

Full Council meeting procedures, scrutiny call-in procedure and Public Question Time rules

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1. Summary

- 1.1. This report sets out proposals for the Committee to consider regarding the Full Council meeting procedure rules, the scrutiny committees' call-in procedure rules and the public question time rules within the Constitution.
- 1.2. The proposals seek to respond to recommendations from the recent Corporate Peer Challenge, equalise across the Council's committee meetings the public question time rules relating to deadlines for submitting statements and the time allocated to speakers, and clarify the existing public question time provisions to ensure that the time reserved for public statements and questions is maximised and not limited by repeated questions or statements that have been raised at the council's committee meetings in the past six months. The Committee's views are invited on the proposals set out within paragraphs 3.1 – 3.16 prior to these being considered by Full Council on 18 July 2018.
- 1.3. These proposals, if agreed by Full Council, will result in revised content for the Constitution but the changes also impact on the Council's 'executive arrangements' which come under the authority of the Leader to approve. The Leader's approval will also be required for any changes which impact on the Council's 'executive arrangements'.

2. Recommendations

- 2.1. **The Committee is recommended to :**
 - i) **Consider the proposals regarding the proposed amendment to the Full Council meeting procedure rules and Public Question Time provisions within the Constitution as set out in paragraphs 3.1-3.12 of this report, ahead of the Monitoring Officer reporting these for consideration and approval by Full Council on 18 July 2018**
 - ii) **Consider the proposals regarding the proposed amendment to the scrutiny call-in procedure as set out in paragraph 3.16, ahead of the Monitoring Officer reporting this for consideration and approval by Full Council on 18 July 2018**
 - iii) **note the work to be undertaken investigating options to improve the effectiveness of scrutiny (see paragraph 3.17)**

3. Background

3.1 Full Council meeting procedure rules and Public Question Time rules

Monitoring Officer has undertaken a review of Full Council, Cabinet and Committee public question time rules to ensure they remain fit for purpose and this has involved comparison with neighbouring councils such as Devon County Council and Wiltshire Council. This can be a challenge as the council needs to strike an appropriate balance between maximising the time for debate at its meetings and providing for public participation at its meetings that is reasonable e.g. for the Full Council meeting in February 2018 there were 33 public representations whereas the time allocated for Public Question Time is 20 minutes. The proposals within this report seek to strike an appropriate balance and the views of the Committee would be welcomed.

The Constitution sets out the Full Council meeting procedure rules and Public Question Time rules. For the purposes of this report in terms of public representations the key sections are set out in Appendix A.

3.2 Currently the Council has a variety of rules for its meetings relating to the deadline for the public to submit a question or statement or the time allocated for speakers (see Appendix A). Neighbouring councils typically require submission of questions or statements four working days before a meeting compared to SCC's requirement for three working days for some of its meetings. In addition, other councils usually allocate up to three minutes for each public speaker compared to our allocation of three minutes for Regulation Committee and Somerset Waste Board and two minutes for all other meetings. To improve consistency of experience for the public at any of the council's meetings it is proposed that:

- 1) the deadline for submission of questions / statements to Full Council (paragraph 4.10.1 of the Constitution), Cabinet and the council's committee meetings is revised to 5pm three clear working days before the meeting date (excluding the day of the meeting) i.e. 5pm on Thursday for a meeting on the following Wednesday. Questions must be submitted in writing (emails are accepted) to the Council's Monitoring Officer for Full Council and Cabinet or to the relevant Democratic Services Manager for all other committees (via the following email address: democraticservices@somerset.gov.uk). Questions or statements can also be submitted using an online form available on the Council's website at: <http://www.somerset.gov.uk/councillors-and-democracy/councillors/council-meetings/>
- 2) Any questions or statements received after the deadline will only be considered with the discretion of the Chair of the relevant meeting. The questioner will need to set out reasons for their late submission to be considered at the meeting. If the Chair rejects the late question or statement then a written reply will be provided by the council within 20 working days of the meeting.
- 3) for the time allocated for the public to make their statement or ask their question to be changed to three minutes for Full Council, Cabinet and all of the council's committee meetings.

Note – for Full Council the council already publishes the public representations for the meeting one working day.

- 3.3** The deadline for submission of Member Questions for Full Council meetings is currently aligned to the public representations deadline. It is proposed to continue with that alignment and therefore the deadline for Member Questions is also proposed for amendment to 5pm three clear working days before a Full Council meeting.
- 3.4** Notwithstanding the proposals in 3.2 and 3.3 above, where a question relates to a matter which is included on the agenda for a meeting at which the question is to be put but that agenda or any Officers Report has not been made available before the normal deadline for submission of questions by 5pm three clear working days before the meeting then provided written notice of a question is received within 24 hours of that Agenda or Report having been so published then the question shall be allowed.
- 3.5** In respect of 4.10.2. (c) in Appendix A there has been an increase in the number of similar or identical public representations being raised at a Scrutiny Committee, then a Cabinet meeting and then a Full Council meeting. 4.10.2 (c) makes reference to a meeting of the Council and this was intended to not just be Full Council meetings.
- 3.6** In addition to 3.5 above a review of neighbouring councils has identified additional clauses that would be recommended for inclusion within 4.10.2. It is proposed to amend 4.10.2 as follows:

Public representations will be rejected if they:

- (a) *Do not relate to a matter for which the council has a responsibility or which affects the County;*
 - (b) *Are defamatory, frivolous, offensive, vexatious or unlawful;*
 - (c) *Are substantially the same as a public representation which has been put at a meeting of the Council, Cabinet or a Committee in the past six months;*
 - (d) *Require or request the disclosure of confidential or exempt information in any response;*
 - (e) *Relate to any non-determined planning application or town and village green application*
 - (f) *Name or identify individual service users, members of staff or members of staff of partner agencies*
 - (g) *Are considered to be inappropriate for the particular meeting*
- 3.7** In order to provide appropriate rigour to the rejection of any public representations it is proposed that the Chair of the relevant meeting adjudicates on the application of paragraph 4.10.2, in consultation with the Monitoring Officer (for Full Council and Cabinet) or relevant Democratic Services Manager (for all other committees). This proposal will require appropriate wording to be added to the Constitution.
- 3.8** There are instances when an individual submits multiple questions for a meeting. This can have the effect of duplicating questions by multiple speakers on a particular issue, limit the available time for other speakers or restrict the ability to provide a full response at a meeting. It is proposed that no individual person making a public representation shall ask more than one question at a Full Council, Cabinet or committee meeting. If either more than one question is received or a single question contains a number of component questions only the first question shall be accepted. The

Monitoring Officer or relevant Democratic Services Manager shall adjudicate on the application of this in consultation with the Chair of the relevant meeting.

- 3.9** The proposals in this report seek to ensure that at least a verbal reply is provided by the council at the meeting of Full Council, Cabinet or one of the council's committees. No discussion will take place upon a reply provided by the Council except that the Chair of the meeting may allow the person who submitted the question to seek clarification on a point made in the reply.
- 3.10** If the questioner is unable to attend a meeting in person, then they will be allowed to arrange for someone to ask the question on their behalf. In the absence of anyone being able to ask the question then the Monitoring Officer or relevant Democratic Services Manager shall arrange for the questioner to receive a written reply which would otherwise have been given at the meeting.
- 3.11** The current practice will continue where by the Monitoring Officer or relevant Democratic Services Manager determining the order of the questions to be raised at meetings in consultation with the Chair of the relevant meeting.
- 3.12** Subject to consideration and approval by Full Council on 18 July, to assist the public, representatives from other councils, partners and businesses, county councillors and officers it is proposed that the Monitoring Officer undertakes amendments to the Constitution to give effect to the proposals in this report and also prepares a guidance document setting out public participation at the council's meetings. This guidance would be published on the council's website.
- 3.13** Proposed revision of the Scrutiny Committees 'call-in' procedure rules
- The recent Corporate Peer Challenge (reported to Full Council in May 2018) made the following recommendation:
- SCC should review its overall approach to scrutiny, ensuring all councillors are equipped to play an active role and contribute to the policy making and key decisions affecting the future of Somerset's residents and the council, and that its governance arrangements are reflective of this.*
- 3.14** Within scrutiny's range of functions is the potential for the use of a 'call-in' of a key decision taken by Cabinet, the Leader of the Council, a Cabinet Member or an officer. "Call-in" is a facility which Members can use to challenge Key Decisions where a scrutiny committee has not been involved prior to the decision being taken or where a Member believes a decision has been taken without the proper process having been followed.
- 3.15** The Committee has previously received a report regarding the call-in procedures. In summary, any Member may request a call-in but the call-in must be supported by a Member of the relevant Scrutiny Committee and agreed by the Chair and Vice-Chair of that Committee in order to be formally

considered. The call-in must be submitted in writing or by email to the Chair and Vice-Chair of the relevant Committee. No changes were made at that time because the Committee acknowledged that the system hadn't been tested as such and there was no evidence of a pattern of refusals.

- 3.16** At the Full Council's May meeting, the Leader of the Council proposed, with the consensus of the meeting, to bring forward a proposal to remove the requirement for the Vice-Chair of the relevant Scrutiny Committee to be part of the decision making for agreeing a call-in request. This was a direct response to the Peer Review's recommendations and can be introduced in advance of the wider review of the effectiveness of the scrutiny arrangements. It is therefore proposed to delete the requirement for the Vice-Chair of the relevant Scrutiny Committee to be involved in the decision making for a call-in request and the Constitution amended to reflect this.
- 3.17** Work will be commencing with the Scrutiny Committee Chairs, the Vice Chairs and the Leader of the Council, to review options to make scrutiny more effective, to evaluate these and to bring forward any specific recommendations for the Council to consider prior to implementation. This work is being supported by the Monitoring Officer and the Scrutiny Officer. Any specific recommendations requiring revisions to the Constitution will be reported to this committee.

4. Implications

- 4.1.** Legal & Risk: It is important that the Constitution is up to date, meets legal requirements and reflects the practice of the Council. The proposals in this report will assist in meeting these requirements.
- 4.2.** Impact Assessment: No implications.
- 4.3.** Financial: None
- 4.4.** HR: Not applicable.

5. Background papers

- 5.1.** SCC's Constitution

Note: For sight of individual background papers please contact the report author.

Appendix A

Full Council meeting procedure rules

4.10.1 Public representations (questions, statements or a petition) must be received in writing by the Monitoring Officer by 12 noon on the Friday prior to the meeting (for Wednesday Council meetings) to be considered at that meeting.

4.10.2 Public representations must

- (a) Relate to Council business or affect the County;*
- (b) Not be defamatory, frivolous or offensive;*
- (c) Not be substantially the same as a public representation which has been put at a meeting of the Council in the past six months; and*
- (d) Not require or request the disclosure of confidential or exempt information in any response.*

4.10.3 The Chair's Schedule for the meeting includes details of public representations. They are also detailed in the Minutes together with the responses (given at the meeting or provided following the meeting). Up to 20 minutes is allowed for public question time.

4.10.4 Members of the public have up to 2 minutes to introduce their representations. If a member of the public is not present, the Chair will decide how the representations will be dealt with.

4.10.5 A Member (usually the relevant Cabinet Member) will normally provide a brief verbal response to public representations at the meeting. There will be no member debate. If a full response cannot be given at the meeting, then a written response will be provided within 20 working days of the meeting.

Access to Information Procedure rules:

8.6.36 The relevant Chair has discretion to vary any of the following rules:

- (a) A member of the public may ask a question or make a statement about any item on an agenda for the meeting.
- (b) In addition, a petition may be presented on any matter within the overall remit of the body.
- (c) The agenda will provide for questions/statements/petitions to be taken early in the meeting although the Chair has discretion to take them when the relevant item is reached on an agenda.
- (d) For Committee meetings, a person wishing to speak under public question time should inform the meeting administrator by 12 noon the day before the meeting. For Cabinet meetings the deadline for receipt of representations is 12 noon 3 clear working days before a meeting and they must be in writing.
- (e) The Chair will allow those who have given prior notice to introduce their question / statement / petition - 2 minutes maximum.
- (f) A response will be given once the question/statement/petition has been introduced or when the relevant agenda item is considered. After the response has been given there will be no member debate.
- (g) Normally a maximum of 20 minutes is allowed for public question time.

- (h) Where there are a large number of questioners on the same subject matter, the Chair may ask those concerned to nominate one or more of their number to ask question(s).
- (i) In exceptional circumstances the Chair may adjourn the meeting temporarily to allow views to be expressed more freely.