

## EMAIL TO TOWN CLERK SEEKING EXTENDED PUBLIC PARTICIPATION (12/01/2025)

----- Original Message -----

**Subject:** Public Participation

**Date:** Sun, 12 Jan 2025 13:32:37 +0000

**From:** Nigel Ward

**To:** Town Clerk <[town.clerk@whitbytowncouncil.gov.uk](mailto:town.clerk@whitbytowncouncil.gov.uk)>

**Mr Adam CHUGG - Town Clerk/RFO & Proper Officer - Whitby Town Council**

Adam,

Firstly, I am sorry to find it necessary to communicate with you on a formal issue on a Sunday.

However, following a casual/social telephone conversation with a friend (my since-retired solicitor), I have a serious concern that I think it would make good sense to raise and resolve ahead of the Full Council (Budget) Meeting on Tuesday 14th January 2025.

It concerns the matter of Public Participation. (You will have seen my email giving Notice of my intention to address the Council).

For convenience of reference, I have appended the relevant section of the Council's Standing Orders at the foot of this email, highlighting in **red type** the areas of concern.

It has always been my understanding that a suspension of Standing Orders was necessitated in virtue of the fact that only Councillors (and, from time to time, Officers of Paid Service) were permitted to speak whilst Council was in session.

However, it has often occurred to me that, for any period during which Standing Orders stand suspended by the Chair/Mayor (and I do wish the Chair/Mayor could be relied upon to remember to re-instate Standing Orders following the conclusion of Public Participation), it seems absurd to consider that ANY of the terms of Standing Orders can be in any way applicable or regarded as being 'in force'.

My friend has suggested that the *real* reason for the suspension of Standing Orders concerns itself with the legal necessity to comply with the terms of **Article 10.1** of the **Human Rights Act 1998** (HRA98) - as well as the relevant sections of the Universal Declaration of Human Rights 1948 and the European Convention Rights (as amended by Protocols Nos. 11, 14 and 15, supplemented by Protocols Nos. 1, 4, 6, 7, 12, 13 and 16).

The HRA98 states, at **10.1** (again, I have highlighted the relevant passage in **red type**):

## Article 10

### Freedom of expression

1 Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas **without interference by public authority** and regardless of frontiers.

My question is this:

Applying the "*natural and ordinary meaning of words*" (as the Courts do), in what possible sense could the Chair/Mayor, acting in that formal capacity (i.e presiding over a meeting of a **local government body**) be said - should he attempt to curtail, after three minutes, a member of the public pursuing her/his lawful right to **"impart information"** - to be doing anything other than exercising **"interference by public authority"**?

The point is by no means merely academic. It has become apparent that a significant number of members of the public have formed strong opinions (and raised many questions) regarding the present state of WTC's finances and contractual arrangements (particularly regarding the Reserves and the DANFO public conveniences contractual arrangements).

These are complex issues of conspicuous public interest. They do not lend themselves to a cursory or sketchy description condensed into an arbitrary 3 minute delivery.

I accept that the Chair/Mayor may at any time, at his own prerogative, extend Public Participation - not only as to its duration, but also as to the number of speakers. I cannot recall that ever having taken place.

But I think it is important to establish that an open, transparent discourse is permitted *and welcomed*, in complete compliance with the statutory requirements of, *inter alia*, the HRA98, so that some semblance of accountability can be achieved - and *be seen to have been achieved*.

Could I ask you, please, to provide some assurances that Tuesday's Public Participation will accommodate this?

I appreciate that you may wish to consult with the YLCA (or NALC). Hopefully this could be initiated originally by telephone but immediately thereafter providing the entire content of this email **in writing** to Ms SPENCE (it is not necessary to redact my name and/or contact details), seeking a written response **no later than noon on Tuesday 14th January 2025** (which I hope and request you will share with me), so that members of the Council (and the public) have a clear understanding of the position regarding the scope and extent of Public Participation during Council meetings. Thank you.

Kind regards, Nigel

## Standing Orders

### 1. Rules Of Debate At Meetings

e Subject to Standing Order 3(d) above, members of the public may make representations, answer questions and give evidence at a meeting of:

i) council at which they are entitled to attend. Public questions not on the agenda will be referred to the next appropriate committee meeting [See 3(h) below].

ii) a committee at which they are entitled to attend in respect of the business on the agenda.

An agenda item will be allocated in the early part of a council meeting for members of the public to speak and ask questions. This entitlement will not preclude the chair from adjourning the meeting at other times at their discretion so as to allow members of the public to make representations, answer questions or give evidence in relation to the business to be transacted at that meeting.

f The period of time designated for public participation at a meeting in accordance with standing order 3(e) above **shall not exceed 15 minutes** unless directed by the chair of the meeting.

g Subject to standing order 3(f) above, **a member of the public shall not speak for more than three minutes.**

h In accordance with standing order 3(e) above, a question shall not require a response at the meeting nor start a debate on the question. The chair of the meeting may direct that a subsequent written or oral response be given or referred to Council or Committee in the future.

i Where possible, a member of the public should advise the Proper Officer in advance that they wish to speak. Booked speakers will have precedence over those giving no advance notice. The rules and procedures regarding public participation are to be available at every meeting where public speaking is to take place.

j A person shall raise their hand when requesting to speak and stand when speaking except when a person has a disability or is likely to suffer discomfort. The chair of the meeting may at any time permit a person to be seated when speaking.

k A person who speaks at a meeting shall direct their comments to the chair of the meeting.

l Only one person is permitted to speak at a time. If more than one person wants to speak, the chair of the meeting shall direct the order of speaking.

m A brief record of a public participation session at a meeting shall be included in the minutes of the meeting.