



# DORCHESTER TOWN COUNCIL

## A GUIDE TO PARISH MEETINGS AND PARISH POLLS

### Introduction

Section 9 of the Local Government Act 1972 states that ‘for every parish there shall be a parish meeting for the purpose of discussing parish affairs and exercising any functions conferred on such meetings by any enactment...’ Section 13 of the Act states that ‘the parish meeting of a parish shall consist of the local government electors for the parish’.

A parish meeting is a public body exercising public functions.

All references to a parish council in this document apply (and, indeed, in all other cases) apply to the Town Council.

### Convening the Parish Meeting

A parish meeting has to be properly convened. It is convened either by the chairman of the parish council, or by two councillors of the parish or by six local government electors of the parish.

Proper notice of the meeting must be given not less than seven clear days before the meeting. This must specify the time and place, the business to be transacted at the meeting, and it must be signed by the person(s) convening the meeting. The notice must be posted in some conspicuous place or places or given in such a manner that it will give publicity to the meeting.

The time and place of the meeting is specified: it must not be held before 6:00 p.m. and must not be held in premises used for the supply of alcohol (unless there are no other suitable venues).

The National Association of Local Councils (NALC) advises that parish councils ‘should endeavour to secure the largest possible turn out at a parish meeting so that the local electorate, with careful steering from the chairman of the parish council, can debate and democratically decide any business which legitimately features on the agenda and further decide if a poll on any question arising is required.’

### The Meeting

The chairman of the parish council (in Dorchester’s case the Mayor) is entitled to attend, and if s/he is present s/he shall preside over the meeting. If s/he is absent, the vice-chairman (the Deputy Mayor in Dorchester) shall, if present, preside. NALC urges the parish council chairman to attend; without him or her ‘the meeting risks being procedurally defective and may need to be reconvened at a later date. Conversely, the non-attendance of the chairman or vice-chairman at a parish meeting could be disastrous.’

In particular, NALC urges that the parish council chairman will be in a position to ensure that the parish meeting only considers parish affairs, that any call for a poll relates to parish affairs, that the cost of funding a parish poll will be borne by the parish council and ultimately by the electors, and that the outcome of a poll is not binding.

If the chairman and vice-chairman are absent, the meeting may appoint a person to chair the meeting. The meeting's chairman will have the usual powers and authority of chairman and has a casting vote in addition to his own vote.

At a meeting, an issue is decided by a majority of those present and voting. Each local government elector present has one vote on an issue which is put to the vote.

Parish councils have a right to obtain a copy of the electoral register from the Electoral Registration Officer 'for the purpose of establishing whether any person is entitled to attend and participate in a meeting of or take any action on behalf of the parish or community as the case may be'. No person supplied with the full register shall supply a copy of it, disclose any information it contains or make use of such information other than for the particular purpose for which the copy is supplied.

Minutes of the meeting shall be drawn up and entered in a book provided for the purpose and shall be signed at the same or the next parish meeting by the chairman. Any minute purporting to be so signed shall be received in evidence without further proof.

Until the contrary is proved, a parish meeting for which minutes have been made and signed shall be deemed to have been duly convened and held, and all the persons present at the meeting shall be deemed to have been duly qualified. It is considered that the validity of a parish meeting can only be challenged by way of legal process.

Parish councils may make, vary and revoke standing orders for the regulation of proceedings and business of parish meetings for the parish.

### **The Call for a Poll**

A poll may be demanded before the end of a parish meeting on any question arising at the meeting, but no poll shall be held unless the person presiding at the meeting consents to it or the poll is demanded by 10 or one third of the local government electors present (whichever figure is the less) call for it.

The parish meeting does not vote on whether or not to have a poll once this call has been made.

The poll is a poll of the local government electors of the parish; there is no provision for a ward poll.

### **The Question**

The meeting does, however, vote on the question which is to be put in the poll, and each local government elector present may give one vote and no more on any question.

The proposer of the question becomes a key figure in the subsequent poll and the proposer's name and address will need to be recorded by the clerk of the meeting.

The form of words used in the question itself is also important. The chairman should ensure that the question can be voted for either 'yes' or 'no'. The question should not lend itself to vague or double-negative answers.

Once the wording has been agreed at the meeting, the question cannot be changed.

### **The Returning Officer is notified**

The chairman of the meeting has a duty to provide the Returning Officer (the Chief Executive of West Dorset District Council) with -

- the question
- the name and address of the proposer of the question
- the date of the parish meeting.

The Returning Officer will consider whether a poll shall be held, and in most cases the Returning Officer's duties will be clear cut.

However, in the case of *Bennet. v Chappell* (1965 - 3 WLR 829), the Court of Appeal recognised that a parish poll requested for a purpose that was 'devoid of practical application' might not be granted. Clearly, a question of whether there should be a referendum on the constitution of 'Ruritania' or a war against 'Ruritania' would be 'devoid of practical application' as far as a town or parish council would be concerned. The poll can serve as an instruction to the town or parish council to do or to desist from doing something that is within its power, and there would be no practical application in asking the electorate to vote on a question that was wholly outside the remit of the council.

In the case of *Letchworth Garden City Heritage Foundation v (1) the Returning Officer for the District of North Hertfordshire and (2) the Chairman of the Parish Meeting of Letchworth Garden City* (2009), the High Court considered the history and purpose of parish meetings and the possible meanings of the phrase 'parish affairs'. Whilst this case did not define or give modern examples of what would constitute 'parish affairs', it indicated that the High Court is likely to view a parish affair as any matter specific to a parish in which the local government electors in that parish have a legitimate and genuine interest.

In this case, the Claimant Foundation judicially reviewed a poll organised by the first Defendant, being the District Council's returning officer. The Claimant Foundation owned the estate of Letchworth Garden City, and the area was within the jurisdiction of Hertfordshire County Council, Letchworth Garden City Town Council and the Claimant Foundation. There was tension in the local community between those who regarded the Claimant Foundation as effective and the town council as redundant, and others who wished see the Foundation replaced by a directly elected body. At an assembly of the parish meeting, there were discussions as to whether the Claimant Foundation's governance structures should be changed. The next day, the 2nd Defendant being the Chairman at the assembly of the parish meeting (and the Chairman of the town council) notified the district council of a request for a poll on the issue. The Claimant Foundation argued that the poll, and by extension the parish meeting or discussions by the parish meeting in respect of Foundation's governance structures, were beyond the parish council's powers, because the governance of the Foundation was not a 'parish affair' within the meaning of section 9 of Local Government Act 1972. The Foundation's claim was unsuccessful. As some of the Foundation's governors were appointed or elected from within the parish, the High Court held that the parish had a straightforward and obvious role to play in the Claimant Foundation's governance. The High Court held that the Foundation's governance structures and any change in those nominated from within the parish to serve as governors of the Foundation fell within the definition of the term

'parish affairs, were properly the subject of discussion by the parish meeting and properly the subject of the poll.

### **Preparations for the Poll**

The poll must take place between 14 and 25 days after the poll was demanded, with the publication of the Notice of Poll five days before polling day. These days are calculated excluding Saturdays, Sundays and Bank Holidays.

### **The Poll and Count**

The rules for the conduct of the poll are similar to those common to all elections, with some variations or exceptions:

- Polling is between 4.00 pm and 9.00 pm
- There are no provisions for electors' poll cards or for postal or proxy voting
- The notice of poll must include the date, time and place of the poll, a description of the electors who may vote and the particulars of the question with the name and address of its proposer.

The form of the ballot paper is prescribed in the rules; the wording of the question is an important consideration.

The only persons who may enter the polling station (apart from voters, of course) are the Returning Officer and his clerks and the proposer of the question.

A count of the votes follows. The only persons who may attend the count are the Returning Officer and his clerks and the proposer of the question. The Returning Officer may also invite persons to attend, and a small number of courtesy invitations would probably be made. There is no provision for the proposer of the question to call for a recount.

Notice of the Result must be given by the Returning Officer.

### **Who pays for the Poll?**

The cost of holding the poll falls on the parish council, and therefore on Council Tax payers. It is estimated that a parish poll in Dorchester would cost around £5,000.

### **Conclusion**

The outcome of the poll is no more and no less than an expression of the views of the electorate of the parish who have voted in the poll. It is not binding.

*This guidance is provided for information only.*