

## CONSTITUTION

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5	IW Donaldson	21/06/18	<i>Praeger Hood - Williams</i>	21/06/18

The Council shall be known as Three Crosses Community Council.

### Wards

The Council shall comprise the ward of Three Crosses.

### Members

Representatives, elected by the constituents of this ward shall comprise a total of seven members.

## ELECTIONS AND CANDIDATES

### Qualifications of Electors

Every elector must be in the register published annually which comes into force each December, or whenever issued by the City & County of Swansea. Every person is entitled to be registered in the next register if on the 10<sup>th</sup> October in any year he /she is a British Subject, Commonwealth Citizen, citizen of the Irish Republic or citizen of a European Union member country not legally incapacitated from voting, resides in the community or community ward and is 18 years of age or will reach that age during the year after the register is published. He /she may vote as soon as he /she attains that age if still otherwise qualified.

### Qualifications of Candidates

Subject to the special rules on disqualification (below) a person is qualified to become a member of a local council if on the day of nomination and of poll:-

- (a) he /she is 21 years of age and a British Subject, Commonwealth Citizen, citizen of the Irish Republic or citizen of a European Union member country; and either
- (b) he /she is and remains throughout his /her period of office an elector for the area; or
- (c) he /she has during the whole of the 12 months before he /she was nominated as a candidate, (i) occupied land as a tenant or owner in the community or (ii) has resided there or within 3 miles of it; or (iii) had his principal or only place of work in the community.

### **Disqualifications**

A person is disqualified if:- (a) he /she holds a paid office under the council or any joint committee or board on which it is represented; or (b) he /she is bankrupt (until annulment, discharge with certificate, or 5 years after ordinary discharge) or composes with his /her creditors (until 5 years after fulfilment of arrangements or until payment in full); (c) he /she has been responsible for £2000 or more of loss or deficiency through wilful misconduct, or of unlawful expenditure, and is still within the period prescribed for disqualification; or (d) he /she has been convicted during the past five years in the United Kingdom, the Channel Islands or Isle of Man and sentenced to not less than three months imprisonment (whether or not suspended) without the option of a fine.

### **Elections**

A single election is held every fourth year for the whole community unless it is divided into wards; in which case separate elections are held for each ward. The poll for the local council election must be taken together with the poll for the election of the district councillor for the community. Bye-elections are held if required by 10 electors. If no bye-election is required the council must fill the vacancy by co-opting any person it chooses who is lawfully qualified to be a member. In the six months before an ordinary election the council need not co-opt if it so chooses. (*For casual vacancies see next Section, page 4*).

## **MEETINGS, COUNCILS, COMMITTEES**

### **COMMUNITY COUNCIL**

A local council consists of such number of councillors, not being less than five, as the district council may fix from time to time. There must be a chairperson who must be a

councillor. A vice-chairperson may also be elected by the council from amongst the councillors.

## **QUORUM**

The quorum of a community meeting is not fixed by any enactment, but probably it must exceed one. If a document has to be executed, three persons must be present.

The quorum of a local council is one-third of its number, or where more than one-third of the members are disqualified from acting (*see Pecuniary Interests on pages 7 and 8*), then one-third of the remainder, but in no case less than three.

## **ACCEPTANCE OF OFFICE**

A person elected or re-elected councillor or chairperson must make a written declaration of acceptance of office in the presence of a member or proper officer of the council and deliver it to the council. The chairperson must make it at the meeting at which he /she is elected, the councillors before or at the next meeting after their election, unless in either case the council fixes a later meeting. If a person fails to make a declaration his /her office automatically falls vacant.

All members must agree to be bound by the council's Code of Conduct.

## **TERMS OF OFFICE**

### **General Rules**

Chairpersons of local councils are elected annually and hold office until their respective successors are elected. The chairperson of a local council is elected at the annual meeting of the council in May.

The term of office of a local councillor is usually the same as that of the principal authority councillor representing the ward or community and will normally be four years. Where a principal authority changes from annual to triennial elections or vice-versa, some councillors' terms may be extended (for a transitional period only) by one or two years at the most and others may, exceptionally, be reduced. Similar special periods in office may result from Orders making boundary changes. Local councillors retire together on the fourth day after the date of the ordinary elections.

### **Normal Election Dates**

The ordinary election of community councillors will normally take place in 1999 and every subsequent fifth year, but some councils, where the principal authority is elected by thirds, will have their elections in 1997 or 1998 and every fourth year thereafter.

## CASUAL VACANCIES

The office of a local councillor becomes vacant:-

- (a) if he /she ceases to be qualified or becomes disqualified; or
- (b) if he /she fails to make a declaration of acceptance of office within the prescribed time; or
- (c) if he /she resigns in writing, at the moment the resignation reaches the chairperson; or
- (d) if he /she is absent for six consecutive months from meetings unless the *reason* for absence is approved by the council before the end of the period. Such approval, however, is not needed for absence by a member of the forces upon war service or for absence by anyone in Her Majesty's Service in connection with a war or emergency, if the Secretary of State thinks that the reason for absence entitles him /her to relief. Attendance at a committee or as a *representative* of the council at another meeting counts as attendance at the council.

The chairperson of a local council may resign from the chair in writing.

Resignations take effect only when they are received by the body or person to whom they are addressed.

### **Declaration and Filling**

If a councillor ceases to be qualified or becomes disqualified (for any reason other than disqualification after audit, conviction, corrupt or illegal election practices) or if he /she is absent for six months for reasons not approved by the council, it must declare his /her office vacant. Every vacancy, whether so declared or not, must be publicly notified.

If no poll is claimed within fourteen days by 10 electors a casual vacancy is filled by co-option, and the local council must be convened for the purpose forthwith. An *absolute* majority of those present and voting is required to choose a new councillor. If a poll is claimed by 10 electors a bye-election is held by poll conducted by the Returning Officer. No poll can be claimed in the six months before the ordinary elections.

## COMMITTEES

A local council may appoint committees and arrange for them to perform any of its functions except the power to issue a precept or borrow money. A committee may consist partly or wholly of non-councillors but non-councillors do not have a vote except where the committee is dealing, within a budget fixed by the council, with the management of land owned or occupied by the council or the management of a festival, or is controlling the functions of a council as a harbour authority, or is promoting tourism. All the members of any Finance Committee must be members of the council. Committees may create sub-committees.

It is possible for any local authority to set up a joint committee with any other.

When a person ceases to be a member of a council he /she automatically ceases to belong to its committees or sub-committees or to any joint committee to which his /her council is a party.

## **HOLDING MEETINGS**

### **Number, Date and Time to Convene**

Local councils must meet annually. In an election year the annual meeting must take place on the fourth day after the date of the election or within fourteen days thereafter. In other years it may be held on any day in May. Community councils hold such additional meetings as they think fit. Meetings to be held by Three Crosses Community Council on the third Thursday of each month, unless otherwise agreed.

A meeting of a local council may be convened by the chairperson at any time. In addition, if two members sign a requisition that the council be convened and the chairperson either refuses or neglects to do so for seven days, then any two members may convene a meeting.

A community council meeting may be convened by any six electors for its area or by the chairman of the local council or by any two local councillors. In practice most meetings of councils are held in pursuance of standing orders.

Community council meetings may not commence before 6 p.m.

### **PLACES OF MEETING**

Meetings may be held in *any* suitable premises but may not be held in licensed premises unless no other room is available free or at a reasonable cost. This prohibition extends to hotels, restaurants and licensed groceries.

If there is no suitable room vested in the local council or parish trustees which can be used free of charge, then at all reasonable times and after reasonable notice, the law specifies that a room in a school maintainable by a local education authority or in a grant maintained school or any room maintained out of any rate, may be used free of charge (but subject to reimbursement of expenses) for:-

- (a) a parish or community meeting or meetings of the local council;
- (b) meetings convened by the chairperson of the local council;
- (c) the administration of public funds in or for the community where such funds are administered by a committee or officer of the community council or of a local authority.

These provisions of the law do not, however compel a room in a dwelling-house to be made available for these purposes nor is interference with the hours in which a room is used for education, justice or police allowed. The local council must make good the cost of any damage done or any expense such as heating incurred by the persons in control of the room.

## **NOTICES AND AGENDA**

### **Local Council**

Three clear days before a meeting notice of its time and place must be posted in a conspicuous place in the community. It need not be placed at the church door. If the meeting is being called by members of the council they must sign it, and it must then specify the business to be transacted.

Also three clear days before the meeting a summons specifying the business to be transacted and signed by the proper officer, must be sent or delivered to the usual residence of each member.

### **Community Council Meeting**

If the business to be transacted relates to the establishment or dissolution of the local council, the grouping of the community with another, thirty clear days' notice must be given. Otherwise seven clear days' notice must be given.

The notices must specify the time, place and business of the meeting and it must be signed by those convening it. It must be affixed in some conspicuous place or places in the community and publicity for it may be given in any other manner thought desirable, such as proclamation, canvass, leaflet or advertisement in a local paper.

## **MAJORITIES**

- (a) All acts of and questions coming or arising before a local council must be decided or done by a majority of members (other than members disqualified by a

pecuniary interest) (*see below*) present and voting either by show of hands or as prescribed by standing orders. The person presiding has a second or casting vote and may therefore vote twice except in the election of his /her successor as chairperson, if he /she himself /herself is not a councillor. In this rare case he /she has only a casting vote.

(b) (i) A community council meeting decides by a majority of those present and voting and the person presiding has a second or casting vote unless he /she is not an elector for the area, in which case he /she has only a casting vote.

(ii) Any elector present at such meeting may demand a poll on any question at issue before the end of the meeting. A poll must be held, if demanded, either if the person presiding consents or if ten people or one-third of those present (whichever is the less) demand it. The poll is conducted by the district council on similar lines to a poll at an election.

### **PECUNIARY INTERESTS**

If any member of a council or the spouse of any member has a pecuniary interest in any subject under discussion by the council the member *must* declare it and refrain from speaking or voting on the subject. If standing orders so provide the member must withdraw from the meeting during the discussion. A pecuniary interest exists where the outcome of the discussion may affect for good or ill the financial situation of the person having the interest. Failure to declare an interest or to refrain from speaking or voting can be prosecuted by the Director of Public Prosecutions and an offender may be fined. The interest can be declared orally or in writing to the proper officer of the council. A district council can lift the prohibition where the number of councillors affected impedes business.

### **OTHER INTERESTS**

Under the National Code of Local Government Conduct issued by the Department of the Environment and the Welsh Office in 1990 any councillor with a non-pecuniary interest in a subject is *recommended* to abstain from discussion of, and voting on, the subject, if his interest is such as to make others reasonably doubt whether he /she is free of bias in speaking or voting. The Code particularly draws attention to interests arising from relationships other than marriage and from membership of other bodies. A copy of the Code was issued in 1990 to the clerk of every local council by the Department.

### **RIGHTS OF THE PUBLIC AND PRESS**

A meeting of a local council must be open to the public who may, however, be excluded by resolution if publicity in a particular case would prejudice the public interest. The press have the same rights as the public and in addition they are entitled to copies of the

Agenda at their own expense. They must be given reasonable facilities for taking their report, and (unless the meeting place does not belong to the community or has no telephone) for telephoning their reports at their own expense. These rules cannot be evaded by “going into committee”.

The public and the press are entitled to be present at meetings of committees on the same terms and subject to the same rules as for council meetings.

## **MINUTES**

The minutes of a meeting of a council or of a committee must be drawn up and signed as a correct record at the meeting or the next following meeting by the person presiding at the time of signature. Duly signed minutes can be used in court as evidence of the matters they record.

## **OFFICERS**

A person is disqualified from holding a paid office under the council so long as he /she is a member of it and for twelve months afterwards.

### **CHAIRPERSON**

The council *must* choose from amongst the councillors a chairperson as the first business at the *annual meeting of the council*. The chairperson holds office till his /her successor has been chosen. He /she has a second vote if there is a tie in voting. If present at a meeting he /she *must* preside. The outgoing chairperson presides for the chairperson’s election at the first meeting after the ordinary election of councillors even if he /she has not been re-elected to the council. He /she then has only a casting vote. In the absence of the chairperson, and vice-chairperson (if any) the council *must* choose some other councillor to chair the meeting.

### **VICE-CHAIRPERSON**

A councillor may be appointed vice-chairperson. He /she holds office until immediately after the election of the chairperson at the next annual meeting. Subject to standing orders he /she has, in the absence of the chairperson, the powers of the chairperson.

### **“PROPER OFFICERS”**

Local councils are required to appoint such officers (including deputies) as they think necessary for the proper discharge of their functions. A councillor may be appointed as an unpaid officer.



Some Acts of Parliament require or permit a “proper officer” to do something. It is therefore wise to pass a standing order saying who is the proper officer for all or any specified purposes.

### **SECURITY**

In the case of an officer likely to be entrusted with the control or custody of money, a local council *must* take such security as it thinks sufficient for the faithful execution of his /her office and for his /her duly accounting for all money or property entrusted to him /her. (Standard fidelity policies are offered by insurance companies).

### **PAY**

Recommendations on pay and related matters and on draft contracts of employment for clerks are issued jointly by the National Association of Local Councils and the Society of Local Council Clerks. Whatever principle or formula of payment is used, it is important that pay should be regularly reviewed.

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