained in the Local Government Act 1972) is not a 'long stop' in case of a mistake; expenditure under this heading requires a special resolution, related to the provisions of that section.

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 £5000 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”

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 to the vote*. (See also paragraph 35 below)

METHOD OF VOTING

- 19 The rules on the manner in which decisions are taken as peremptory and admit of no exceptions. Every decision must be reached by a majority of those voting. Appointments to employments 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 he should make a point of asking a member with special knowledge to give his opinion. If it appears at the meeting that information is still insufficient he should move to adjourn consideration until more is known, and sometimes it may be desirable to frame questions and to instruct 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 his own if he has one. It is not his duty as Chairman to suppress his own convictions nor his privilege to impose his opinions. Experience has shown that the safest and least controversial course is for the Chairman to call upon speakers for and against a proposal to speak alternately and himself 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 are undesirable, and the Chairman should have some latitude in applying them, especially in a Council with a small membership.

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 not be (and often is) 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.

Personalities

- 24 The Chairman should do his best to prevent observations in discussion; the custom whereby speeches are in form addressed to the Chairman only should 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.

Methods of Enforcement

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

Revival of Decided Issues

- 26 The Chairman should not allow a matter which has been decided to be reported 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 than to discuss it under 'Matters Arising'. That heading should be used only for reports of progress, and not for new or additional decisions.
 - b) Letters received by the Council should not be read out verbatim: this provokes

thinks 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, because if the answer is “No”, the Council has no power to act as proposed and the business ought not to be under discussion. (see Standing Order 31 (a) below)

Procedural Resolutions

- 34 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

- 35 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 he thinks that 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

- 36
- a) An amendment which in substance negatives 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 which it seeks to amend. (See also paragraph 18 above)

“Any Other Business”

- 37 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. There is no practical objection to exchanges of information under ‘A.O.B.’ or the giving of a preliminary notification of importance business for next time

“Urgent” Business”

- 38 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, an additional meeting should be called *or* the Council should have a regular arrangement for the reference of such matters either to a committee or to the clerk for action. 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

- 39 Save on one occasion, the Chairman has both an ordinary and a casting vote. There is no rule of law which requires him to give his ordinary vote at the same time as the other members are voting, but it is obviously undesirable and undignified for him to wait and then say "the voting is 5 to 4 against; I therefore vote in favour which makes it even".
- 40 Where there is an equality of votes a Chairman may be faced with an embarrassing problem. A resolution requires a majority and therefore since an equality is not majority, he 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.

PRESENCE OF THE PUBLIC AND PRESS

- 41 In principle, the public (which includes the press) is entitled to be present at all meetings of the Council and its committees, and ought to be admitted to sub-committees. The Council or a committee, however, may exclude the public for a particular item of business, if it is reasonably of the opinion that such exclusion is in the public interest. Where the public and press have been excluded, the decision made in the closed session must be minuted: a record should be kept of who was present at the session: the press should be told of any decision. 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 Local Councils are not subject to the jurisdiction of the Local Ombudsman. There is therefore no outside body which 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 a form of complaint procedure for matters falling outside the jurisdiction of the Standards Board with their Standards Committee

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 (say 20 to 30 minutes) when members of the public are permitted to put questions to the Council or to make observations. Such periods can be either 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.