

## Support Ticket #5642

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<b>Subject</b>	Rights of Town Mayor sitting as 'ex officio' member of committee
<b>Description</b>	<p>Two members of the council's Human Resources Committee have challenged the Town Mayor's right to Chair that meeting (having been elected Vice Chair), following the resignation of the former Chair of the HR Committee.</p> <p>I have advised that this is allowed, based on the council's standing orders (<a href="https://www.whitbytowncouncil.gov.uk/uploads/2024-governance-1-standing-orders.pdf">https://www.whitbytowncouncil.gov.uk/uploads/2024-governance-1-standing-orders.pdf</a>) and the terms of reference of committees (<a href="https://www.whitbytowncouncil.gov.uk/uploads/2024-governance-4-delegation-tors.pdf">https://www.whitbytowncouncil.gov.uk/uploads/2024-governance-4-delegation-tors.pdf</a>)</p> <p>Whitby Town Council's Standing Orders state:</p> <p><i>4d In addition to any committee places allocated to them at the Annual Meeting, the Chair/Town Mayor and Vice Chair/Deputy Town Mayor shall be ex-officio, non-voting members of the Council's committees.</i></p> <p>Note this states 'non-voting' – it does not otherwise restrict their membership. The Chair's casting vote is described in 503t:</p> <p><i>...in the case of an equality of votes may exercise a casting vote whether or not they gave an original vote</i></p> <p>In section 1.2d of the TORs it states:</p> <p><i>The Town Mayor may attend any Committee or Sub-Committee meeting ex officio but, attending as such, they are not entitled to vote and cannot therefore be appointed as Chair of the meeting. However, they can be nominated as an ordinary member of a Committee and, if so, can be elected Chair</i></p> <p>Supplemental to this, the TORs of the Human Resources Committee explicitly include the Mayor as a member. Those TORs do not limit that role to be non-voting and hence override the general statement by satisfying the condition that they "can be nominated as an ordinary member of a Committee". This provision does not apply to the council's other committees.</p>

Some members are confused that the phrase ex officio, on its own, limits the rights of the member. I suggest that ex officio, describes the means by which a member sits on a committee. It does not provide a restriction on that member's rights to serve in any capacity on that committee - unless that is mandated elsewhere. For other committees of the council, that link is made. For the Human Resources Committee, there is no link as the Town Mayor is a member of the committee, by virtue of (his) office without a stated restriction.

Taken at face value, I have advised members that relevant statute (LGA 1972), the council's Standing Orders and Terms of Reference effectively allow the Town Mayor to chair the Human Resources Committee, because the specific provision in relation to that committee overrides the general one and the rights of the Town Mayor to be appointed vice chair and subsequently to chair the meeting are implicit in the rights granted to the Town Mayor in the TORs.

All these provisions are long-standing in the council's constitution.

The HR Committee is currently engaged in the recruitment campaign for my successor. The council needs assurance that it is acting in accordance within its own procedures.

Please can you provide clarification for the council?

<b>Status</b>	closed
<b>Owner</b>	Michael King
<b>Council</b>	Whitby
<b>District</b>	
<b>Priority</b>	critical
<b>URL</b>	
<b>Category</b>	Council Business, Law & Procedure
<b>Attachments</b>	
<b>Updated</b>	24/07/2024 14:50
<b>Submitted</b>	23/07/2024 10:14

## Comments (1)

Sheena Spence

24/07/2024 13:50

Dear Michael,  
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WHITBY TOWN COUNCIL – MAYOR AND MEMBERSHIP OF COMMITTEES

Thank you for your enquiry which was received by YLCA yesterday.

Firstly, it is important in our view to determine, and for everyone involved to understand what the term 'ex-officio' means - which is 'by virtue of their office' or in plainer English, because they are the Mayor.

Taking the HR Committee Terms of Reference into consideration, the Mayor is a full voting member of the Committee and he sits on the committee because of the fact that he is the Mayor. The Council's intent was that the Mayor would be a full and voting member of that committee. As such, in our opinion, the Mayor could be elected to be the Chair of it.

We understand that the Mayor has needed to preside over a recent meeting of the Human Resources Committee and in our view this is a legitimate situation, based on the provisions within the adopted policies of Whitby Town Council.

In the Terms of Reference (clause 1.2(d)) there is further mention of the term 'ex-officio'. This states, "The Town Mayor may attend any Committee or Sub-Committee meeting ex officio but, attending as such, they are not entitled to vote and cannot therefore be appointed as Chair of the meeting. However, they can be nominated as an ordinary member of a Committee and if so can be elected Chair". This provision is normally applied where the Chair or Mayor is not appointed to be a formal member of a committee, ex officio or otherwise. It provides a mechanism for that councillor to attend those meetings, which is different to being formally appointed as a full voting member of any of them. It is right under those circumstances that the Mayor does not have a vote as is stated.

To avoid this kind of confusion again, the Council is advised to review both Standing Orders and the Terms of Reference and ensure that they are compatible, reflect the same policy and have clarity.

We hope that now there is understanding of the policy provisions, the Committee can move forward and make arrangements for the recruitment process.

Yours sincerely,

Sheena Spence  
CHIEF OFFICER

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Yorkshire Local Councils Associations, Suite 8, Sibling Workspace, Station Road, Tadcaster,  
LS24 9JF. Tel: 01937 228602. E: [admin@yorkshirelca.gov.uk](mailto:admin@yorkshirelca.gov.uk). Website:  
[www.yorkshirelca.gov.uk](http://www.yorkshirelca.gov.uk)

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