

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

Lead Officer & Author: Scott Wooldridge, Strategic Manager - Governance & Risk & Monitoring Officer

Contact Details: 01823 357628

1. Summary

- 1.1. This report sets out proposed revisions for the County Council 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 as best as possible 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.
- 1.3. The proposals within this report have been informed and amended following consultation with Constitution & Standards Committee and Political Group Leaders. If agreed by Full Council, the proposals 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 Council 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 3.1-3.11 of this report**
 - ii) **Consider the proposals regarding the proposed amendment to the scrutiny call-in procedure as set out in paragraph 3.16**
 - 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

The 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 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 Proposal 1 – Deadline for submitting questions / statement or petitions and time allocated for public speakers at meetings

Currently the Council has a variety of rules for its various committee 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 or petitions 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, statements and/or petitions 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, statements or petitions 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 (including in relation to a petition) 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 Proposal 2 – specific amendment to Full Council meeting procedure rules

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** To ensure consistency it is proposed to apply the revised paragraph 4.10.2, with appropriate modification, to committee meetings and for the Leader of the Council to consider this for the Cabinet.

3.9 Proposal 3 – Number of questions that a person can submit

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 or a person submitting on behalf of an organisation shall ask more than three questions at a Full Council, Cabinet or committee meeting.

If a person submits more than three questions (including any sub-division or component questions ie. Question 1a, 1b and 1c would mean three questions the same as Question 1, 2 or 3) then only the first three questions shall be accepted for a meeting (subject to those questions not duplicating or being similar to other questions received from other persons for the meeting).

Where there is duplication or the question or statement is similar then it is proposed that those will be rejected.

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

3.10 Proposal 4 – instances where a person asking a question cannot attend a meeting

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. If no person is able to put the question to the meeting then it is proposed that the relevant Chair of the meeting or the Democratic Services Manager reads out their question at the meeting, for a verbal reply to be provided and a written reply then provided to the person who raised the question.

3.11 Proposal 5 – guidance for public question time

Subject to consideration and approval by Full Council to the proposals in this report, 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.

- 3.12** A fundamental principle for the meeting procedure rules remains the role of the Chair of that meeting working with officers to manage Public Question Time as best as possible in order to strike an appropriate balance between enabling public representations and ensuring there is adequate time for members debate at a meeting.

For the benefit of elected members and the public, the proposals in this report seek to ensure that at least a verbal reply is provided by the council to any questions or statements submitted to a meeting of Full Council, Cabinet or one of the council's committees.

No discussion should 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.

3.13 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.