

Payhembury Parish Council

New Councillor induction guide

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INTRODUCTION

Welcome and congratulations on your election or co-option to serve as a member of Payhembury Parish Council. This guide is to help you understand

- Your obligations as a Councillor
- Your role as an elected member
- The council's rules and procedures for the conduct of its business.

If you have any queries during your term of office, please do not hesitate to contact the Clerk who is always willing to help. The Clerk is your first point of contact for all matters including any complaints, or requests for action or matters concerning the business of the Council.

There are a number of important documents which you will need to be aware of including the Council's policies, Code of Conduct, Standing Orders, Financial Regulations etc, several of which are referred to in this document. The 'Information for Councillors' webpage on the Parish Council's website - <http://www.payhemburyparishcouncil.org.uk/> - has links to these documents, as well as providing links to other documents and useful websites that you will find offer helpful guidance. The Parish Council website also provides updates on projects, planning information and much more.

If there is anything you feel is missing from this document or that you feel would be helpful to include, especially for new Councillors, please let the Clerk know.

SECTION A - GETTING STARTED

1. Declarations of Acceptance of Office

On accepting the office as Councillor you will be asked to complete a Declaration of Acceptance of Office. When you sign the Declaration you will undertake to observe the Code of Conduct adopted by the Council so it is essential you have read the Code, more details are given subsection 3 below.

You cannot participate as a Councillor (including participating in any meetings of the Council) until you have signed a Declaration of Acceptance of Office.

The relevant form can be downloaded from the 'Information for Councillors' webpage but will need to be signed before the **next Council meeting** in the presence of the Clerk.

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2. Registering Financial and Other Interests

As a member of a local authority you are also statutorily required to complete a Register of Pecuniary (Financial) Interests. This form will be lodged with the Monitoring Officer of East Devon District Council (EDDC) and the Clerk will also hold a copy for future reference. It is a public document and will be published online by EDDC; it may also be inspected on 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.

A registration form is available on the 'Information for Councillors' webpage for you to download, complete and return to the Clerk within 28 days of your election to the Council. This is a requirement of the Code and will enable 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 in Appendices A and B of the Code of Conduct. You are also required to register any change to the interests previously registered, within 28 days of becoming aware of such a change. If you have any changes to register at any time, please inform the Clerk to ensure that the appropriate changes are advised to the Monitoring Officer.

Please note that you are responsible for keeping your Register entries up to date. The fact that you have registered a particular interest in writing, does not absolve you from making a disclosure of that interest at meetings should circumstances arise. In fact, it should remind you of the need to make a disclosure. Further information on making disclosures at meetings is given in Section D.

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 an interest. The Council has adopted a Code of Conduct for its Members, which reflects its statutory requirement to promote and maintain these 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 and it is essential that you become familiar with its contents as soon as possible.

When signing your Declaration of Acceptance of Office, you undertake to observe the Code and uphold the principles of public life. The importance of this cannot be over-emphasised; breaches of the Code may be reported to the Monitoring Officer of EDDC who has the duty to consider and investigate potential breaches of the Code. If a case is serious enough, it may be referred to an independent panel to make a judgement, which could result in public censure or in certain circumstances a criminal action.

The Code of Conduct is available on the 'Information for Councillors' webpage, further guidance on the Code is given in Section D below and further information on the principles of public life is given in Section E.

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4. Members' Allowances

The Council has not adopted the Local Authorities (Members Allowances) (England) Regulations 2003 for the payment of a Basic Members Allowance.

The Council can make payments in respect of Parish Travelling and Subsistence Allowance (Regulation 26) for approved duties in line with the Council's expenses policy and agreed rates for reimbursement. 'Approved Duties' include Members attending training events or attending meetings as a representative of the Council and need to be specifically approved by the Council in advance.

Please note that the majority of Council meetings are held in the evening and, unfortunately, under present legislation, the Parish Council is not permitted to contribute to the cost of Councillors' childcare or care of dependents.

5. Freedom of Information (FOI)

The Council is obliged by law to make information on its activities available to the public on request. It maintains a Publication Scheme, which is available to the public 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 certain cases an exemption may apply which may permit the Council to refuse to supply information.

Information held by Members of the Council is also covered by FOI and therefore Members may be approached to produce their records if a specific enquiry warrants it. This includes notes, answering machine messages, recorded telephone conversations etc and you should seek advice from the Clerk if you have any concerns or are approached by a member of the public for this information.

6. General Data Protection Regulation (GDPR)

The Data Protection Act (2018) replaced the earlier act of 1998 and is also known as GDPR (General Data Protection Regulations). This is a whole system of regulations, rights and principles that aims to protect the personal data of every UK citizen. It came into effect on 25th May 2018. The DPA 2018 legislation documents are extensive and replace the earlier Act of 1998. They set out to give a person more rights over the data that an organisation holds on them, but in a nutshell, the main points are as follows:

- A person can request to see all the details that are held on them both in human and machine-readable format.
- A person can request that an organisation deletes all the personal data that it holds on them.
- A valid reason for gathering and processing their data needs to be stated.
- Informed consent must be asked for when the data is gathered.
- People must be provided with a way of withdrawing that consent at any time.
- Precautions need to be taken to protect personal data that has been gathered.

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The Parish Council are currently (August 2020) working to get all of this in place. In the meantime all Councillors need to be aware of GDPR and its implications.

7. Training

The Council recognises that members and the Clerk should attend regular sessions to update and improve their understanding of matters affecting local government. It supports and encourages Councillors and the Clerk to attend training events, conferences and seminars provided by organisations including the Devon Association of Local Councils (DALC), Society of Local Council Clerks (SLCC), EDDC and Devon County Council (DCC).

Examples of training available include

- Code of Conduct
- Councillor Skills
- Chairmanship
- Planning
- Finance including budgeting, audit and risk management

Please contact the Clerk for further information on your training requirements.

SECTION B - COUNCIL MEETINGS

8. Attending your first meeting

The first meeting you attend will be the first meeting after your election/co-option to office. An agenda and any relevant papers will be sent to you at least 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.

3 clear working days is a legal requirement and means not including the day the documents are sent, the day of the meeting, Sundays, Bank Holidays, etc. So, for a meeting on a Wednesday the latest an agenda can be sent out is the previous Friday, unless the Monday is a Bank Holiday in which case it is the Thursday. To avoid any issues the agenda etc are normally sent out on the Wednesday 1 week before the meeting.

If you have any queries regarding any item on the agenda, please do not hesitate to contact the Clerk.

9. Parish Council Meetings

The full Council meets bi-monthly on the second Wednesday of the months of January, March, May, July, September and November. Meetings normally start at 7.30pm, unless otherwise stated on the agenda, and are normally held in the Parish Hall (see also 13 below).

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You should endeavour to attend as many meetings as possible. If you are unable to attend a meeting you should send your apologies to the Clerk as soon as possible. If you miss meetings for a continuous period of 6 months without sending apologies, or without your apologies being approved by the meeting, then you will cease to be a Councillor and a Casual Vacancy will arise on the Parish Council.

There needs to be at least 3 Councillors present at any Payhembury Parish Council meeting for any decisions to be made. The term for this is that the Council is 'quorate'. The legal requirement is a minimum of 3 Councillors or a third of the total number of Councillors (rounded up) whichever is greater. As Payhembury has 7 Councillors the number is 3 whichever way it is calculated.

10. Extra Ordinary Parish Council Meetings

From time to time additional meetings (extra ordinary meetings) may be required to deal with urgent items that either cannot wait until the next ordinary meeting or the Parish Council feel they would prefer to deal with separately or earlier. Like ordinary meetings these meetings must be advertised at least 3 clear days ahead, an agenda and minutes produced and must be quorate for any decisions to be made

Extra ordinary meetings may be called by the Chairman at any time, or by two Councillors if the Chairman does not call the extra meeting. Standing Orders section 6 has more details.

11. The Annual Parish Meeting

The Annual Parish Meeting must be held between March and June of any year. It is open to all the electors in the parish and is normally chaired by the Chairman of the Council.

Strictly speaking electors can set the agenda, and in practice these meetings often celebrate local activities and debate current issues in the community. Members will therefore find it useful to be present.

12. The Annual Meeting of the Council

The Annual Meeting of the Council is held in May. This is the first meeting of the Council year and there is an amount of administrative business that needs to be dealt with, therefore this meeting can be longer than others in the year. A list of the main things that need to be dealt with can be found in the Standing Orders 5.j – the most important being the election of Chairman and Vice Chairman for the year.

13. Remote Meetings

Due to the Covid-19 pandemic Parish Councils have been told by Government that they must not hold face-to-face meetings for the time being. The legislation gives the Parish Council permission to hold remote meetings until May 2021 or until the Government withdraws the permission, whichever is earlier. Payhembury Parish Council are using Zoom to hold their remote meetings. It is possible that a hybrid form of meetings might start to take place in the coming months, where

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some people are in the Parish Hall and others are dialling in via Zoom. The logistics of how this would work have yet to be worked out, but further details will be given as and when it becomes necessary.

14. Agenda, Reports and Minutes

The statute requires that you are 'summoned' to attend a council meeting. This formal notice will give you the date, time and place of the meeting and will include an agenda to give you details of the items to be discussed and the level of discussion to take place i.e. whether you are considering what action to take, receiving a report, resolving to take action. It may also include papers for you to read before the meeting. It is important that you take the time to read these papers before attending the meeting to familiarise yourself with the issues to be discussed.

When you receive the agenda and reports for meetings, you may find a report marked 'CONFIDENTIAL'. Any information in this report is to be treated as confidential and should not be divulged to anyone who is not a Member of the Council. If you have any doubts, please contact the Clerk who will be able to advise.

After each meeting the Minutes are prepared by the Clerk. The Council agenda, together with the Minutes of the last meeting form the basis on which the Council conducts its business.

The Council also has a system of public participation time at its meetings, where members of the public can raise issues, speak about items on the agenda and question Council decisions.

If you wish to have an item put on the Agenda for discussion, please contact the Clerk. The Clerk normally sends out a request for any items the week before the agenda is published, but items need to be with the Clerk by the Wednesday 1 week before the meeting. Once the agenda has been published items cannot be added and will need to be held over to a later meeting.

15. Committees and Working Groups

Payhembury Parish Council does not currently have any committees. If the Council decides to have any committees in the future, then the committee will need to have Councillors appointed to it and be run like the Parish Council, eg agendas, minutes, 3 clear days' notice of meetings etc. The structure and makeup of the committee would also need to be reviewed at the Parish Council's Annual Meeting in May. Committees can be delegated (they can make decisions) or advisory (they provide advice to the full Council who make decisions). Either sort of committee can have non-Councillors co-opted onto the committee, however non-Councillors do not have voting rights on a delegated committee.

Any Councillor may be able to attend and observe the committee meetings. However, you will not be able to participate or vote on committees unless you have been appointed to the Committee by the Council.

Working Groups are less formal than committees and do not require agendas, minutes or formal meetings, but nor can they make decisions. In effect they are act like informal advisory committees and can also have non-Councillor members co-opted on to them.

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SECTION C - THE RESPECTIVE ROLES OF MEMBERS AND THE CLERK

16. Introduction

This short note has been prepared with the intention of giving Members of the Council some guidance as to the respective roles of the Members, the Chairman and the Clerk in helping the Council to function, and on how these roles work in practice. More detailed information is also available on the 'Information for Councillors' webpage.

17. The Role of Members

Members are collectively responsible for making Council policy, for which they are accountable to the electorate.

Members are not directly involved in the day-to-day provision of services to the public. This does not of course mean that there should be no contact between Members and the Clerk on such matters and, indeed, Members may often find that they are asked by electors to pursue matters on their behalf. However, Members have no executive authority, and will need to deal with all matters either through their collective Council membership or in liaison with the Clerk concerning a local problem.

It therefore follows that there are no circumstances where an individual Member can issue an instruction to the Clerk or a Contractor. Likewise, a Member must never act 'on behalf of the Council' in the organisation of any function or service. Particular care should be taken in letters/comments to the Press, to ensure they understand you speak as a 'Councillor' and not on behalf of the Council as a whole. Generally, the Clerk on behalf of the Council issues Press statements.

Two Councillors can call an Extra Ordinary meeting if required, and if the Chairman has not done so. Further information is given in sub-section 10 above and in the Standing Orders.

18. The Role of the Chairman

The Chairman's main role is to run council meetings. They can suggest the content and design of the agenda, but as legal signatory, technically the Clerk has the final say. The Chairman is responsible for ensuring that effective and lawful decisions are taken at meetings of the Council and, assisted by the Clerk, should guide activities by managing the meetings of the Council. The Chairman is responsible for involving all Councillors in discussion and ensuring that Councillors keep to the point. The Chairman summarises the debate, facilitates the making of clear resolutions and is responsible for keeping discussions moving so that the meeting is not too long. The Chairman has a casting vote. Their first vote is a personal vote as a member of the Council. If there is a tied vote, the Chairman can have a second or casting vote. The Chairman has the power to call an extraordinary meeting of the Council at any time.

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The Chairman will often be the public face of the Council and will represent the Council at official events. They may be asked to speak on behalf of the Council and, in such circumstances, should only express the agreed views of the Council and not give their own personal views.

The Chairman cannot legally make a decision on behalf of the Council.

19. The Role of the Clerk

The role of the Clerk is twofold, for which they are accountable to the Council. Firstly, they are the professional advisor to the Council on matters of policy and, secondly, the executor of Council policy, i.e. in carrying out the instructions of the Council.

The Clerk takes no part in the decision making of the council except that they provide the independent and unbiased information to support the Council in its decision making.

20. How These Roles Work in Practice

Members take decisions on matters of major policy at meetings of the Council, after having considered the recommendations of the Clerk. Within the framework of policies decided by Members the Clerk, often in consultation with the Chairman, will take many decisions every working day. Most of these decisions will be concerned with the day-to-day management of services to the public, but others will be concerned with more important matters.

21. Statutory Powers and Duties

The Council derives its powers from statute. A few of these are mandatory (i.e. the Council must carry them out) but most are discretionary (i.e. the Council can carry them out if it wishes). In all cases, both Members and Officers must work within the law. The Clerk will act as advisor to the Council to ensure that it acts legally at all times. From time to time this may mean the Clerk advising members during a meeting to alert members to possible legal issues in the decision-making process. An indicative list of legal Powers and Duties can be found on pages 64-69 of The Good Councillor's Guide 2018 (see the 'Information for Councillors' webpage for the link).

22. Summary

- Members are responsible for making Council policy, but do not have executive authority.
- The Clerk is responsible for advising Members on the making of Council policy and for ensuring that such policy is carried out.
- Many matters are delegated to the Clerk, who can make decisions on them working within established Council policies.
- The day-to-day management of services is the responsibility of the Clerk.
- Both Members and the Clerk must work within the law.

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- Mutual respect between the Clerk and Members is essential in order for the Council to function effectively. Personal attacks on the Clerk should be avoided (and would be contrary to the Code of Conduct), as, under the convention of Local Government, Officers are unable to defend themselves from such comments in public.

SECTION D - CODE OF CONDUCT AND DECLARATION OF INTERESTS

23. Introduction

The law relating to the declaration of Disclosable Pecuniary Interests and Non-Registerable Interests is complicated. It is laid out in the Localism Act 2011 and associated regulations but the purpose of this note is to simplify matters as far as possible. There are a number of guidance notes which give more detailed information and can be referred to as particular circumstances arise.

Agenda papers are generally despatched approximately seven days in advance of the meeting to which they relate. On receiving an agenda, you should check the items of business listed, and consider whether there is a need to declare an interest (and, if so, what type of interest) in any of the items. The Clerk is always willing to offer advice and guidance before (but preferably not on the day of) a meeting but should not be asked to do so during a meeting.

References to 'withdraw from the meeting' in the following subsections means that, under the circumstances described, you will not be able to participate in any discussions or vote on the item being considered. You may choose to physically leave the room whilst the item is discussed but it is not a requirement for you to do so. Your withdrawal from the meeting for that item will be recorded in the Minutes.

24. Declaration of Interests

During your term as a Councillor you will from time to time have close links to items being discussed. The Council's Code of Conduct requires you to consider these links and, if necessary, declare a level of interest in the matter and 'withdraw from the meeting' when the matter is being discussed.

There will be an opportunity at the beginning of the agenda for 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 later on. This may mean declaring the interest during the discussion rather than at the start of the meeting.

You must state the level of interest and the nature of it and ensure that these are recorded in the Minutes of the Meeting.

A 'Declaring Interests' flowchart can be found on the 'Information for Councillors' webpage to help when considering whether an interest should be declared or not.

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25. Disclosable Pecuniary Interests

As a Councillor you are required to complete a Register of Disclosable Pecuniary Interests which is held by the Monitoring Officer at EDDC and locally with your Clerk. You are required to declare interests held by yourself and your spouse/civil partner under the following headings.

- Employment
- Sponsorship
- Contracts held with the Council
- Land held in the parish (owned, rented or leased)
- Licences with the council
- Tenancy
- Securities and Capital held in bodies which have a place of business in the parish

Further guidance and clarification is given in the Code of Conduct which can be found on the 'Information for Councillors' webpage.

You will have a Disclosable Pecuniary Interest whenever the Council is discussing something which affects anything on this register and you must declare the interest and 'withdraw from the meeting'.

The Localism Act 2011 confirms that a breach of this part of the code is a criminal offence with a potential police prosecution and a fine of £5000.

26. Non-Registerable Interests

During your time in office, the Council will also discuss many things which may have an impact or relevance to yourself, a family member, a close personal acquaintance or an outside body on which you serve. If this interest is financial i.e. would have a financial impact on you, a family member, close personal acquaintance or outside body, you have a Non-Registerable Interest.

Only you can decide this, but remember it is not whether you think that your judgement of the public interest would be prejudiced, but what a member of the public with the relevant facts would reasonably think. In other words, you must put yourself in the position of an ordinary 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 do have a Non-Registerable Interest, you must declare it and 'withdraw from the meeting'.

This is a complex area; if you have any queries you should always seek advice from the Clerk who may refer you to the Monitoring Officer at EDDC or DALC. You may find the following examples useful:

Example 1 – Planning

Your neighbour has submitted a planning application. You must declare a Disclosable Pecuniary Interest because the application affects the land which you have declared on your Register. You

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also have a Non-Registerable Interest because the proposal will affect you, your family and neighbours. You must 'withdraw from the meeting' whilst the item is considered and can rejoin the meeting once a decision has been made. Your actions will be recorded in the Minutes.

Example 2 - Funding Application

You chair a local group which has applied to the council for a grant. The grant affects the financial well-being of an outside body and you will therefore declare a Non-Registerable Interest in the item. However, the Code recognises that the Council might benefit from your knowledge and therefore you will be invited to stay during the first part of the discussion to help inform the discussion. The Chairman will then ask you to 'withdraw from the meeting' whilst the Council makes its final decision.

You rejoin the meeting as soon as the decision has been made on this item and your actions will be recorded in the Minutes.

If you are in any doubt whatsoever as to whether or not you have an interest, and particularly whether or not it is a Disclosable Pecuniary Interest, you should always err on the side of caution. The Clerk is able to offer advice and guidance on such matters before the meeting, but, as stated above, the decisions on whether or not you have an interest is yours, and yours alone. No other member of the council can force you to make any declaration, but failure to do so could result in a complaint being made against you.

27. Dispensations

At times it may be helpful for the Council to allow a member or members to stay in the meeting in spite of the declared interest. In certain circumstances, the council can award a dispensation which either allows you to stay for the discussion or stay for the discussion and vote. Requests must be made in writing and meet one of the statutory criteria.

28. Gifts and Hospitality

Guidance regarding the acceptance of gifts and hospitality, and the declarations of such, is also included in the Code of Conduct. The Council's code establishes the policy for gifts and hospitality and you must bear this in mind at all times.

You should treat with caution any offer of a gift or hospitality that is made to you personally, particularly if the person making the offer may be doing or seeking to do, business with the Council, or may be applying for planning permission or some other kind of decision.

In addition to the above-mentioned requirements, you are strongly advised to register all offers of gifts or hospitality whatever the value and whether you accept them or not. You will then be protected in the event of a complaint or enquiry, and EDDC's Monitoring Officer will be made aware of inappropriate offers made to Members (especially where a series of lower value offers is made).

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SECTION E – GUIDANCE NOTES

29. The General Principles of Public Life

The following is a list of principles, which the Secretary of State has ordered should govern the conduct of Members. The Code of Conduct is consistent with these principles.

Selflessness

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

Honesty and Integrity

Members 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.

Objectivity

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

Accountability

Members 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

Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal Judgement

Members 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

Members 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 authority's statutory officers, and its other employees.

Duty to Uphold the Law

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

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Stewardship

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

Leadership

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

SECTION F – Useful documents and websites

The Parish Council website has a lot of information for both Councillors and parishioners:

<http://www.payhemburyparishcouncil.org.uk/>

The 'Information for Councillors' webpage brings together many of the key documents and websites that Councillors should find useful and includes links to other parts of the website where appropriate:

http://www.payhemburyparishcouncil.org.uk/Information_for_Councillors_33002.aspx

The page also includes a link to the contact details for all of the Councillors, together with copies of some of the NALC guides for Councillors.