

Bigbury Parish Council

Schedule of documents, policies and procedures with review frequency

Ref	Description	Updated	Frequency	Review
index	Schedule of documents, policies and procedures	Feb 2017	Ad Hoc	As reqd.
0.0	Standing Orders and Framework of Financial Regulations	Feb 2017	Annually	Feb 2018
	The following schedules are to be used in conjunction with Standing Orders and Financial Framework document 0.0 above			
1.1	Code of Conduct	July 2012	Ad Hoc	As reqd.
1.2	Declaration of acceptance of office	1972	Ad Hoc	As reqd.
1.3	Register of Council Members	Jan 2017	Ad Hoc	As reqd.
2.1	Location for Council Meetings	Aug 2016	Ad Hoc	As reqd.
2.2	Schedule of Council Meetings	Aug 2016	Ad Hoc	As reqd.
2.18	Processing of minutes from Council meetings	Aug 2016	Ad Hoc	as reqd.
4.2.a	Expenditure	Aug 2016	Annually	Aug 2017
4.2.b	Expenditure – approved donations	Jan 2017	Annually	Jan 2018
4.4.1	Bank arrangements	Aug 2016	Ad Hoc	May 2018
4.7	Asset Register	Aug 2016	Ad Hoc	As reqd.
5.1	Insurance	Apr 2016	Annually	May 2018
7.1	Health and Safety Policy	Jun 2016	Annually	Jul 2017
9.1	RFO (Clerk) salary review	Jul 2016	Ad Hoc	Jul 2017
	Additional schedules			
20.1a and b	Retention of records (physical documents)	Jun 2016	Ad Hoc	As reqd.
20.2	Retention of records (electronic data)	Aug 2016	Monthly	May 2018
20.3	Bigbury Community website	Jun 2016	Annually	Jun 2017
	Planning Process			
30.1	Managing the Planning Process	Aug 2016	Ad Hoc	As reqd.
40.1	Complaints policy			
50.1	Privacy Policy	May 2017	Ad Hoc	As reqd.
99.9	Updating documents	Jan 2017	Ad Hoc	As reqd.
	Ad Hoc tasks			
	Inspection of playground equipment by qualified person (SHDC) – agreement dated 11 th May 2014	Jun 2016	Annually	Jun 2017
	Cemetery inspection		Ad Hoc	
	Provision of community waste skips			

Bigbury Parish Council

Standing Orders and Framework of Financial Regulations

Councillors

1.1 Following election or co-option to the Council, each Councillor will be issued with a copy of the Standing Orders/Financial Regulations and Code of Conduct of the Council. They will sign a form of Declaration of Acceptance of Office in the presence of the Parish Clerk or a Councillor who has been specifically assigned by the Council for this purpose.

1.2 All Councillors will observe the Code of Conduct at all times when on Council business and no member will act in such a way that will bring the Council into disrepute, behave offensively in meetings or obstruct the Council's business.

1.3 All Councillors will ensure they complete, sign and submit a register of interest form which is to be lodged with the local Monitoring Officer. All Councillors are responsible for keeping their personal information up to date and accurate.

Council Meetings

2.1 Council meetings will be held in appropriate, accessible accommodation and unless no other free of charge or reasonable cost accommodation is available, they will not be held in premises used for the supply of alcohol.

2.2 An agreed frequency of meetings will be decided at the Annual Meeting and Councillors will be advised of the meetings by the issue of a summons and agenda. The agenda must be issued at least three clear business days before the scheduled date for the meeting.

2.3 The agenda for the meeting will be agreed by the Clerk and Chairman or Vice Chairman as appropriate. The agenda will always include an item to enable Councillors to declare interests in any topic. An open session for public comment will be included on every agenda.

2.4 Public notices will be posted in conspicuous places informing members of the public of the venue, time, date and business to be transacted at the meeting. The notice will be posted at least three clear days before the meeting. Public notices will also be uploaded to the Bigbury Community website.

2.5 When calculating the three clear for notice of a meeting, the day on which the notice was issued, the day of the meeting, a Sunday, a day of the Christmas break or of a bank holiday or a day appointed for public thanksgiving or mourning shall not count.

2.6 Meetings will be open to the public and press but they may be temporarily excluded from the meeting if the business is regarded as confidential. Such exclusion from part or all of the meeting shall be by a resolution which shall give the reasons it is being exercised.

2.7 Members must declare any personal interest in an agenda item at the start of the meeting. The member will NOT participate in discussions relating to the specific topic and may choose to leave the meeting room. In the event that the interest is also pecuniary, the member MUST leave the meeting room.

2.8 The Chairman of the Council will preside at the meeting and will be responsible for the conduct of that meeting. If the Chairman is not present then the Vice Chairman will preside. If they are not present then the first matter on the agenda will be the election of an appropriate Councillor to chair the meeting. Whoever chairs the meeting will assume the duties of the Chairman for the meeting.

2.9 The Council may only take decisions on items clearly specified on the agenda. If agreed by the chairman, any urgent items which are not on the agenda may be discussed, but no decision may be made, at that meeting.

2.10 Members of the public may speak during the open session identified on the agenda. Only one member of the public may speak at any point in time and all such communication is to be addressed to the Chairman who may nominate specific Councillors to comment or respond. The Chairman may, at his discretion, allow additional input during the meetings.

2.11 The quorum for the Council will be one third of the total Councillor places but in any case not fewer than three. If there be insufficient members present **NO** business will be transacted and a fresh notice will be issued to reconvene the meeting at a later date.

2.12 If at any time during the meeting it ceases to be quorate then the meeting will be adjourned and any further business carried forward to the meeting when next convened.

2.13 Voting at the meeting shall be by a show of hands unless a majority of Councillors request a ballot. The proposer and seconder will be recorded in the minutes unless a Councillor requests that their vote is noted. A Councillor may also request that the Clerk records how each Councillor has voted, including abstentions. Any request of this nature will be made before moving on to the next business.

2.14 In cases of equal votes the Chairman (or other person presiding) will have a second or casting vote.

2.15 With regard to planning applications - if there is a personal interest a statement can be made to the Parish Council meeting but then the person must leave the meeting while discussions take place.

2.16 Discussion on any specific agenda item will be limited to 15 minutes although the Chairman has the discretion to extend the discussion

2.17 A Council meeting shall not exceed 2 hours and 15 minutes duration.

2.18 A minute of the meeting will be kept by the Clerk or other nominated person in the Clerk's absence. The minutes which are circulated will be draft minutes until they are approved by the Parish Council at their next meeting and signed by the person presiding at that meeting.

Annual Meetings

3.1 If the Annual Meeting is in an election year it must be held within 14 days after that election. If it is not an election year then the annual meeting will take place on an appropriate day in May.

3.2 If the outgoing Chairman is available then he/she will preside until a new Chairman has been elected. The first business of the Annual Meeting will be the election of the Chairman (and Vice Chairman, if appropriate) and to receive their acceptance of office.

3.3 The retiring Chairman will report on the activities of the Council for the preceding year.

Finance

The Responsible Finance Officer is a statutory office and appointed by the Council. The Clerk of the Council will take on this role of managing the Council's financial affairs in accordance with Proper Practices.

4.1 Estimates and Precept

The RFO will compile estimates of income and expenditure annually for the Council's consideration. The Council will review the budget not later than the end of December in preparation for the precept being agreed, and submitted to the Collection Authority in January. During the year the budget will be reviewed against actual expenditure and income. Amendments to the budget will be discussed in Council and changes minuted.

4.2 Income and Expenditure

The RFO will supply updates of income and expenditure at each monthly meeting. The RFO will also provide a breakdown of restricted and unrestricted funds available for distribution (use) and provide a statement of future / projected expenditure.

4.3 Accounting and Audit

4.3.1 The RFO will determine all accounting procedures and financial records of the Council in accordance with the Accounts and Audit Regulations.

4.3.2 The RFO will complete the annual financial statements of the Council including the annual return as soon as practicable after the end of the financial year and will submit and report on them to the Council. The Council will review each year and ensure that there is an adequate, effective system of internal audit of the Council's accounting, financial and other procedures in line with Proper Practice.

4.3.3 An Internal Auditor will be appointed by the Council to carry out the work required to comply with the Proper Practice. The person appointed will be competent and independent of the operation of the Council.

4.3.4 The RFO will submit the Annual Return to the External Auditor by the due date, ensuring the return is complete.

4.4 Banking Arrangements and Cheques

4.4.1 The Council's banking arrangements, including the Bank Mandate, will be made by the RFO, approved by the Council and regularly reviewed for accuracy and efficiency.

4.4.2 A resolution of the Council will nominate at least three members to be authorised by the Council to sign cheques. The RFO is excluded from this.

4.4.3 The RFO will examine invoices and verify the expenditure. All items of expenditure will be authorised and approved for payment by the Council at monthly meetings. Details of payments will be recorded in the minutes. Cheques will be completed for all transactions and signed by two authorized Councillors. The Council aims to meet 30 day payment terms.

4.4.4 In respect of expenses incurred by the RFO, the Chairman of the Parish Council is responsible carrying out the checks referred to in 4.4.3 above.

4.4.5 Any utility bill may be paid by Direct Debit provided that the instructions are signed by two authorised Councillors.

4.4.6 The Council does NOT operate a 'cash float' process and all payments will be made by cheque.

4.4.7 The RFO will provide a monthly bank reconciliation statement.

4.5 Loans and Investments

4.5.1 All loans and investments will be negotiated in the name of the Council and will be set for a period approved by the Council.

4.5.2 All borrowings will be in the name of the Council and will not be entered into until necessary approvals have been given. Any application will be approved by Council, specially the terms and purpose. These terms must be reviewed annually.

4.5.3 All investments of money under the control of the Council will be in the name of the Council and all certificates or other documents will be retained by the RFO.

4.6 Contracts and Purchase Orders

4.6.1 An official order or letter will be issued for all work or service paid for by the Council. All Councillors and officers are responsible for obtaining good value for money at all times. An officer placing an order on behalf of the Council will ensure that good value and appropriate terms are obtained for the transaction.

4.6.2 Orders with a value between £500 and £2000 require a minimum of two quotations. For values above £2000 three quotations are required. Contracts exceeding £50,000 require additional safeguards and will follow Proper Practice.

4.6.3 All estimates will be approved by the Council; while the Council is not obliged to accept the lowest quotation the reasons for accepting the quotation will be recorded.

4.7 Assets

The RFO will ensure that an appropriate and accurate Register of Assets is maintained by the Council. It will be reviewed at least annually, in conjunction with a health and safety inspection of assets if appropriate.

4.8 VAT

The RFO will promptly complete any VAT Return that is required. Any repayment claim due in accordance with the VAT Act 1974 section 33 will be made annually coinciding with the end of the financial year.

Insurance

5.1 Following the annual risk assessment the Council will review the level of insurance cover and ensure it is adequate and appropriate for the activities of the Council. Minimum cover will include Public Liability, Employers Liability, Money and Fidelity Guarantee.

Risk Assessments

6.1 Risk assessments will be undertaken annually of all the activities of the Council and a report approved by the Council. These assessments will also cover the appropriateness of the internal audit arrangements. These Risk Assessments will be reviewed annually.

6.2 If the Council undertakes a new activity not covered by the existing risk assessment an assessment will be undertaken before the activity commences.

Health and Safety

7.1 The council maintains a Health & safety policy which will be reviewed annually.

Freedom of Information

8.1 The Council is subject to the Freedom of Information Act and has adopted the Model Publication Scheme for Parish Councils. The Clerk will ensure the Council conforms to the requirements of the Act allowing public access to the appropriate documents.

Clerk to the Council

9.1 The Council may appoint a number of employees to assist it in the performance of its duties. The Council will appoint a Clerk to the Council which will be on an employed basis, unless the Clerk is a member of the Council, acting in an unpaid capacity.

9.2 The Clerk will act as the Proper Officer of the Council, and will: receive the Declarations of Acceptance of Office and notices disclosing interests; sign documents on behalf of the Council and issue agendas and notices of meetings; receive and distribute plans and documents on behalf of the Council; and also advise the bank of changes to mandates.

9.3 The Clerk will act as Responsible Financial Officer or be responsible for managing a Finance Officer or other employees of the Council.

9.4 As an employee of the Council the Clerk is covered by employment legislation dealing with employment rights, discrimination in employment, unfair dismissal, redundancy and similar matters. The Clerk will therefore have a contract of employment stating the terms and conditions under which he/she is employed. This will effectively be administered by the Chairman or designated Councillor acting with the authority of the Council.

Committees and task and finish groups

10.1 The Council has established a Planning sub-committee (all available members), empowered to make decisions on planning applications between the scheduled monthly meetings. Such decisions will be ratified at the next available scheduled meeting of the Council. The Planning sub-committee must be quorate (see 2.10 and 2.11). This Committee will only meet and make decisions where the deadline requirements of the SHDC Planning Dept cannot be met within the schedule of monthly meetings.

10.2 The Council may set up committees and task-and-finish groups to undertake work on behalf of the Council. The Council will set their Terms of reference and frequency of review.

Emergency Business

11.1 Should it not be appropriate to convene a special meeting then any emergency business will be handled by the Clerk, in consultation with the Chairman and one other Councillor. Actions will be reported promptly to the Council.

Alteration or Reversal of previous decisions

12.1 Decisions of the Council will not be revised within 4 months, except where a special item is placed on the agenda bearing the name of two Councillors, and is considered and approved by the Council.

Review and interpretation

13.1 These standing orders and Financial Regulations will be reviewed annually by the Clerk and the Chairman, and any amendments will be decided by the Council.

13.2 During the course of meetings of the Council, the Chairman's decision as to the interpretation of the standing orders will be final. In cases of doubt, the Council will seek the advice of the Devon Association of Local Councils.

13.3 The Council may resolve to suspend a Standing Order, in order to progress the business of the Council, and such decision will be included in the minutes. The suspension will not be taken lightly and it will be time-limited.

13.4 These Standing Orders and Financial Regulations are an inclusive part the **SCHEDULE OF POLICIES AND PROCEDURES** governing the business of the Parish Council. The schedule lists the key policies and procedures, and the frequency and date of their review.

IMPLEMENTATION

These Standing Orders and Financial Regulations were adopted by the Parish Council at a meeting of the Council held on February 8th 2017 – see minutes

Bigbury Parish Council

Code of Conduct

The Model Code of Conduct for Parish Councils came into effect on 3rd May 2007 and was adopted by the Parish Council the same month.

South Hams District Council issued a revised Code of Conduct date 28th June 2012, which was adopted by Bigbury Parish Council at a meeting dated 11th July 2012 (minute 8.5)

SOUTH HAMS DISTRICT COUNCIL MEMBERS' CODE OF CONDUCT

PART 1 GENERAL PROVISIONS

PUBLIC DUTY AND PRIVATE INTERESTS: An introduction

1. This Code applies to you as a Member or a Co-opted Member of South Hams District Council ('the Council').

1.2 When acting in your capacity as a Member or Co-opted Member of the Council, you should have regard to the Principles of Public Life namely:

- Selflessness
- Honesty/Integrity
- Objectivity
- Accountability
- Openness
- Personal judgment
- Respect for others
- Duty to uphold the law
- Stewardship
- Leadership

1.3 When acting in your capacity as a Member or Co-opted Member of the Council:

(a) you must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, a member of your family, close associate;

(b) you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;

(c) when carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;

(d) you are accountable for your decisions to the public and you must cooperate fully with whatever scrutiny is appropriate to your office;

(e) you must be as open as possible about your decisions and actions and the decisions and actions of the Council and should be prepared to give reasons for those decisions and actions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council or contained in its Constitution,

(f) you must declare any private interests, whether disclosable or personal, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out at Part 2 of this Code;

(g) you must, when using or authorising the use by others of the resources of the Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and that any use is in accordance with the Council's reasonable requirements;

(h) you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or any similar

Communications Protocol or Code produced by the Council;

(i) you must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

1.4 Whilst you may be strongly influenced by the views of others, it is your responsibility alone to decide what view to take on any question which Members have to decide.

1.5 Do nothing as a Member which you could not justify to the public.

1.6 The reputation of the Council depends on your conduct and what the public believes about your conduct.

1.7 It is not enough to avoid actual impropriety, you should at all times avoid any occasion for suspicion or appearance of improper conduct.

1.8 It is your responsibility to comply with the provisions of this Code.

DEFINITIONS

2. In this Code:

"interest or interests" have the meanings set out in Part 2 of this Code

"meeting" means any meeting of:

- the Council;
- the Executive of the Council
- any of the Council's or its Executive's Committees, Sub-Committees or Joint Committees or Joint Subcommittees,
- one or more Members, formal or informal and with or without officers, relating to the discharge of the Council's functions where a formal record is made by a Council Officer.

"member" includes a co-opted member

"Relevant person" means:

- you or
- your spouse or civil partner, or
- a person with whom you are living as husband and wife or as civil partners

and you are aware that the other person has an interest

"relevant period" means a period of 12 months ending with the date on which you notified the Monitoring Office of an interest

"the Regulations" means 'The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI2012/1464)' or any statutory amendment of them

SCOPE

3. You must comply with this Code whenever you are acting in your official capacity, when:

- (a) you are engaged on the business of the Council; or
- (b) you behave so as to give a reasonable person the impression that you are acting as a representative of the Council.

GENERAL OBLIGATIONS

4. You must:

- (a) treat others with courtesy and respect,
- (b) when reaching decisions on any matter, do so on the merits of the circumstances and in the public interest and have reasonable regard to any relevant advice provided to you by an officer of the Council.

5. You must not:

- (a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;

- (b) do anything which may cause the Council to breach a statutory duty or any of the equality enactments (as defined in section 149 of the Equality Act 2010);
- (c) bully any person (bullying may be characterised as any single act or pattern of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority which attempts to undermine or coerce or has the effect of undermining or coercing an individual or group of individuals by gradually eroding their confidence or capability which may cause them to suffer stress or fear);
- (d) intimidate or attempt to intimidate any person who is or is likely to be:
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that any Member has failed to comply with the Council's Code of Conduct;
- (e) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council;
- (f) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (j) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - (a) in the public interest; and
 - (b) made in good faith and
 - (c) in compliance with the reasonable requirements of the Council;
- (g) prevent another person from gaining access to information to which that person is entitled by law;
- (h) conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.

PART 2 INTERESTS

REGISTRATION OF INTERESTS

6. You **must**, within 28 days of:

- (a) this Code being adopted by, or applied to, the Council; or
- (b) your taking office as a Member or Co-opted Member of the Council, whichever is the later, and annually thereafter, provide written notification to the Council's Monitoring Officer of:
 - (i) any disclosable pecuniary interest as defined by Regulations, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife); and
 - (ii) any other personal interest laid down by the Council, as set out at paragraph 7 below;

which will be recorded in the Council's Register of Members' Interests and made available for public inspection including on the Council's website at: www.westdevon.gov.uk

6.1 Within 28 days of becoming aware of any new interest or change to any interest

already registered, you must register details of that new interest or change by providing written notification to the Council's Monitoring Officer.

6.2 Whether or not an interest within paragraphs 7.1 and 7.2 below has been entered onto the Council's register, you must disclose any interest to any meeting at which you are present in any matter being considered, in line with paragraph 8 below, where the matter is not a 'sensitive interest'.

6.3 Following any disclosure of an interest not on the Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.

6.4 In relation to **disclosable pecuniary interests** in this Part of the Code the expressions in the left hand column below have the meanings attributed to them in the right hand column:

"body in which the relevant person has a beneficial interest"

means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director or in the securities of which the relevant person has a beneficial interest

"director" includes a member of the committee of management of an industrial and provident society

"land" excludes an easement, servitude, interest, or right over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income

"relevant authority" means the authority of which you are a member

"relevant person" means you, your spouse or civil partner, a person with whom you are living with as husband and wife or a person with whom you are living with as if you are civil partners

"securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

DISCLOSABLE PECUNIARY INTERESTS

7. The interests you **must** register are:

7.1 Those **disclosable pecuniary interests** defined by the Regulations, namely:

(a) **Employment** - any employment, office, trade, profession or vocation carried on for profit or gain by you or a relevant person;

(b) **Sponsorship** - any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your expenses, including any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;

(b) **Contracts** - any contract which is made between you or, so far as you are aware, a relevant person (as defined at Paragraph 2 above) (or a body in which the relevant person has a beneficial interest) and the Council:

(1) under which goods or services are to be provided or works are to be

executed; and

(2) which has not been fully discharged

(c) **Land** - any beneficial interest in land held by you, or so far as you are aware, a relevant person, which is within the area of the Council;

(d) **Licence** - any licence (alone or jointly with others) to occupy land held by you, or so far as you are aware, a relevant person in the area of the Council which will last for a month or longer

(e) **Corporate Tenancies** -any tenancy where (to your knowledge):

(1) the landlord is the Council; and

(2) the tenant is a body in which you or, so far as you are aware, a relevant person has a beneficial interest.

(f) **Securities** - any beneficial interest that you or, so far as you are aware, a relevant person has in securities of a body where:

(1) that body (to your knowledge) has a place of business or land in the area of the Council and

(2) either:

(a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

PERSONAL OR OTHER INTERESTS

7.2.1 Those other personal interests specified by the Council, including:

(a) Your membership of any body to which you have been appointed by the Council or exercising functions of a public nature directed to charitable purposes or whose principal purposes include influence of public opinion or policy, your membership of any other local Authority and of any political party or trade union.

(b) In addition to those interests listed at 7.1 and 7.2 (a) above which you are required to register, you may wish also to declare membership of any body which, in your view, might create a conflict of interest in carrying out your duties as a Councillor, [such as membership of the Freemasons or any similar body].

(c) any interest where you think a reasonable person with knowledge of the relevant facts may either regard the interest itself as so significant, or otherwise as having so much greater impact upon you than upon the majority or residents or inhabitants in the affected area, that it may prejudice your judgement of the public interest; or

(d) any membership of any body or

(e) any other area which, in your view, might create a conflict of interest in carrying out your duties as a Councillor, including but not confined to the receipt of gifts or hospitality to a value greater than £100.

7.3 Where the Council's Monitoring Officer agrees that any information relating to your interests is "**sensitive information**" namely information whose availability for inspection by the public is likely to create a serious risk that any person may be subjected to violence or intimidation, you need not include that information when registering that interest, or, as the case may be, any change to that interest.

7.4 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded is no longer sensitive information, notify

the Council's Monitoring Officer asking that the information be included in the Council's Register of Members' Interests.

DECLARATION OF INTERESTS AND PARTICIPATION IN MEETINGS

8. Unless a dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest as defined by the Regulations and you must also observe any restrictions the Council may place on your involvement in matters where you have any interest as defined by the Council and shown at Paragraph 7 above.

8.1 Where you have any interest in any business of the Council and you attend any meeting at which that business is to be considered, you must:

(a) disclose to that meeting the existence and nature of that interest (unless it is a sensitive interest in which case you need only disclose the fact that there is a disclosable pecuniary interest in the matter concerned);

(b) disclose any interest in accordance with the Council's reasonable requirements, no later than the commencement of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;

(c) where you have a disclosable pecuniary interest, withdraw from the room or chamber where a meeting considering the business is being held at the commencement of the consideration of that business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;

(d) not seek to influence improperly any decision about that business; unless you have obtained a dispensation from the Council's Monitoring Officer or (Standards Committee).

Council 28.06.12

Bigbury Parish Council

Declaration of Acceptance of Office

The 'form' below is to be completed in accordance with paragraph 1.1 of the Council's Standing Orders and Framework of Financial Regulations and in line with the Local Government Act 1972 s.83.

I (1) having been elected to the office of
Member of Bigbury Parish Council declare that I take that office upon myself, and will
duly and faithfully fulfil the duties of it according to the best of my knowledge and
ability.

Signed Dated

This declaration was made and signed before me,

Signed

Proper officer of the Council (2)

(1) Insert the name of the person making the declaration

(2) Must be either 'Chairman' or 'Parish Clerk'

Bigbury Parish Council

Register of Council Members

Councillors

Bryan Carson (Chairman of the Parish Council)
The Byre
Easton, Bigbury, Kingsbridge 01548 810296 / 07977 900606
TQ7 4AN cllrbcarson.bigburypc@gmail.com

Cathy Case
Lower Willings Farm
Bigbury 01548 810079
TQ7 4AP Cllrccase.bigburypc@gmail.com

Hannah Getley
7 Little Hill
Salcombe
TQ8 8LZ CllrGetley.bigburypc@gmail.com

Beth Huntley
Cleveland
Warren Road, Bigbury on Sea, Kingsbridge
TQ7 4AZ Cllrehuntley.bigburypc@gmail.com

George Rosevear (Vice-Chairman of the Parish Council)
The Quoin
4 Bigbury Court, Bigbury, Kingsbridge 01548 831427
TQ7 4AP Cllrgrosevear.bigburypc@gmail.com

Valerie Scott
Glen Cottage
Bigbury 01548 810336
TQ7 4AP cllrscott.bigburypc@gmail.com

Sharon Smith
The Old Vineyard
Easton, Bigbury, Kingsbridge 01548 810115, 07752 918386
TQ7 4AN CllrSmith.bigburypc@gmail.com

Clerk

Richard Matthews
10 Lower Brook Park
Ivybridge
Devon 01752 896266 / 07967 130599
PL21 9TZ clerk.bigburypc@gmail.com

Bigbury Parish Council

Location for Council Meetings

In accordance with the guidelines set out in the Standing Orders and Framework of Financial Regulations document, all meetings of Bigbury Parish Council will be held in:

The Memorial Hall
St Ann's Chapel
Bigbury
Kingsbridge
Devon

Bigbury Parish Council

Schedule for Council Meetings

Monthly meetings of Bigbury Parish Council start at 7:30pm and will be held on the second Wednesday of each calendar month with exception of:

May (replaced by AGM)
August

Annual Meeting of Bigbury Parish Council will be held on the second Wednesday of April each calendar year and will start at 8:30pm on completion of the regular Monthly Parish Council Meeting.

AGM (Annual General Meeting) of Bigbury Parish Council will be held on the second Wednesday of May each calendar year and will start at 7:30pm. This meeting replaces the standard monthly meeting

Extraordinary Meetings of Bigbury Parish Council are convened as and when required.

Bigbury Parish Council

Distribution of minutes

As specified in paragraph 2.18 of the Standing Orders and Framework of Financial Regulations document, the Parish Clerk has the responsibility to write, gain approval, distribute and store the minutes of Parish Council meetings both in a physical and electronic format. This will be done in the following manner:

- 1) Parish Clerk will make notes during the meeting itself.
- 2) Parish Clerk will prepare a set of draft minutes within five working days of the meeting and circulate to all Council Members for review, comment and amendment.
- 3) Parish Clerk will amend the document based on comments received (paragraph 2 above) and prepare / present a final physical document at the subsequent Parish Council Meeting.
- 4) Parish Clerk will scan a copy and upload the DRAFT copy to the Bigbury Community website for parishioners to read. This to be completed within ten days of the Parish Council meeting.#
- 5) Parish Clerk will ensure approved draft copy is sent to the Editor of Bigbury News for inclusion in the next printed edition.
- 6) The approval of these minutes (of previous meeting) is a set agenda item at every Parish Council meeting. The Members will formally approve the minutes and the Chairman will sign the copy as a true and accurate summary of the meeting.
- 7) Parish Clerk will print three copies and ensure they are displayed on the Parish Notice Boards.
- 8) Parish Clerk will file the copy with the original signature – legal requirement.

Bigbury Parish Council

Expenditure

Under normal circumstances the Parish Council meeting will be the forum at which expenditure is approved (i.e. before it is incurred). There are two exceptions to this rule:

The Chairman and Deputy Chairman have authority in exceptional circumstances to spend up to a maximum of £500.00 without waiting for a full Council Meeting.

The RFO may incur expenditure on behalf of the Council to carry out any repair, replacement or other work which is of such extreme urgency that it must be done at once, subject to a limit of £250.00, having discussed and agreed the expenditure with either the Chairman or Deputy Chairman.

The RFO shall report the action to the Council as soon as practicable thereafter.

Bigbury Parish Council

Grants and Donations

The Local Government Act 1972 allows a Parish Council to spend a limited amount of its financial reserves on activities for which it has no specific power, but which the authority considers 'will bring direct benefit to the area, or any part of it or all of some of its inhabitants.'

Any community, voluntary or charitable organisation may apply to the Parish Council for such a grant. Grants made under S137 will normally be between £50 and £500 in any financial year, but will be subject to the normal budgetary constraints of the Council. Payments will be made at the absolute discretion of the Council and recorded in the Minutes.

Bigbury Parish Council has agreed to make donations to a number of local organisations.

April	Bigbury 'Shrimps'	£350	Approved 11/01/2017
July	Hope Cove Lifeboat	£200	increased from £150 Jul 13
September	CPRE	£ 20	started Sep 15
November	Royal British Legion	£100	increased from £50 Nov 13
December	Bigbury News	£500	started Dec 14
December	SHDC Citizens Advice Bureau	£100	Last increase Dec 07
December	SHDC CVS	£ 25	increased from £20 Dec 11
December	Devon Communities Together	£50	
March	Modbury Caring	£ 50	started Mar 13
March	Memorial Hall St Ann's Chapel	£350	started Mar 16

These payments (the organisation and the sum) are reviewed as part of the Parish budgeting process which takes place in November / December of each year.

Bigbury Parish Council

Banking arrangements

The Parish Council operates two bank accounts with Lloyds Bank, Kingsbridge. These accounts can be accessed on-line by the Clerk (Responsible Financial Officer)

Account 07234801 – BUS INSTANT ACCESS (deposit)

Receipts into this account are primarily:

- Precept payment from SHDC – two per year
- Interest on balance held as credited by Lloyds Bank - monthly
- Various – inputs from SHDC, DCC, HMRC and other 'Government depts' – ad hoc

Outputs from this account are:

- As required – it is the responsibility of the RFO to transfer funds as needed from the BUS INSTANT ACCESS account to the BUSINESS account (see below) in order to maintain a balance sufficient to meet the operational needs of the Parish Council.

Account 00472766 – BUSINESS ACCOUNT (current account)

Receipts into this account are:

- Various – transfers from BUS INSTANT ACCESS (above)
- Various – as received from external sources

Outputs from this account are:

- Various – cheques raised and/or electronic transfers made as approved and minuted in monthly Parish Council meetings

It is the responsibility of the RFO to retain all bank statements

The following have active mandates lodged with the bank in respect of both the deposit and current accounts. This enables ALL to be able to transfer funds from the deposit account to the current account or sign cheques on behalf of the Council.

Bryan Carson

George Rosevear

Cathy Case

Hannah Getley

Sharon Smith

Richard Matthews (Clerk)

It is the responsibility of the Clerk (Responsible Financial Officer) to provide a copy of the current bank statements at each Parish Council meeting. This is to substantiate the reconciliation of the cash book to the bank statements.

It is the responsibility of the RFO to ensure Bank Mandates are regularly reviewed for accuracy, submitting forms to the Bank when changes are necessary.

Bigbury Parish Council

Assets, Properties and Estates

The RFO shall make appropriate arrangements for the custody of all title deeds of properties Owned by the Council and 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 the Local Audit and Accountability Act 2014.

No property shall be sold, leased or otherwise disposed or without the authority of the Council, save where the estimated value of any one item does not exceed £50.

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, possibly in conjunction with a health and safety inspection of assets.

Asset register

Ref	Description of asset	Documentation
3.1.1	The Village Green, Bigbury	Commons Commissioners document 12 th November 1986 Ref 209/U/64. Register Unit VG 75 Re-registered Land Registry letter 26th August 2009 Title no. DN 591 887 as: The Village Green, Bigbury, Kingsbridge, TQ7 4AP
3.1.2	Old Bowling Green	Commons Commissioners document 12 th November 1986 Ref 209/U/104. Register Unit VG 75 Re-registered Land Registry letter 28th August 2009 Title no. DN 591 891 as: Bowling Green, Bigbury, Kingsbridge, TQ7 4AP
3.1.3	Warren Point	Commons Commissioners document 12 th November 1986 Ref 209/U/104. Register Unit VG 75 Re-registered Land Registry letter 26th August 2009 Title no. DN 591 896 as: Warren Point, Marine Drive, Bigbury – on - Sea, Kingsbridge, TQ7 4AS
3.1.4	Bus Lay by	Land Registry document 12 th July 2010 Title no. DN 426 191 dated 22 nd April 2010 Certificate no. 069/R23/ DNJB
3.1.5	Bus Shelter	Land Registry document dated 2010 - Title no. DN 601 825
3.1.6	Viewing Point and Millennium steps LEASE	Land Registry document 14 th March 2002 Title number DN 459 850 Lease details – 50 years from 1 st Sept 2001 rent – peppercorn Parties – Wykeham Land Ltd and Bigbury Parish Council
3.1.7	Equipment – Children’s play area St Ann’s Chapel	Equipment in children’s play area on the edge of the playing field St Ann’s Chapel. Maintained and insured by SHDC as per agreement dated 11 th May 2014
3.1.8	Lenovo Laptop computer complete with wired mouse and wireless mouse	In the care of and for use by the Parish Clerk
3.1.9	Wireless mouse and keyboard	Locked in Memorial Hall cupboard for use at meetings
3.1.10	Epson XP810 colour printer	In the care of and for use by the Parish Clerk
3.1.11	2 x Filing cabinets	In the care of and for use by the Parish Clerk
3.1.12	Misc storage boxes	In the care of and for use by the Parish Clerk
Copies of Land Registration documents are maintained in the records of the Parish Clerk (File name – Assets)		

ASSET VALUES – The above assets have no balance sheet value (£) in as much as they were either gifted to the Parish or at such a low cost that were written off in the year of purchase.

NOTE – Three defibrillators are NOT owned by the Parish Council. They are managed by a team from the community (Yvonne Klidjian, David Gaye and Jeremy – Coastguard) who offer regular training in the use of the life saving device and ensure the units are maintained.

Bigbury Parish Council

Insurance

The RFO shall affect all insurances and negotiate all claims with the Council's insurers.

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

The RFO shall be notified of any loss liability or damage or of any event likely to lead to a claim.

All appropriate employees of the Council shall be included in a suitable fidelity guarantee insurance and the policy should also include cover for Public & Employers liability, Personal Accident and Parish owned assets.

It is the responsibility of the RFO to ensure insurance cover is renewed on an annual basis and that the policy is value for money by obtaining competitive quotations.

As at June 1st 2016 the insurer is Zurich Insurance plc and the policy is managed through an agent:
Community First
Unit C2
Beacon Business Centre
Hopton Park
Devizes
Wiltshire
SN10 2EY

Detail of the cover provided can be found on the invoice for the annual policy which is held in the receipts file for the current financial year.

The policy document is filed under 'insurance' in the filing cabinet.

Bigbury Parish Council

Health and Safety policy statement

Bigbury Parish Council recognises that, in its entirety, it is responsible for the health, safety and welfare of Councillors and others working on its behalf. As such, the Parish Council will endeavour to:

Provide and maintain a clean, healthy and safe working environment

Provide professional health and safety training where it is appropriate

Maintain parish assets in a safe and clean condition

Ensure this policy is fully implemented

Ensure their own actions and those of third parties working on their behalf do not create risks to themselves or others whilst exercising their duties

Review the effectiveness of this policy periodically ensuring appropriate updates and improvements are made and applied to the document

This policy statement, including the detailed schedule were formally approved at a Parish Council meeting in July 2016.

Date of issue June 8th 2016

Bigbury Parish Council

Health and Safety policy schedule

Bigbury Parish Council organisation

The Health and Safety policy statement and schedule are held in Parish records maintained by the Parish Clerk.

The Health and Safety policy statement and schedule will be periodically reviewed by the Parish Council.

The Parish Clerk is responsible for ensuring any incoming (new) Councillors are made aware of the Health and Safety policy.

The Parish Clerk and Councillors will inform contractors, carrying out work on behalf of the council, of the requirements of this policy.

The Parish Clerk will seek advice from external bodies and/or consultants as appropriate.

The Parish Clerk is the only employee of the Parish Council which in itself has limited resources and the following arrangements are considered to be reasonably practical.

Risk Assessment

General risk assessments have been carried out and recorded (see page 4).

Specific project risk assessments will be drawn up on an ad hoc basis, as required.

Accidents

All Councillors, Parish Clerk and contractors must report accidents or near misses to the Parish Clerk, who will maintain a record and notify the appropriate authorities if appropriate.

Risk assessments must be reviewed in the event of an accident.

Fire and Evacuation

The Parish Council will take reasonable steps to ensure that any premises it hires for public meetings or otherwise has a suitable means of raising the alarm in the event of a fire and that suitable escape routes are maintained and kept clear of obstructions.

When appropriate, the fire and evacuation procedure will be explained at the start of any meetings and any conditions of the fire certificates relating to the occupancy and use of the said buildings will be complied with.

Loan Working

Councillors and employees are considered to be lone workers from time to time but the associated risks are considered to be medium to low.

Councillors and employees will carry out their own risk assessments but should avoid lone working for higher risk activities such as working at height or in situations where violent confrontation may be expected.

Driving

Councillors and employees acting on Parish Council related business must comply with the Highway Code and Road Traffic Acts, ensuring their vehicles are maintained in a road worthy condition.

VDU

The risk from ill health to the Councillors and employees is considered low as a result of using display screen equipment to carry out their duties.

Manual Handling

This risk is considered low but Councillors and employees should use common sense and not attempt to lift more than they comfortably cope with.

COSHH (Control of substances hazardous to health)

The Council will avoid using hazardous substances and materials where possible.

Manufactures instructions and data safety sheets must be adhered to when using such materials and PPE (Personal Protective Equipment) should be used as advised.

Contractors

When employing a contractor, the Parish Council will ensure that the contractor is aware of the Health and Safety requirements of the task and takes steps to maintain a safe working environment.

Health and Safety related - Risk Assessment Register

NOTE – This Health and Safety related document is supplementary to the Parish Council’s overarching Risk Assessment Register

Area	Potential Risk	Risk Level	Impact	Management of risk	Review/Action
Assets					
Lighting columns, bus shelters, seats, benches, parish notice boards, play park, viewing platform / steps and other assets owned by the Parish Council.	Inadequate protection, security and maintenance of these physical assets	Med	Med	Assets are fully insured, regularly inspected and maintained	Insurance policy review and annual checks of the assets, with repairs as necessary. Budget to ensure repairs are made.
Office equipment	As above	Low	Med	Kept in a safe, dry office environment – locked if necessary	As above
Insurance	Inadequate to cover risk or too high incurring unnecessary cost	Low	Low	Annual competitive policy review. Annual review of asset values	See Bigbury Parish Council overall Risk Register

June 8th 2016

Bigbury Parish Council
Salary – RFO (Parish Clerk)

The RFO is the only paid employee of Bigbury Parish Council.

The Chairman and Vice Chairman are responsible for preparing a contract of employment and setting the salary for a new incumbent. The salary appropriate for this position is to be reviewed annually and will be increased as and when deemed necessary.

Changes are to be agreed by the Councillors in a public Council meeting and are to be published as part of the meeting minutes.

As of July 13th 2016 the basis of the Clerk's salary is as follows:

18 hours per month

£9 per hour

£162 per month which will be paid quarterly in arrears.

The RFO is responsible for ensuring all PAYE requirements are adhered to in line with HMRC guidelines in place at that specific point in time.

The HMRC liability for PAYE sits with the Clerk as the paid employee

Bigbury Parish Council

Retention of records (physical documents)

Bigbury Parish Council has an obligation to retain documents that are either of historic importance to the Parish or are required to fulfil legal reporting requirements.

NALC (National Association of Local Councils) have issued guidelines which Bigbury Parish Council will adhere to as a MINIMUM requirement.

The relevant legal topic note is LTN40 which was issued in January 2013

The Parish Clerk is the custodian of all documentation relating to Parish Council matters and records. The current Parish Clerk has three (3) levels of record retention.

- 1) Current records (prior twelve months) always taken and referred to at Parish Council Meetings.
- 2) Records from prior periods maintained in filing cabinets – details of the files (headings) held are shown on the subsequent page.
- 3) Historic records (truly defined as archives) are sent to Devon Heritage Centre for secure storage. The address of the store is Sowton Industrial Estate, Exeter.

January 2013

LOCAL COUNCILS' DOCUMENTS AND RECORDS

Introduction

1. Information about local council documentation is contained in Chapter 11 of 'Local Council Administration' by Charles Arnold Baker (8th Edition). This Note is intended to update and supplement that information, with particular reference to the length of time documents should be retained by local councils.

Financial returns and accounts

2. Section 11.12 on page 106 of 'Local Council Administration' (8th Edition) requires clarification. Parish councils, committees of parish councils (including joint committees) and parish meetings of parishes without a separate parish council (namely bodies caught by s.2 and schedule 2 of the Audit Commission Act 1998) are required to make annual returns pursuant to regulations issued under s.27 Audit Commission Act 1998 rather than pursuant to s.168 Local Government Act 1972.

Retention of documents

3. Attached is an Annex indicating the appropriate minimum retention periods for audit and other reasons. There is a clear need to retain documentation for audit purposes, staff management, tax liabilities, and the eventuality of legal disputes and legal proceedings (explained in paragraphs 7-11 below and in the attached Annex). Subject to the aforementioned reasons for retaining documents, and as a basic starting point, papers and records may be destroyed if they are no longer of use or relevant. If in doubt, document(s) should be retained until proper advice has been received.
4. Other documents not mentioned in the Annex and not covered in Chapter 11 of 'Local Council Administration' may be treated as follows -

Planning papers

- a. Where planning permission is granted, the planning application, any plans and the decision letter should normally be retained until the development has been completed so that, if required, the council can check that the development proceeds in accordance with the terms and conditions of the permission. Where planning permission is granted on appeal, a copy of the appeal decision should also be retained likewise. It may sometimes be sensible to retain an appeal decision indefinitely because of wider implications (e.g. the decision may set a precedent for other developments in the locality).
- b. Where planning permission is refused, the papers should be retained until the period within which an appeal can be made has expired. If an appeal is made, and dismissed, the decision letter may, as in (a) above, be worth retaining against further applications relating to the same site.
- c. Where a substantial number of planning applications are received from the local planning authority, it is advisable for a council to have an effective referencing and filing system.
- d. Copies of Structure Plans, Local Plans and similar documents should be retained as long as they are in force.

Insurance policies - all insurance policies should be kept for as long as it is possible for a claim to be made under them. Irrespective of how long policies and correspondence are retained, the recommendation is that councils ensure that they keep a permanent record of insurance company names and policy numbers for all insured risks. Article 4 of the Employers' Liability (Compulsory Insurance) Regulations 1998 (SI. 2753) requires local councils, as employers, to retain certificates of insurance against liability for injury or disease to their employees arising out of their employment (this insurance is mandatory pursuant to the Employers' Liability (Compulsory Insurance) Act 1969) for a period of 40 years from the date on which the insurance is commenced or renewed.

Information from other bodies (e.g. circulars etc. from County Associations, NALC and other bodies (e.g. principal authorities) too numerous to mention) – such information should be retained for as long as it is useful and relevant.

Magazines and Journals – a council may want to keep its own publications (e.g. news letters). The Legal Deposit Libraries Act 2003 (the 2003 Act) requires a local council (and a parish meeting in a parish without a separate parish council) which after 1 February 2004 has published works in print (this includes a pamphlet, magazine or newspaper, a map, plan, chart or table), to deliver, at its own expense, a copy of them to the British Library Board (which manages and controls the British Library). The British Library holds books, periodicals, manuscripts and other publications for reference, study and information. Printed works as defined by the 2003 Act published by a local council (or a parish meeting in a parish without a separate parish council) therefore constitute materials which the British Library holds. There is a separate NALC legal briefing in respect of the 2003 Act. Journals published by others (e.g. local government news journals and magazines) should be retained as long for as they are useful and relevant.

Correspondence – if related to audit matters, correspondence should be kept for the appropriate period specified in the Annex hereto. In planning matters, correspondence should be retained for the same period as suggested for other planning papers. For other correspondence (unless relating to staff) , no firm guidelines can be laid down (but see paragraphs 7 – 11 below).

Documentation relating to staff - should be kept securely and in accordance with the 8 data protection principles contained in the Data Protection Act 1998 . The principles provide that personal data in relation to staff should not be kept for longer than is necessary for the purpose it was held. However even after an employment relationship has ended, a council may need retain and access staff records for former staff for the purpose of giving references, payment of tax, national insurance contributions and pensions, and in respect of any related legal claims made against the council. The time limits within which a claim (and any appeal) may be lodged against an employer at an employment tribunal are set out in the legislation that contains the employment right in question or failing that by reference to the Limitation Act 1980 (as amended) considered in paragraph 7 below. The time for lodging a claim at an employment tribunal is usually measured from the date that the employment relationship ended or the date of the act complained of. Subject to where the Limitation Act 1980 applies, the most common time limit for lodging a claim at an employment tribunal is 3 months (for example a claim for unfair dismissal must, by virtue of s.111 of the Employment Rights Act 1996, be lodged at an employment tribunal within 3 months of the date of the termination of the employment contract) although 6 months applies in redundancy and equal pay claims.

Local/historical information - The Local Government (Records) Act 1962 provides that parish councils (and parish meetings in parishes without a separate parish council) may acquire records of local interest and accept gifts or records of general and local interest in order to promote the use of such records (defined as materials in written or other form setting out facts or events or otherwise recording information).

Arrangements for the deposit, storage and management of documents

5. In accordance with s. 227 of the Local Government Act 1972 (the 1972 Act), if a parish council requests the district council in which the parish is situated or a community council in Wales requests the county or county borough council in which the community is situated, the relevant principal authority must provide proper depositories for all the specified papers (defined as public books, writings, council papers and all documents directed by law to be kept) belonging to the parish or community for which there is no other provision. (In the case of a parish or community not having a separate parish or community council, the council of the district in which the parish, or the county or county borough council in which the community is situated must provide proper depositories for all the specified papers under the control of the parish meeting or belonging to the community but in England only with the consent of the parish meeting). Documents of local and or historical importance, if not retained and stored by a local council, with or without reliance on the provisions of s.227 of 1972 Act, should be offered first to the county record office if there is one. The county archivist there will always be willing to advise on which records should be permanently preserved.
6. Local councils (and parish meetings of parishes without a separate parish council) are advised to implement system(s) of paper and electronic records management (including those records retained for audit purposes reviewed annually by a council's internal auditor). Such systems should ensure the storage and security of, access to and disposal of both paper and electronic records. It is essential that any such system(s) (and policies) relating to record management include an annual review of the records themselves and also the effectiveness of such systems(s) (and policies).

Retention of documents for legal purposes

7. Most legal proceedings are governed by the Limitation Act 1980 (as amended). The 1980 Act provides that legal claims may not be commenced after a specified period.

The specified period varies, depending on the type of claim in question. The table below sets out the limitation periods for the different categories of claim. The reference to 'category' in the table refers to claims brought in respect of that category.

Category	Limitation Period
Negligence (and other 'Torts')	6 years
Defamation	1 year
Contract	6 years
Leases	12 years
Sums recoverable by statute	6 years
Personal Injury	3 years
To Recover Land	12 years
Rent	6 years
Breach of Trust	None

8. Where the limitation periods above are longer than other periods specified in this Note, the documentation should be kept for the longer period specified. Some types of legal proceedings may fall within two or more categories. Rent arrears, for example, could fall within the following three categories (depending on the circumstances):

- contract (6 years) – because all tenancies and leases are contracts;
- leases (12 years) – if the arrears are due under a lease; and
- rent (6 years) – if the arrears are due under a tenancy (and not a lease).

In these circumstances, NALC advises that the relevant documentation should be kept for the longest of the three limitation periods.

9. The same principles apply in the case of debts. If the debt arises under a simple contract the limitation period will be 6 years but if the debt arises under a lease the limitation period will be 12 years (unless it relates to rent in which case the limitation period will be 6 years). A final complication relates to sums due under leases which are 'reserved as rent'. Sometimes, for example, service charges are expressed to be payable as 'additional rent'. The limitation period for service charges in those circumstances will be 6 years – even though the sums are due under a lease.

10. As there is no limitation period in respect of trusts, councils are advised that they should

never destroy trust deeds and schemes and other similar documentation.

11. For the sake of completeness it should be noted that some limitation periods can be extended. Examples include:
 - where individuals first become aware of damage caused at a later date (e.g. in the case of personal injury);
 - where damage is latent (e.g. to a building); or
 - where a person suffers from a mental incapacity;
 - where there has been a mistake or where one party has defrauded another or concealed facts.

12. In such circumstances individual councils will need to weigh (i) the costs of storing relevant documents and (ii) the risks of:
 - claims being made;
 - the value of the claims; and
 - the inability to defend any claims made should relevant documentation be destroyed.

13. It hardly needs to be said that the higher the value of a contract or the higher the risk or value of a claim being made, the more likely it is that the greater expense/inconvenience of storing documents for longer periods can be justified. Councils should also confirm the precise wording of any insurance policies they have to ensure that they comply with any terms they contain in respect of the retention of documents and information.

Data Protection and Freedom of Information Considerations

14. In November 2002, the Lord Chancellor issued a Code of Practice pursuant to section 46 of the Freedom of Information Act 2000. The Code, which is called the 'Lord Chancellor's Code of Practice on the Management of Records' applies to public authorities and also bodies which are subject to the Public Records Act 1958. Although local councils are not subject to the 1958 Act, they should familiarise themselves with the contents of the Code of Practice so they can formulate their own system of records management. The Code of Practice is available on the Internet and can be accessed via the following link:

<http://www.foi.gov.uk/reference/imp/imp/codemanrec.htm#part1>

15. Further information in respect of the Freedom of Information Act 2000 is set out in LTN 37 (Freedom of Information) and in respect of the Data Protection Act 1998 in LTN 38 (Data Protection).

Other Legal Topic Notes (LTNs) relevant to this subject:

LTN	Title	Relevance
22	Disciplinary & Grievance Arrangements	Sets out arrangements for dealing with employment issues
23	Health and Safety	Sets out need for public liability insurance
28	Basic Charity Law	Sets out duties of custodian trustees to hold title deeds of charity
37	Freedom of Information	Sets out the information councils are obliged to disclose.
38	Data Protection	Sets out the circumstances in which personal data should not be disclosed.
42	Occupiers Liability	Sets out need for public liability insurance.
68	Negligence	Sets out the need for public liability insurance.

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ANNEX TO LEGAL TOPIC NOTE 40

RETENTION OF DOCUMENTS REQUIRED FOR THE AUDIT OF PARISH COUNCILS

DOCUMENT	MINIMUM RETENTION PERIOD	REASON
▪ Minute books	Indefinite	Archive
▪ Scales of fees and charges	6 years	Management
▪ Receipt and payment account(s)	Indefinite	Archive
▪ Receipt books of all kinds	6 years	VAT
▪ Bank statements, including deposit/savings accounts	Last completed audit year	Audit
▪ Bank paying-in books	Last completed audit year	Audit
▪ Cheque book stubs	Last completed audit year	Audit
▪ Quotations and tenders	6 years	Limitation Act 1980 (as amended)
▪ Paid invoices	6 years	VAT
▪ Paid cheques	6 years	Limitation Act 1980 (as amended)
▪ VAT records	6 years	VAT
▪ Petty cash, postage and telephone books	6 years	Tax, VAT, Limitation Act 1980 (as amended)
▪ Timesheets	Last completed audit year	Audit
▪ Wages books	12 years	Superannuation
▪ Insurance policies	While valid	Management
▪ Certificates for insurance against liability for employees	40 years from date on which insurance commenced or was renewed	The Employers' Liability (Compulsory Insurance) Regulations 1998 (SI. 2753), Management.
▪ Investments	Indefinite	Audit, Management
▪ Title deeds, leases, agreements, contracts	Indefinite	Audit, Management
▪ Members allowances register	6 years	Tax, Limitation Act 1980 (as amended)

DOCUMENT	MINIMUM RETENTION PERIOD	REASON
For Halls, Centre, Recreation Grounds		
<ul style="list-style-type: none"> ▪ application to hire ▪ lettings diaries ▪ copies of bills to hires ▪ record of tickets issued 	6 years	VAT
For Allotments		
<ul style="list-style-type: none"> ▪ register and plans 	Indefinite	Audit, Management
For Burial Grounds		
<ul style="list-style-type: none"> ▪ register of fees collected ▪ register of burials ▪ register of purchased graves ▪ register/plan of grave spaces ▪ register of memorials ▪ applications for interment ▪ applications for right to erect memorials ▪ disposal certificates ▪ copy certificates of grant of exclusive right of burial 	Indefinite	Archives, Local Authorities Cemeteries Order 1977 (SI. 204)

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Bigbury Parish Council – files maintained in filing cabinets
Documents stored - Metal filing cabinet - top drawer - files as follows
Annual Parish Meeting
Asset Register and Land Registry
Audit reports and masters
Bigbury Village Stores - formal complaint
Caravan and Park Dean
Clerk job descriptions
Commemorative
Emergencies
Freedom of Information
Land Registry (see Asset Register file)
Planning and sundry queries
Plans and Maps
Precept calculation
Public Transport
Quiz
Recycling credit claims blank forms SHDC
Salt bins and snow warden
Trees
VAT refund claim and forms
Documents stored - Metal filing cabinet - bottom drawer - files as follows
Cheque book stubs (old)
Bank statements for business account and business instant access account 2000-2010
Cash flow forecasts from 1996
Parish Council Meeting minutes from 1999
Documents stored - Wooden filing cabinet - top drawer - files as follows
Beach huts
Beach, Warren car park
Burgh Island
Bus shelter and bus layby
Challaborough including residents association
Code of conduct and quality
Coast and countryside services
Cluster meetings
County Councillors
Commemorative
DALC and local council associations
Dogs
Electoral general
Electoral register
Environment

Documents stored - Wooden filing cabinet - bottom drawer - files as follows
Financial
Footpaths
Gary Streeter
Highways
Housing
Ivybridge and district association of parish councils
Licences
Memorial Hall and Playing field
National Trust
Parish Paths Partnership
Planning general
Public services - phone / power / water
Rubbish skips and bins
SHDC Sundry
Sundry
Wind Turbines

Bigbury Parish Council
Retention of records (electronic data)

Bigbury Parish Council has an obligation to retain documents and records of its activity.

Some of this information is in an electronic format and is stored on the computer used by the Parish Clerk.

The computer path is Folder 'Clerk' > Folder 'My Documents'.

The Parish Clerk is responsible for ensuring the contents of this folder (My Documents) are regularly backed up to minimise the risk of lost data.

The back up is to be taken on a monthly basis and the secure copy will be maintained in a fire proof safe at the property of the Parish Clerk

Bigbury Parish Council
Bigbury Community website

The Bigbury Community website (bigburycommunity.co.uk) is the portal used by Bigbury Parish Council.

The website contains a number of information 'groups' of which Bigbury Parish Council is one and the Parish Clerk is responsible for the timely uploading of information which the public will find of interest or importance.

The website is hosted by:
Kingsbridge Websites
23 Duncombe Street
Kingsbridge
Devon
TQ7 1LR

An annual fee is payable for this service on receipt of an invoice – the annual renewal date is June 14th.

Bigbury Parish Council
Managing the Planning Process

Bigbury Parish Council has a role to perform in the Planning Process cycle, providing guidance to SHDC (South Hams District Council) on every planning application submitted within the Parish.

The Parish Clerk is responsible for co-ordinating the process on behalf of the Parish Council.

The Process

SHDC notifies the Parish Council of planning applications in two ways:

- 1) It provides an electronic weekly summary of applications made across South Hams. The Parish Clerk has two tasks to perform:
 - a) Upload the files to the Bigbury Community website to ensure access to all members of the public.
 - b) Forward the electronic files to all Council Members – marked for information.
- 2) It provides, via Royal Mail, the Parish Clerk with:
 - a) Covering letter which provides the planning application number, details of the property, a summary of the application itself and the date by which the Parish Council need to respond to SHDC.
 - b) Planning notice to be shared with the Parish residents, providing greater detail as the application and giving a deadline date by which the general public have to comment on the application.
 - c) Recommendations sheet for the Parish Council to give their considered response to the planning proposal. Response options are: no comment to make, support, object because with additional options to either suggest possible conditions or reasons for refusal.
 - d) Detailed drawings in respect of the application.

The Parish Clerk will scan and upload 2a and 2b above to the Parish laptop – Folder 'Clerk' > 'My Documents' > Planning. Each new application will be given its own individual sub folder.

The Parish Clerk will share the uploaded documents with the Members of the Parish council – this will be done via e mail.

The Members of the Parish Council consider each application in isolation and the general principle is to discuss and reach a decision at the Parish Council meetings. However, the date SHDC require a decision may dictate the need to convene an Extraordinary Parish Council Meeting. Members review many applications and using this experience will know early in the review process if the application is likely to be contentious (IE likely to be either refused or require possible conditions). In these cases the Parish Clerk will work the Members and organise a site visit. Once the Parish Council Members have reached a conclusion on the planning application it is the responsibility of the Parish Clerk to communicate the response to SHDC in the following manner:

- a) Complete the recommendations sheet (2c above), uploading a scanned copy to the Parish laptop in the same method as described in 1a above and e mailing to the SHDC planning dept.
- b) Where the Parish Council object to a specific application, draft a supporting letter for review and approval by the Members. Once approved this letter is to be e mailed to SHDC Planning Dept. and a scanned copy uploaded to the Parish laptop in the same method as described in 1a above.

The Parish Clerk is responsible for storing the original physical documents supplied by SHDC, together with any comments made for future use and reference.

With the knowledge that all applications are electronically stored on the SHDC Planning Dept computer, the following guidelines for storage are applied:

- 1) Application marked 'No Comment to Make' and Support' are stored for five years and then destroyed through incineration or shredding.
- 2) Applications marked 'Object' or 'Possible Conditions' are stored for ten years and then destroyed through incineration or shredding.
- 3) Applications of 'major' significance to community are stored in excess of ten years

SHDC also notifies the Parish Council of planning applications decisions in two ways:

- 1) It provides an electronic weekly summary of applications made across South Hams. The Parish Clerk has two tasks to perform:
 - a. Upload the files to the Bigbury Community website to ensure access to all members of the public.
 - b. Forward the electronic files to all Council Members – marked for information.
- 2) SHDC will write to the In the cases where planning applications has been refused.

Some applications that have been refused are subsequently taken to the appeal stage and it is the responsibility of the Parish Clerk to co-ordinate the views of the Parish Council members, write letters on behalf of the Council and keep the Members informed of progress and outcomes.

HANDLING COMPLAINTS (ENGLAND)

Introduction

1. This Legal Topic Note is intended to assist local councils deal with formal complaints they receive about their operations and services. Appendix 1 outlines the steps in a complaints handling procedure that are recommended for local councils.
2. The Local Government Ombudsman (LGO) is responsible for handling complaints against principal authorities and some other public sector organisations which do not include local councils. The LGO has no jurisdiction in respect of a local council except where it is (i) working jointly with a principal authority through a joint committee which includes representatives of the principal authority or (ii) exercising the functions of a principal authority. An explanation of the process of complaints to the LGO is set out in Appendix 2. The LGO has produced useful guidance on the subject of complaints procedures for principal authorities. A copy of the full guidance may be obtained from the LGO's website via the following link <http://www.lgo.org.uk/publications/guidance-notes>. This Note draws on the guidance for principal authorities.
3. In the context of a complaint against a principal authority, the LGO offers the following definition:

'A complaint is an expression of dissatisfactionabout the council's action or lack of action or about the standard of a service, whether the action was taken or the service provided by the council itself or a person or body acting on behalf of the council.'
4. A complaint against a local council may arise for the reasons given in paragraph 3 above. It may also be triggered by an allegation of administrative fault such as not following procedures or standing orders, inadequate service, no service,

delay or making a mistake.

5. When a complaint is made against a local council, member(s) of the council or staff are likely to be mentioned or complained about. However, a complaint against a council should be treated as a complaint against the body corporate of the council, not as a complaint against individual employees or member(s) of the council. See also paragraphs 8 and 11- 13 below.

6. Occasionally it might be necessary to notify the council's insurers of a complaint immediately. This could be appropriate if a complainant seeks redress for personal injury, damage to property or other financial loss (e.g. in respect of libel) or where the council is at risk of being held liable in law to pay damages or to provide another legal remedy. It is important that the council takes instruction from its insurers as to how to respond to the complaint. The insurance policy for a council is likely to include cover for the council's legal expenses in defending a legal claim or the threat of a legal claim against a council (and any related formal complaint against the council). The failure by a council to notify its insurers as soon as a legal claim is threatened or made, may invalidate its insurance policy. Often, the legal expenses insurance cover for councils does not apply to all types of legal claims. For example, most legal expenses insurance policies do not provide legal expenses cover for the defence of a judicial review claim. Further guidance about judicial review is set out in Legal Topic Note (LTN) 15 – Legal Proceedings. If a formal complaint about a council threatens legal action, and the council does not have insurance cover to defend allegations which may subsequently give rise to a legal claim, it is recommended to seek professional legal advice as to how to respond to the complaint and any remedies offered. See also paragraph 25 below.

Who is a local council's complaints procedure for?

7. Residents who live in or near a council's area and who are affected by a council's decisions are likely to be the main users of a council's complaints procedure. A council's complaints procedure should also be available to other individuals, organisations (e.g. a business, charity) or unincorporated bodies (e.g. a residents' or allotment tenants' association). Anyone aggrieved with a local council is likely to communicate this verbally or in writing. It is generally in the interests of the complainant and the council to try resolve the matter informally through the normal channels of communication, rather than deferring to the council's formal complaints procedure.

8. A complaint against a council that involves a complaint about the conduct of its employees must be handled in accordance with its complaints procedure. If, following the outcome of the complaint, the council decides that there may be a need to take disciplinary action, this should be in accordance with its internal disciplinary procedure. For more information and guidance see LTN 22 - Disciplinary and Grievance Arrangements.

When is a local council's complaints procedure not appropriate?

9. Other bodies have responsibility for certain types of complaint. These are summarised below.

Type of conduct	Refer to
Alleged financial irregularity	Local electors have a statutory right to object to a Council's audit of accounts (s. 16 Audit Commission Act 1998).
Alleged criminal activity	The police.
Members' conduct alleged to breach the code of conduct adopted by the council.	The district or the unitary council (which includes a London borough council) is responsible for handling complaints that relate to a member's failure to comply with the council's code of conduct.

10. Sometimes other internal procedures, statutory requirements or litigation (including the examples given in paragraph 6 above) may run in parallel or be used as an alternative to dealing with complaints against a local council, whether they are raised through the usual channels of communication or formally. The following examples illustrate such scenarios. If a person is unhappy with a council's response to his request for information or the Information Commissioner has communicated with the council for this reason, the council may have appointed a committee or sub-committee which is responsible for handling the council's responses to requests for information. A company that is complaining about a council's late payment of its invoice is unlikely to submit a formal complaint because the company will be relying on contractual terms for prompt payment which it may take legal action to enforce if the matter cannot be resolved in routine correspondence. An allotment tenant may lodge a formal complaint against a council because he is unhappy it has terminated its tenancy. Irrespective of the determination of any formal complaint, a decision about the lawfulness of the termination of the tenancy may be available to the former tenant if he is able to issue a legal claim against the council.

11. A council's complaints procedure is not a means of redress for its members or staff. Members and staff are expected to work together professionally even if they hold differences of opinion and views.
12. Members are free to raise matters of concern in respect of council business by the submission of motion(s) on the agenda for relevant meeting(s) where the issue can be formally considered and resolved. Alternatively if a member has concerns about the conduct of a member of staff, he should notify the committee or sub-committee that has responsibility for staff management. The staffing committee or sub-committee is responsible for deciding whether the member's concerns raise disciplinary issues to be dealt with in accordance with the council's disciplinary procedure.
13. If an employee has a complaint about the workplace, he may raise this in accordance with the council's internal grievance procedure. For more information and guidance see LTN 22 - Disciplinary and Grievance Arrangements.

Complaints Procedures for Local Councils

14. The LGO confirms that a good complaints system is:
 - well publicised, easily accessible and easy to use;
 - helpful and receptive;
 - not adversarial;
 - fair and objective;
 - based on clear procedures and defined responsibilities;
 - thorough, rigorous and consistent;
 - decisive and capable of putting things right where necessary;
 - sensitive to the special needs and circumstances of the complainant;
 - adequately resourced;
 - fully supported by councillors and officers;
 - provides responses that are proportionate; one size does not fit all;
 - timely; and
 - regularly analysed to spot patterns of complaint and lessons for service improvement.

It is recommended that the complaints procedure for a local council is documented in writing and that, in practice, it reflects the above features.

15. A council's complaints procedure should require formal complaints to be submitted in writing. A council may design a standard form for complainants to use when submitting their complaint. As a minimum, the form should require the complainant to confirm the (i) detail of his complaint, including relevant events, dates, names of relevant members, staff, or contractors of the council etc. and (ii) his contact details. An explanation of the council's complaints procedure, including the complaint form to be used (if there is one), should be well publicised and accessible via its publication scheme. For further information about publication schemes see LTN - 37 - Freedom of Information and NALC's legal briefings issued in 2008.
16. Once submitted, a complaint may be processed by a council exclusively through written communications. However if a council wants to offer the complainant an opportunity to make verbal representations, this should be confirmed in its written complaints procedure. Verbal representations by the complainant will lengthen the period for dealing with the complaint.
17. A complaint against a local council must be properly investigated. The complainant may or may not provide evidence to support his complaint even if the complaint is submitted using a complaints form that has been drafted by the council and which asks for this information. A council will need to set aside a reasonable period of time to investigate the complaint and to gather evidence. The period set aside for investigation of the complaint must be specified in the council's written complaints procedure.
18. The LGO recommends that any complaints procedure should consist of at least 2 stages which permits the complainant to appeal the outcome of complaint. This may be impractical for small councils with few members and staff. The fairness and timeliness of a local council's response to a complaint is however more important than the number of stages in its complaints procedure. If a council adopts a 2-stage complaints process, this must be confirmed in its written complaints procedure. Staff or members previously involved in the original decision should not participate in the determination of an appeal.
19. A council may delegate responsibility for handling and determining complaints to staff. Many councils may prefer complaints to be handled by members. If so, they are advised to appoint a committee or sub-committee responsible for considering and determining complaints. Guidance about a council's powers to

delegate the discharge of its functions to a committee, sub-committee or staff is given in LTN 1 - Councils' powers to discharge their functions.

20. If the complaints procedure provides an opportunity for the complainant to attend a meeting to make representations about his complaint, he is likely to feel more comfortable speaking to an officer of the council or at a meeting of a sub-committee or a small committee, rather than a meeting of the full council.
21. It is good practice to set deadlines for complaint handling and local councils should not leave this open-ended. The LGO recommends that this takes no longer than 12 weeks from receipt to resolution. Clearly, some flexibility may be required to deal with lengthier and more complex complaints and this should be explained in a council's written complaints procedure.

Data protection and confidentiality

22. To ensure compliance with its obligations in the Data Protection Act 1998 ('the 1998 Act'), a council cannot disclose the identity, contact details or other personal data about an individual complainant unless he consents or disclosure is otherwise fair and lawful under the 1998 Act e.g. for the purpose of discharging the council's functions, or for the performance of contractual obligations. Councils should ensure that agendas and minutes do not disclose personal data or financial, sensitive or confidential information that relates to an individual complainant or a third party in the agendas or minutes of its meeting. For guidance about the preparation of agendas and minutes, see also LTN 5 – Parish and Town Council Meetings. Further guidance about the 1998 Act is available in LTN 38 - Data Protection. The LGO advises that the identity of a complainant should only be made known to those in the council who need to consider the complaint. In other words, a council is expected to treat a complaint in confidence.
23. A complaint against a local council is personal to the complainant and should be treated as confidential unless the complainant confirms that he waives his right to confidentiality. The meeting of a relevant committee or sub-committee considering the complaint or inviting the complainant to make representations will need to exclude the public. This would not preclude the committee or sub-committee from inviting the complainant to speak at a meeting or requesting the attendance of clerk (or other nominated officer) to represent the position of the council.

24. Annex 1 further explains paragraphs 14 – 23 and outlines the steps to be incorporated into a local council's written complaints handling procedure.

Determination of complaints and remedies

25. With reference to paragraph 6 above, if a complainant has threatened to take legal action against a council or legal proceedings have already begun, the council is recommended to seek professional legal advice about how to respond to the complaint. It may need professional legal advice about any remedial steps that it may wish to offer the complainant if the complaint is upheld.
26. If a council upholds a complaint, it should, where possible, avoid an admission of wrongdoing. If the complainant decided to take legal action against the council (e.g. to obtain a court order which requires the council to pay damages or perform another legal remedy), an admission of wrongdoing may expose the council to legal liability.
27. If a council upholds a complaint, it is appropriate for the council to give the complainant an explanation of the matters complained of. It may decide to apologise to the complainant. In addition, the council may explain what steps it intends to take to reduce the risk of the matters complained of being repeated.
28. If a complaint against a local council is upheld, the council may offer a remedy which, as far as possible, puts the complainant back in the position he would have been in but for the matters complained of. If the matters complained about have caused the complainant to suffer financial loss, the council may want to offer financial compensation. Any offer or acceptance of financial compensation should confirm the council's payment is full and final settlement of the dispute and any claims which the complainant has against the council and without admission of legal liability.
29. If it is not appropriate for the council to offer compensation for some or all of the financial loss suffered by the complainant, it may, as an alternative, make an offer of goodwill or some other gesture. For example, in the case of a frequent user of the council's community hall or sports facility, the council may offer use of the facility for free or at a reduced rate.

30. The general power of competence (ss.1-8 Localism Act 2011) provides statutory authority for a council which is eligible to exercise the power of competence (Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012/965) to offer a range of remedies. If the remedy offered by the council facilitates, or is conducive or incidental to the exercise of the council's statutory functions or powers, any local council may rely on s.111(1) of the Local Government Act 1972.

Other Legal Topic Notes (LTNs) relevant to this subject:

LTN	Title	Relevance
1	Councils' powers to discharge their functions	Explains delegations of council functions to committees, and staff.
15	Legal Proceedings	Explains when the remedy of Judicial Review may be sought by a complainant (in the absence of any other appeal mechanism).
22	Disciplinary and Grievance Arrangements	Provides guidance on procedures for disciplining an employee or dealing with a grievance from and employee.
37	Freedom of Information	Explains publication schemes and other obligations of a council under the Freedom of Information Act 2000.
38	Data Protection	Explains rights and obligations of a council under the Data Protection Act 1998 and defines personal data.
80	Members' conduct and the registration and disclosure of their interests (England)	Explains councillors' obligations under the Localism Act 2011.

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APPENDIX 1 – OUTLINE COMPLAINTS PROCEDURE FOR USE IN COMPLAINTS AGAINST THE COUNCIL

Before processing a complaint

1. All formal complaints against a local council must be communicated in writing. A council may design a standard form for complainants to use when submitting their complaint.
2. The complainant must be asked at the outset to confirm if he wants the complaint to be treated confidentially. If the complainant is required to use a complaint form that has been designed by the council, the form should include this question. It is unlikely that the complainant will waive confidentiality. Even if he does so, the council must comply with its obligations under the Data Protection Act 1998 to safeguard against the unlawful disclosure of personal data.
3. The council's written complaints procedure should be accessible to the complainant. In any event, it should be well publicised and accessible via the council's publication scheme. A council's complaints procedure should confirm the following information.
 - the requirement to submit a complaint in writing (which may require the complaint to use a complaint form designed by the council).
 - the postal address or email that the complaint must be sent to. In most cases, it will be appropriate for the complaint to be addressed to the clerk or other nominated officer. If the complaint concerns the clerk or other nominated officer, it should be sent to the Chairman of the relevant committee or sub-committee established for the purposes of determining complaints.
 - that receipt of the complaint will be acknowledged in writing within a specified timeframe.
 - who will be dealing with the complaint (e.g. title of member of staff, a particular committee or sub-committee).
 - the timeframe for investigating the complaint.
 - whether there is an opportunity for the complainant to make verbal representations (and bring a friend when doing so) and when this will occur.
 - the timeframe for determining the complaint.
 - whether there is an opportunity to appeal the outcome of the complaint and

an explanation of the appeal process.

Receipt of the complaint

4. The clerk or other nominated officer (or if the complaint concerns them, the Chairman of the council's complaints committee or sub-committee) shall:
 - acknowledge receipt of the complaint in writing within the timeframe specified in the council's complaint's procedure;
 - confirm to the complainant if the complaint will be treated as confidential (which is the most likely to be the case) and
 - confirm the next steps in the complaints procedure.

Investigating the complaint

5. The council will need to investigate the facts of the complaint and collate relevant evidence.
6. If the council's complaints procedure permits the complainant to make verbal representations, the complainant should be invited to a meeting with the clerk or nominated officer, or as the case may be, a meeting of the complaints committee or sub-committee. Before the meeting and within the period specified in the council's complaint procedure (i) the complainant shall provide the clerk or nominated officer, or as the case may be, the complaints committee or sub-committee with any new information or other evidence relevant to the complaint and (ii) the clerk or nominated officer, or as the case may be, complaints committee or sub-committee shall provide the complainant with new information or evidence relevant to the complaint.

Meetings with the complainant (if applicable)

7. If a council's complaints procedure permits the complainant to make verbal representations at a meeting with the clerk or nominated officer, or as the case may be, to a meeting of the complaints committee or sub-committee, the clerk or nominated officer or, as the case may be, chairman of the meeting should explain how the meeting will proceed.
8. The complainant should outline the grounds for complaint and, thereafter, questions may be asked by the clerk or other nominated officer or by members if this is a meeting of the complaints committee or sub-committee.

9. The clerk or other nominated officer (or if the complaint concerns them, another member of staff or a member) will have an opportunity to explain the council's position and questions may be asked by the complainant.
10. The clerk or other nominated officer, or as the case may be, the complaints committee or sub-committee and then the complainant should be offered the opportunity to summarise their respective positions.
11. The complainant should be advised when a decision about the complaint is likely to be made and when it is likely to be communicated to them.

After the complaint has been decided

12. Within the timeframe specified in the council's complaint's procedure, the council should write to the complainant to confirm whether or not it has upheld the complaint. The council should give reasons for its decision together with details of any action to be taken by the council if this appropriate. If the council's complaints procedure includes an appeal stage, the council should notify the complainant in writing of the right to appeal its decision.

APPENDIX 2 - COMPLAINING TO THE LOCAL GOVERNMENT OMBUDSMAN (LGO)

1. The relevant legislation is the Local Government Act 1974 ('the 1974 Act'). The LGO has no jurisdiction in respect of a local council unless it is working jointly with a principal authority through a joint committee which includes representatives of the principal authority (section 25(4)(b)) of the 1974 Act) or it is exercising the functions of a principal authority (section 25(7) of the 1974 Act). It might be useful for parish councils to know something about the jurisdiction of the LGO so that they can assist members of the public (including, perhaps councillors) to complain to the LGO where appropriate. The key points to remember are:

- parish councils are unable to lodge complaints as a public body (section 27(1) of the 1974 Act) about another local authority or public body defined at section 25 of the 1974 Act but this does not prevent individual councillors from making complaints about another local authority or public body in their personal capacity. In their official capacity, if so requested by member(s) of the public, a parish councillor could represent them in making complaints. Please note:-

- complaints must be made in writing;
- complaints must be made within 12 months of notice of the matters which are subject to the complaint;
- complainants must first give the authority in question notice of the complaint and give them an adequate opportunity to investigate and reply to the complaint. This usually entails exhausting that authority's complaints procedure;
- the Ombudsman may not investigate matters which are or have been subject to a right of appeal; and
- the Ombudsman may not investigate matters where the complainant has or has had a remedy by way of court proceedings.

2. The most common application of the Ombudsman's lack of jurisdiction where the subject matter of the complaint is subject to a right of appeal or court proceedings is in respect of judicial review. Many councils claim that the Ombudsman does not have jurisdiction in certain cases due to the availability of judicial review. In these circumstances the Ombudsman can rely on section 26(6) of the 1974 Act which states that:-

'A Local Commissioner may conduct an investigation notwithstanding the existence of such a right or remedy if satisfied that in the particular circumstances it is not reasonable to expect the person affected to resort or have resorted to it.'

Bigbury Parish Council

Privacy Policy

Bigbury Parish Council seek to be compliant with the General Data Protection Regulations (GDPR) through the implementation and review of this policy

What is personal data?

Personal data is information about a living individual which allows that individual to be identified from that data (including but not exclusive to a name, e mail address, postal address, photograph and video).

What data is captured and/or held by Bigbury Parish Council?

Bigbury Parish Council does not hold a database/register of parishioners/residents and does not intend to do so in the future. No personal or sensitive information (including but not exclusive to date of birth, nationality, religion, marital status, medical condition and ethnicity) is held by Bigbury Parish Council unless it is included in correspondence sent to the Council by yourself.

All communication to Bigbury Parish Council from its parishioners/residents by email, letter or other forms of communication will almost certainly contain data about that person (including but exclusive to e mail addresses, home address and phone numbers). Such information is held to enable Bigbury Parish Council members, employees and accredited volunteers to contact the person about the subject matter raised – it is held solely for that purpose. A member is an elected Councillor, an employee is the Parish Clerk and an accredited volunteer is either, Tree Warden, Footpath Warden, Editor of Bigbury News or Bigbury Community Website Webmaster.

In the case that Bigbury Parish Council activities require the recruitment of volunteers, their contact details are held to enable them to be contacted solely in relation to the activity they volunteered for.

An individual can ask for their personal information to be deleted at any time by contacting the Clerk, Bigbury Parish Council.

Bigbury Parish Council does not collect personal data from visits to the Bigbury Community Website. However, if an individual contacts the Council members, Clerk or Accredited Volunteers indirectly by using the contact button on the website, the personal contact details provided in the e mail will be used solely in order for a response to be provided.

With whom does Bigbury Parish Council share information?

Correspondence of any form to a Councillor, Parish Clerk or Accredited Volunteer may be shared amongst these individuals, District Council or County Council solely for the purpose of responding to the matter raised. Correspondence is a regular topic at Parish Council meetings and the content contained therein may be discussed – such meetings are open to the General Public.

Correspondence in e mail format will always be sent 'BCC' when multiple e mail addresses are involved.

Telephone conversations are not recorded but notes of the calls may be held by the individual receiving the call and subsequently shared amongst Councillors, Clerk, Accredited Volunteers, District Council and County Council.

How long does Bigbury Parish Council retain data for?

This may vary in line with the nature of the subject and whether there are specific regulations relating to the period for which such correspondence should be retained. In most cases data will be deleted within seven (7) years.

How does Bigbury Parish Council protect the data held?

Electronic data – 99% of all correspondence and documentation is managed electronically. Bigbury Parish Council takes a proportionate approach to ensure data is securely held through the purchase and installation of anti-virus software and such additional security measures deemed appropriate to deter unlawful access by Hackers.

Paper based data – Such correspondence is maintained in accordance with schedules 20.1 of the Bigbury Parish Council's procedures and Standing Orders.

What are the Parishioners/Residents rights in respect of their personal data?

When exercising any of the rights shown below, in order to process the request The Parish Council may need to verify the requestor's identity to ensure such a request is dealt with securely. In such cases the process will not be instigated until such proof has been provided.

Parishioners/Residents have the following rights in respect of their personal data:

- The right to access personal data the Parish Council hold on you
- The right to correct/update the data the Parish Council hold on you
- The right to have your personal data erased from Parish Council systems and records
- The right to object to the Parish Council processing your personal data or to restrict it for certain purposes only
- The right to data portability
- The right to withdraw you consent at any time for the processing of data for which consent was previously obtained
- The right to lodge a complaint with the Information Commissioner's Office

This privacy policy is published to demonstrate Bigbury Parish Council's compliance with GDPR. It is not a comprehensive guide to GDPR but is proportionate to the limited amount of data held by Bigbury Parish Council.

Bigbury Parish Council

Updating documents

The documents in this manual require regular review and at times amendment.

It is the responsibility of the Parish Clerk to update the documents and ensure that changes are recorded in the minutes of Parish Council meetings.

When making changes the Parish Clerk will update the document footer record with the date the change is approved at a council meeting.

The revised document will be distributed to all Parish Councillors who are responsible for updating their personal copies.