

## MEETING OF HARTING PARISH COUNCIL

You are hereby summoned to a Meeting of Harting Parish Council to be held  
at Harting Community Hall on  
**Thursday 16 September 2021 at 7pm**

The Press and Public are welcome to attend.

Trish Walker  
Clerk to Harting Parish Council

### AGENDA

- 1. Apologies for absence**
- 2. Declarations of Interest**
- 3. Minutes** - to approve the Minutes of the Parish Council meeting held on 15 July 2021.
- 4. Questions from the Public (limited to 15 minutes in total)** *This provides an opportunity for members of the public (who are not usually permitted to speak during the meeting except by special invitation of the Chairman) to ask questions for up to 3 minutes, raising concerns or making comments on matters affecting Harting parish. No decision can be taken during this session, but the Chairman may decide to refer any matters raised for further consideration.*
- 5. Matters of Urgent Public Importance** – raised with consent of the Chairman.
- 6. Reports from the County and District Councillor**
- 7. Banking – Change of bank from HSBC to Unity Trust bank** (see supporting document for briefing note)  
*The following recommendations are made:*
  - i. To note the report*
  - ii. To agree the closure of the HSBC bank account*
  - iii. To agree to open a current bank account with Unity Trust bank with triple authority at a cost of £6 per month*
  - iv. To agree the existing bank signatories will be set up on the new account.*
  - v. To agree the Responsible Financial Officer (RFO) will be appointed as the administrator of the account but will not be able to authorise any payments*
- 8. Online banking policy** (draft policy attached see supporting document for briefing note)  
*The following recommendation is made:*  
*That the Council consider and agree to adopt the Online Banking Policy*
- 9. Financial Regulations** (see attached document)  
*The following recommendations are made:*  
*To consider and agree the following alterations to sections to the Financial Regulations to enable online banking*
  - i. Section 6.2 – to replace the words ‘the RFO’ with ‘two bank signatories’*
  - ii. Section 6.3 – to replace the words ‘or other’ with ‘online banking or previously approved’*
  - iii. Section 6.4 – to replace ‘orders for payments drawn’ with ‘online payments’*
  - iv.*

**10. Legal advice for Harting Community Hall and the War Memorial Playing Fields** (see supporting document for briefing note)

*The following recommendations are made:*

- i. To note that the Council Chairman in conjunction with the RFO has agreed, in accordance with section 4.1 of the Financial Regulations, to seek initial legal advice from Surrey Hills Solicitors in relation to the Lease and Trust Deed for Harting Community Hall at a cost of £500 +vat*
- ii. To consider if advice should be sought from Surrey Hills Solicitors in relation to the War Memorial Playing Field Conveyancing document at a cost of up to £500 + vat*

**11. Harting Community Hall** (see supporting document for briefing note)

*The following recommendations are made:*

- i. To note the report*
- ii. To agree that Surrey Hills Solicitors are asked to provide further information and guidance to allow the Parish Council to consider the implications of a co-ordination agreement between the Parish Council and Harting Community Hall Trust*

**12. West Sussex Transport Plan 2022-2036 (WSTP) Consultation** (see supporting document for briefing note)

*The following recommendation is made:*

*That the members feedback any views on the consultation to the clerk by 24 September 2021 to enable the Council Chairman in conjunction with the HABAC Chairman to prepare a suitable response.*

**13. Review of Council Policies & Procedures**

**13.1. Freedom of Information** (attached)

**13.2. Health & Safety and risk strategy** (attached)

**14. Finance**

**14.1. To note cheques paid in August 2021**

Undisclosed	Clerk & RFO Salary	887.60
Mrs S Bull	village gathering entertainment	490.00
Wendy Reilly	face painting dep - village gathering	10.00
Petaprint	Emergency group leaflets	170.00
John M Carter Ltd	Marquee - village gathering	1,650.60
M H Kennedy & Son Ltd	Grass cutting	169.20
Trish Walker	Monthly Zoom subscription	14.39

**14.2. To approve expenditure for September 2021**

Trish Walker	Clerk and RFO Salary	941.60
HMRC	Tax and NI contributions	104.52
Information Commissioner	Data Protection Fee Renewal	40.00
Sally Bull	Expenses for Parish Gathering	240.46
Harting War Memorial Playing Field	Lengthsman	110.00
M H Kennedy & Son Ltd	Grass cutting	338.40
Mt T Ralph	Restoration of North Lane Fingerpost	1,740.00
Trish Walker	Monthly Zoom subscription	14.39

**14.3. To note income for July and August 2021**

Harting Horticultural Society – contribution to marquee £687.75

**14.4. To note that the bank reconciliations for September 2021 has been scrutinised and signed by the Chairman of the Finance Committee and will be signed by the Chairman of the Council in accordance with the Financial Regulations**

**14.5. To note the bank balance as of 31 August 2021 - £77,097.41**

**14.6. To note the budget statement to 31 August 2021**

**15. Aims and Objectives Advisory Committee (AOAC) – To note the unconfirmed minutes of the AOAC (attached) held on 6 September 2021 and approve the following recommendation:**

- i. *That the Council note the Emergency Plan has been reviewed and no amendments are recommended.*
- ii. *That the Council note the review of the risk assessments for Finance, Homeworking, Reputation and Expertise and Safeguarding Information, Litter Picking, POSAC, Public Safety, Covid playgrounds and volunteers and no amendments are recommended.*

**16. Planning - To note the minutes of the Planning Committees held on 15 July 2021 and the unconfirmed minutes of 12 August 2021.**

**17. Feedback from WMPF and HCH representatives (verbal report)**

**18. Correspondence – None**

**19. Clerks report – (attached)**

**20. Items for future meetings**

Jubilee 2022

**21. Date of next meeting - Council Meeting 21 October 2021 at Harting Community Hall, time to be agreed**

**Agenda Item 7 - Banking – Change of bank from HSBC to Unity Trust bank**

At its meeting on 18 March 2021 the Council agreed to set up an online banking facility with HSBC, the Council's current bank. It was noted that the application for this would be progressed, but there was agreement that the system of authorisation of payments needed to be robust and allow for two signatory authorisation.

The clerk progressed the application but was given a series of conflicting information, from HSBC helpline, about the availability of a dual signatory set up for payments. In July, following a positive conversation with a member of HSBC confirming dual authorisation was an option, the clerk visited the local branch and lodged the completed application form for online banking. The bank clerk accepting the form spent some time investigating and was not confident the required set up would be an option, but agreed to carry out further research. Since that time there has been no further contact from the bank, and it now

appears that the online banking application has been lost. Information from the 'clerks' network' has confirmed that HSBC cannot offer an online dual signatory payment process. Subsequent to this, a communication has been received from HSBC to confirm that from 1 November 2021 the Community Account held by the Council will no longer be available and will be converted to a Small Business Account attracting fees of £5 per month.

Many councils are transferring their bank accounts to the Unity Trust bank which has a full understanding of the requirements of parish councils. The Unity bank allows a system to be set up where the Responsible Financial Officer (RFO) can set up payments, which are then authorised for payments by two signatories. This process is called 'triple authority'. This ensures the Financial Regulations are not compromised and a full and robust system can be set up.

The Unity bank makes a charge of £6 per month for accounts with a turn over of up to £100,000 per annum.

If the Council were to stay with HSBC, they will be subject to monthly bank charges and will not be able to use the online banking system as it is not sufficiently robust.

If the Council were to move to Unity Trust bank they will be subject to monthly bank charges of £6 per month but will be able to use the online banking system.

The use of online banking which will save time in preparation of cheques and postage charges.

Due to the above it is proposed that the Council agrees to close the HSBC bank account and to open a current account with the Unity Trust bank.

*The following recommendations are made:*

*vi. To note the report*

*vii. To agree the closure of the HSBC bank account*

*viii. To agree to open a current bank account with Unity Trust bank with triple authority at a cost of £6 per month*

*ix. To agree the existing bank signatories will be set up on the new account.*

*x. To agree the Responsible Financial Officer (RFO) will be appointed as the administrator of the account but will not be able to authorise any payments*

### **Agenda Item 8 - Online banking policy**

The Online Banking policy is necessary to ensure there are agreed procedures in place to operate the banking system securely and in line with the Council Financial Regulations.

(Click here to see **Draft Internet Banking policy**)

*The following recommendation is made:*

*That the Council consider and agree to adopt the Online Banking Policy*

### **Agenda Item 9 - Financial Regulations**

The Financial Regulations govern the financial management of the Parish Council and ensure that management is effective and adequate. While the option to use online banking has been included in the Financial Regulations since 19 September 2019 there are some minor

wording changes required to Section 6 'Instructions for making payments' to ensure they are adequate.

(click here to see amended copy of [Financial Regulations](#))

*The following recommendations are made:*

*To consider and agree the following alterations to sections to the Financial Regulations to enable online banking*

- v. Section 6.2 – to replace the words 'the RFO' with 'two bank signatories'*
- vi. Section 6.3 – to replace the words 'or other' with 'online banking or previously approved'*
- vii. Section 6.4 – to replace 'orders for payments drawn' with 'online payments'*

### **Agenda Item 10 – Legal advice for Harting Community Hall and the War Memorial Playing Fields**

#### **Harting Community Hall (HCH)**

In the last few months the HCH Trustees have indicated that, due to difficulties finding sufficient trustees to manage and run the hall, they may wish to wind up the charity and hand the management of the Hall to the Parish Council (please see agenda item 11 below). As there was no August Council meeting the Chairman in conjunction with the Vice Chairman and clerk agreed there was a need to obtain legal advice on the terms of the HCH Lease and Trust Deed. This was needed to clarify the Council's position as well as confirm the steps the HCH Trustees would need to take if they wished to close the charity. It is essential that the Council understands its position in relation to any future changes.

The Council already has an established relationship with Surrey Hills Solicitor who specialise in local council work.

A fee of £500 + vat was agreed for 2 hours work. This expenditure was agreed by the Chairman and RFO in accordance with section 4.1 of the Financial Regulations.

#### **War Memorial Playing Fields (WMPF)**

The Council holds a conveyancing document dated 27 April 1949 in relation to the WMPF. There is some uncertainty about the legal position of the Parish Council in this arrangement. In terms of good governance and to protect the Council's assets the councillors are asked to consider seeking legal advice from Surrey Hills Solicitors with regard to the WMPF conveyancing document.

*The following recommendations are made:*

- iii. To note that the Council Chairman in conjunction with the RFO has agreed, in accordance with section 4.1 of the Financial Regulations, to seek initial legal advice from Surrey Hills Solicitors in relation to the Lease and Trust Deed for Harting Community Hall at a cost of £500 +vat*
- iv. To consider if advice should be sought from Surrey Hills Solicitors in relation to the War Memorial Playing Field Conveyancing document at a cost of up to £500 + vat*

### **Agenda Item 11 – Harting Community Hall (HCH)**

As detailed in Agenda Item 10, legal advice was taken in relation to the communication from the HCH Chairman outlining concerns about the future management of the hall as a result of the lack of trustees. A summary of the advice is detailed below in blue italics:

*The issues which you raise are not uncommon. Typical problems are the charity running out of trustees through age or infirmity, a realisation that trustees of unincorporated trusts are personally liable, or the onerousness of running what are in essence businesses; charity trustees falling out with the parish council - usually through interpersonal differences; charities running out of money; parish councils and charity trustees not properly understanding their respective roles especially where the Council is a custodian trustee.*

*The position here is that the Council is the freeholder of the land in question. The lease and trust deed of 10 November 1986 does two things:*

- 1 it grants a lease to three holding trustees for a term of 50 years wef 1 April 1986. It is a full repairing and insuring lease. I note that it has not been registered even though it was entered into after compulsory registration.*
- 2 The second part of the deed represents the governing document of the charity. It is in a common form. The holding trustees hold the legal (leasehold) estate but the charity trustees, i.e. those charged with the day to day management of the charity and of the premises, are the committee of management: see paras 2 and 3 of the schedule. I note that the holding trustees were required to vest the legal estate in the Parish Council as custodian trustee. I do not know whether that step was taken; I have seen no Commission order or conveyance or other deed.*

*The management of the charity and of its leasehold asset are therefore vested in the charity trustees and it is for that body to manage the charity itself in accordance with the governing document and charity law and the property in accordance with the lease, the governing document and charity law. The Charity Commission, the regulator, will, as you surmise, encourage trustees to seek fresh or additional trustees through local action and imaginative calls for local support can be fruitful in my experience.*

*The charity cannot just give up its role or its premises. While in land law terms a tenant can surrender its lease by deed or by operation of law, the charity has to jump through several hoops including the provisions of para 18 of the schedule, involving a general meeting and the consent of the Commission. In addition, the surrender of a lease by the charity is regarded by the Commission as a disposal of land engaging the provisions of Part 7 of the Charities Act 2011 - in effect requiring the obtaining of best consideration. That consideration would be the property of the charity.*

*From the Council's point of view, it is open to it to accept a surrender of the charity's lease but there is the issue of consideration for the surrender. A surrender would release the property from the charitable trusts and the asset would become the responsibility of the Council. Clearly, the Council would have to consider the implications of taking on the ownership and management responsibilities of the building and of the activities within it. The Council as a local authority has power to run a village hall: see s 19 of the Local Government (Miscellaneous Provisions) Act 1976.*

*In this case it seems that the problem for the charity is not financial but organisational. There are several options:*

- 1 The charity need to resolve its constitutional problems*

- 2 *The charity and the Council could approach the Commission with a view to the Commission's making a scheme appointing the Council the sole managing trustee of the charity – amending in particular para 3 of the schedule. Parish councils are often sole managing trustees of village halls but (a) the Commission has reservations about parish councils being sole managing trustees because of the confusion of the Council and its roles as a local authority governed by local government law and as a charity trustee governed by charity law primarily; and (b) the management of the hall undertaken by the Council must be in accordance with the governing document as amended (or substituted by a Commission scheme) and charity law. Again, the Council would have to consider the implications of taking on the ownership and management responsibilities of the building and of the activities within it.*
- 3 *The Council and the charity can enter into a co-ordination agreement under s 297 Charities Act 2011. This enables the Council and the charity to do most things. A model which I have promoted puts the Council and the charity into a contractual relationship so that the Council acts as a contractor to the charity which, one would envisage in this case, would mean that the Council runs the hall. The charity trustees cannot delegate away their responsibilities as charity trustees but can contract out its management responsibilities. Such an agreement would set out the tasks to be undertaken by the Council and the financial relationship.*
- 4 *As you and I have already canvassed, it is for the charity to resolve its constitutional difficulties taking advice from the Commission as appropriate. That is not to say that the Council cannot offer help and guidance and money short of formal arrangements.*

*The Council is not obliged to intervene in the affairs of the charity or of the hall other than to safeguard its asset.*

The Chair, Vice Chair and clerk met with the Chair of HCH to gain a better understanding of the situation and to discuss the various implications for the Parish Council.

There is no easy solution to the problem but it would appear unlikely that HCH would be able to surrender the lease, cease the charity and effectively hand over the management to the Parish Council. There is an option for the Parish Council to run the hall as a charity as sole trustee but this is very onerous in terms of time as the Parish Council and the Trust would need to be run as two separate entities.

This leaves the options of either trying to find more trustees and continue in the current set up or investigating the potential of a co-ordination agreement (as detailed in option 3 above).

The HCH Chair will be contacting ACRE (Action with Communities in Rural England) and it is hoped they may be able to provide some help.

*The following recommendations are made:*

- iii. To note the report*
- iv. To agree that Surrey Hills Solicitors are asked to provide further information and guidance to allow the Parish Council to consider the implications of a co-ordination agreement between the Parish Council and Harting Community Hall Trust*

### **Agenda Item 12 - West Sussex Transport Plan 2022-2036 (WSTP) Consultation**

WSCC have published the Draft West Sussex Transport Plan 2022-2036 (WSTP) for a period of consultation ending on Friday 8<sup>th</sup> October. The Draft Plan is available to view at [www.westsussex.gov.uk/WSTPconsultation](http://www.westsussex.gov.uk/WSTPconsultation) along with additional documents including a

Draft Plan snapshot, Sustainability Appraisal, Habitats Regulations Assessment report, an Evidence Base document and a Frequently Asked Questions document.

*The following recommendation is made:*

*That the members feedback any views on the consultation to the clerk by 24 September 2021 to enable the Council Chairman in conjunction with the HABAC Chairman to prepare a suitable response.*



## Clerk's Reports - Harting Parish Council – 16 September 2021

### Agenda Item 19

Items raised at previous meetings:

Topic/Date first raised	Item Detail	Action by	Status
Tree Works March 2016 (Minute 252)	Woodland restoration	SB/ Clerk/AS Tree Working Group (TWG)	Planned second phase volunteer planting likely early 2022. Regen protection to be undertaken in next couple of months
HABAC November 2020	Fingerpost refurbishment  South Downs Safer Roads Task Force.  East Harting Flood Pond.  Durford Lane and Bridge.	Clerk   WSSC  WSSC	North Lane fingerpost completed. Turkey Island sign has been straightened and strengthened. Quotes for further works, as agreed by Council, to be sought.    The Bridge has finally been repaired.
Online Banking	To investigate online banking to enable the setup and operation of a deposit account	Clerk	See agenda items 7,8 and 9
New Homes Bonus (Minute 252 – April 2021)	Consideration for potential schemes for £830 grant & application	Clerk	Awaiting outcome of application
Footpath lights (Minute 89 – Sept 2020)	To disconnect and remove the footpath lights	Clerk	The Hall committee have arranged for an electrician to disconnect the lights as part of a scheme of works in the hall. This is due to happen mid September.
PCEG Minute 266 Mar 2020	Set up of Parish Council Emergency Group in reaction to COVID-19 pandemic	TW, SG and SB	See agenda item 15

Insurance Claim	Claim from Hastings Direct for damage to a car from a tree falling from Council land on 28 February 2020	TW	<p>A claim has been received from Hastings Direct, on behalf of a client, regarding alleged damage to a car from a tree falling from Council land in February 2020.</p> <p>The claim has been passed to the Council insurers who will be investigating the claim. Various information about the tree surveys and subsequent tree work has been requested and supplied.</p> <p>Update 11 September 2021 – the insurers denied liability in April 2021 and no further contact has been received from claimants insurers</p>
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**Trish Walker - Clerk**