

Horwich Town Council

Introduction pack for New Councillors

Getting Started

Introduction

Horwich Town Council congratulate you on your recent election to becoming a town councillor within Horwich.

Becoming a new councillor can be overwhelming as well as exciting. Therefore, to help you settle into your new role, Horwich Town Council have developed this Introduction Pack to help you understand:

- Your obligations as a council member
- Rules, regulations, and procedures of a council
- Your role and the role of others within the council

Getting Started

1. Declarations of Acceptance of Office

On accepting office as councillor, you will be required to complete a Declaration of Acceptance form.

When you sign the declaration, you will undertake to observe the Council's Code of Conduct, so it is essential that you read through the code. A copy of which will be provided to you by the Clerk.

You cannot participate as a councillor (including participating in any meetings of the council, its' committees, sub-committees or as a representative on an outside body) until you have signed the Declaration of Acceptance of Office. This form is provided to you by the Clerk, usually before your first full council meeting.

2. Registering Financial and Other Interests

As a member of a local authority, you are obliged under statutory requirements to complete a Register of Pecuniary (Financial) Interests. This form is lodged with the Monitoring Officer of your district council. The Clerk will also hold a copy for future reference. The register is a public document and is published online by both the town and district council. It may also be inspected upon request by any member of the public and may be referred to where there is an alleged breach of the council's code of conduct.

The clerk will provide you with a Register of Interest Form for completion and returning to them within 28 days of your election to the council. This is a requirement of the code and enables you to register your disclosable pecuniary interests. Full instructions are given on the form regarding its completion.

The details, which you will need to register, are set out in full within the Code of Conduct for Members. You are also required to register any change to the interests previously registered, within 28 days of becoming aware of any such change. If you have any changes to register at any time, you should inform the clerk to ensure that any changes are informed to the Monitoring Officer.

The responsibility to keep your register up to date is YOURS. Although you have registered a particular interest in writing, you will still be required to disclose that interest at meetings should circumstances arise.

Further information on making disclosures at meetings is given within the Code of Conduct and Declaration of Interests section of this guide.

3. Code of Conduct

As an elected member you are required to consider all matters with an open mind, in an open and transparent process, free from interest. The council will have adopted a code of conduct for its members, which reflects its statutory requirement to promote and maintain the high standards of conduct, as required by the Localism Act 2011.

The code applies to you whenever you are acting as a councillor or the public perceive you to be acting as a councillor. It is essential that you become familiar with the code as soon as possible.

4. Freedom of Information (FOI) & General Data Protection Regulations (GDPR)

The council is obliged by law to make information on its activities available to the public upon request. It maintains a Publication Scheme, which should be available to the public via the council's website and identifies classes of information, which are routinely in the public domain. All information held by the council is available to the public, although in some cases an exemption may apply, which may permit the council to refuse to supply the information.

Information held by members of the council belongs to the council and is also covered by FOI and therefore members may be approached to produce their records if a specific enquiry warrants it. This includes notes, recorded telephone conversations, texts, or instant messaging etc.

The council should provide a dedicated email address to be used by members for all council related business. Personal email addresses should not be used in place of these. Should your personal email account be used on behalf of council related business, any such correspondence relating to a specific enquiry may fall within the obligations of the FOI and required to be made publicly available.

Members should seek advice from the Clerk if they have any concerns or are approached by a member of the public for such information under this legislation.

The council is also obliged under the General Data Protection Regulation (GDPR), which requires personal data to be processed in a manner that ensures its security. To ensure the identity of any members of the public are protected, it's urged all members and staff of a council to refer to members of the public as 'the individual'.

5. Training

Horwich Town Council and LALC recommends members and staff regularly attend sessions to improve and update their understanding of matters affecting their roles and local government. The council should support and encourage members and staff to attend training events, conferences and seminars provided by organisations such as LALC, SLCC etc.

Examples of training available include:

Councillor Skills

Chairmanship

Finance (Including VAT, budgeting, audit and risk management)

Planning

CiLCA (Certificate in Local Council Administration) – predominantly for staff members

Council Meetings

1. Attending your first meeting

Having completed all relevant paperwork, the first meeting you attend will be the first meeting after your election/co-option to office. An agenda and accompanying papers will be sent to you, most likely by email 3 clear working days before the meeting and you should familiarise yourself with the items for discussion. You may find it helpful to meet with the clerk and/or chairman before your first meeting to understand the issues to be discussed.

2. Calendar of Meetings

Councils are required to hold a minimum of four full council meetings a year, including an annual meeting of the council. The clerk will be able to provide you with a full schedule of meeting dates

3. Organisation of Meetings

The clerk will organise any meetings of the council.

4. Annual Parish Meeting

The Annual Parish Meeting is held once a year. This meeting is a public meeting, open to all residents of the parish. The council is required, under the Local Government Act 1972, Sch 12, Part III to hold an Annual Parish Meeting each year between 1st March and 1st June.

5. Annual Meeting of the Council

The annual meeting of the council is always held in May. This is a full council meeting, and the agenda will include:

- The election of the chairman
- The election of the vice chairman
- Confirmation of the council's committees
- Review of the council's standing orders and financial regulations
- Appointment of members to the council's committees
- Appointment of members to be representatives to outside bodies

The annual meeting of the council, in a year of the elections, must take place on or within 14 days after the day on which the newly elected councillors take office. In a year where there are no elections, the council's annual meeting must take place in May, as required under the Local Government Act 1972, Sch 12, Part II.

6. Agendas, Reports and Minutes

Statute requires a member of the council to be 'summoned' to attend a meeting. This formal notice will provide the date, time and place of a meeting. It will also include the agenda to give you details of all items to be discussed and the level of discussion to take place i.e. whether the council are considering an action to be taken, receive a report, or passing a resolution. It is important members take the time to read the agenda and any accompanying reports/papers to ensure they are familiar with the item once at the meeting.

At times, the council are required to consider a confidential item of business. Any information within any report marked confidential should not be divulged to anyone who is not a member of the council; where the paper relates to a committee meeting, this may also include other councillors who are not on that committee. If you are unsure, you should contact the Clerk to discuss.

After every meeting, a set of minutes are produced by the Clerk. The minutes are a record of the meeting's proceedings and remain the clerk's draft until approved as a correct record of proceedings at the following meeting.

Although the council allows for a public participation item at its meetings, where members of the public can raise issues, speak of items on the agenda and question council decision, they are not public meetings, but meetings held in public.

7. Committees and Committee Structure

The council determines its committee structure at its annual meeting held in May.

You may receive copies of the papers relating to any of the council's committees, and if the standing orders allow, may be able to attend and observe their meetings. However, you will not be able to participate or vote on committees unless you have been appointed to the committee by the council.

All committees should have a Terms of Reference in order to provide a clear set of responsibilities.

Respective roles of the Members and the Clerk

1. Introduction

This section is intended to give members of the council some guidance as to the respective roles of both the members and the Clerk in assisting the council to function, including guidance on how the roles work in practice.

2. The Role of Members

Members are collectively responsible for making council decisions, for which they are accountable to the electorate (all those within the parished area able to vote).

Members are not directly involved in the day-to-day provision of services to the public. This does not mean that there should be no contact between members and council staff on such matters, and indeed, Members may often be asked by electors to pursue matters on their behalf.

However, members have no executive authority, and will need to deal with matters either through their collective council membership or in liaison with the Clerk concerning a local concern.

It therefore follows that there are no circumstances where an individual member can issue an instruction to their clerk or a contractor. Likewise, a member must never act 'on behalf of the council' in the organisation of any function or service and must ensure they make it clear when speaking to individuals that you speak as a 'councillor' and not on behalf of the council as a whole.

3. The Role of Clerk

The Clerk is an employee of the council as a whole and cannot take instruction from individual members. Firstly, they are the professional adviser to the council on matters of policy, and secondly, the executor of council policy, i.e. carrying out the instruction of the council.

The Clerk takes no part in the decision making of the council except to provide independent and unbiased information to support the council in its decision making. The Clerk is answerable to the full council because the council, as a whole, is the Clerk's employer.

The council derives its powers from statute. There are few statutory functions that the council must do, but many discretionary powers the council can choose to do. The council cannot do anything that legislation does not permit.

Duties v Powers

A council must do what the law requires it to do, this is a duty.

There are a few duties that the council must do, and this includes appointing a chairman, Proper Officer (Clerk) and Responsible Financial Officer, appoint an internal auditor, hold a minimum of four meetings a year, comply and consider legislation within its decisions and provide allotments if there is a demand.

A council may only do what the law allows it to do, this is a power.

There are many Acts of Parliament that give the council powers. Some examples include the power to provide public toilets, power to maintain, repair and protect the war memorial in the area and power to provide and maintain land for public recreation.

The Code of Conduct and Declaration of Interests

1. Code of Conduct

A council has a statutory duty to promote and maintain high standards of conduct by its Members when representing the council. There are seven principles, which apply to the standards of conduct, they are:

1. Selflessness – Members should act solely in terms of the public interest.
2. Integrity – Members should avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions to gain financial or other material benefits for themselves, their family, or their friends. Members must declare and resolve any interests and relationships.
3. Objectivity – Members must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
4. Accountability – Members are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
5. Openness - Members should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
6. Honesty – Members should be truthful.
7. Leadership – Members should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

2. Declaration of Interests

During your term of office, you will, from time to time, have close links to items being discussed. The council's code of conduct will require you to consider these links and if necessary, declare a level of interest in the matter and leave the room when the matter is discussed.

There is an opportunity at the start of each and every meeting of the council to notify the meeting of any interest, but you also have a duty to declare an interest as soon as you become aware of it. This may mean declaring an interest during discussion rather than the start of a meeting.

You must state the level of interest and the nature of it and ensure that these are recorded within the minutes of the meeting.

3. Disclosable Pecuniary Interests

All Members are required, by law under the Localism Act 2011, to complete a Register of Disclosable Pecuniary Interests form to register:

- Disclosable pecuniary interests; and

- The disclosable pecuniary interest of their spouses or civil partners (or persons with whom they live in that capacity)

Disclosable Pecuniary Interests relate to

- Employment
- Sponsorship
- Contracts held with the council
- Land held in the parish (owned, rented, or leased)
- Licenses with the council
- Tenancy
- Securities and capital held in organisations which have a place of business within the parish

The Localism Act 2011 confirms a breach of this part of the code is a criminal offence punishable by a fine and/or suspension or five years disqualification from holding office.

Completed Register of Disclosable Pecuniary Interest forms are held by the Monitoring Officer at your District Council as well as with the Clerk.

The responsibility to declare an interest lies with you, the councillor. You will have a disclosable pecuniary interest registered and whenever the council is discussing something which affects anything on the register, you must declare the interest and leave the room during discussions on that matter (including when raised by the public during public participation).

4. Non-Registerable Interests

The council will discuss many things, some of which may have an impact or relevance to yourself, a family member, a close personal acquaintance, or an outside body upon which you serve. Your interest may not be a financial interest but a personal, non-registerable interest.

Only you can decide whether you have an interest. It is not whether you think that your judgement of the public interest would be prejudiced, but what a member of the public with relevant facts would perceive or reasonably think. In other words, you must put yourself in the position of a member of the public and view the situation through their eyes, and not have regard to what you might consider to be your incorruptibility.

If you decide that you have a non-registrable interest, you must remove yourself from the room any time when the item is discussed. Your withdrawal should be recorded within the minutes of the meeting.

Interests are a complex area; if you have any concerns or queries you should always seek advice from the Clerk, who may refer you to the Monitoring Officer or LALC.

5. Dispensations

At times it may be helpful for the council to allow a member or members to stay in the room, despite a declared interest. For example, a dispensation may be granted if the exclusion of a member means that the meeting becomes inquorate. In certain circumstances, the council can approve a dispensation which either allows you to stay for

the discussion or stay for the discussion and vote. Procedures for obtaining a dispensation will be set out within the council's standing orders.

6. Gifts and Hospitality

Councillors should be cautious of accepting any offer or gift, favour or hospitality that could be perceived as being given as a result of their position as a member of the council. It is not always inappropriate or unlawful to accept a gift or hospitality, but each individual case should be considered as to whether it is appropriate to accept any gifts, or hospitality and councillors should have regard to how the acceptance could be perceived by others.

This paper is not intended or constitutes legal advice.