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To:
Chair & Members of the Standards Committee

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18th September 2019

Dear Councillor

STANDARDS COMMITTEE – MONDAY, 23RD SEPTEMBER, 2019 AT 10:00

I refer to your recently circulated agenda for the above meeting and now enclose the following items of business:

Appendix 4 to Agenda Item No 7 – Review of the Joint Employment and Appeals Committee Terms of Reference – Pages 2 to 18.

Appendix 5 to Agenda Item No 7 – Questions and Motions – Pages 19 to 33.

Yours faithfully



Joint Head of Corporate Governance & Monitoring Officer



Bolsover
District Council

We speak your language
Polish **Mówimy Twoim językiem**
Slovak **Rozprávame Vaším jazykom**
Chinese **我们会说你的语言**

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Bolsover District Council

Standards Committee

23rd September 2019

Review of the Joint Employment and Appeals Committee Terms of Reference
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Report of the Monitoring Officer

This report is public

Purpose of the Report

- To review the recently introduced revised joint arrangements for the appointment and dismissal of joint Strategic Alliance Management Team (SAMT) posts.

1 Report Details

- 1.1 Attached at Appendix 1 is the current terms of reference of the Joint Employment and Appeals Committee (JEAC). This was as agreed in the last corporate year as part of the Constitution review.
- 1.2 The report which went to Council on 3rd April 2019 following the matter being considered at Union/Employee Consultation Committee (UECC) at Members' request is attached at Appendix 2. The original Council report from 6th March 2019 is also attached at Appendix 3.
- 1.3 North East Derbyshire District Council (NEDDC) has approved the Terms of Reference for this Joint Committee.
- 1.4 In April 2019, Members at Bolsover District Council desired the Standards Committee to review these arrangements in the new corporate year.
- 1.5 Currently there are no "pending" cases involving the use of this Joint Committee. However since this was last considered proposals have been made for single Authority Heads of Service posts on SAMT to be established as well as joint ones.

Bolsover only posts

- 1.6 The current Terms of Reference of this Joint Committee do not make any reference to this scenario where one single authority needs to undertake a recruitment for Head of Service or Director who would solely work for that authority and be a member of the Strategic Alliance Management Team.
- 1.7 It is suggested that wording be inserted in to the Terms of Reference to permit this. The following is a form of words which could be used with 3 options attached for the Leader of the Opposition.

Where the Authority determines to recruit to a Head of Service or a Director post outside the Strategic Alliance or determines to take any disciplinary action in relation to such a post the Member Panel will be called the Employment and Appeals Committee and will comprise:-

The 4 Members of the JEAC and

Option 1

Where there are 2 “Leaders of the Opposition” of groups of equal size, both Leaders of the Opposition will be Members of the Employment and Appeals Committee increasing the size of the Committee to 5.

Or

Option 2

Where there are 2 “Leaders of the Opposition” of groups of equal size, if one Leader of the Opposition is a member of the Executive, the Employment and Appeals Committee shall include that Member. The other Leader of the Opposition shall be invited to attend as a non-voting co-optee.

Or

Option 3

Where there are 2 or more opposition political groups of equal size, Council shall determine which Leader of the opposition political groups be appointed to the Committee. The other Leader(s) of the Opposition group(s) shall be invited to attend as a non-voting co-optee.

The Terms of Reference for the Employment and Appeals Committee will be as for the JEAC with the exception that the appointment or disciplinary process relates to a Bolsover employee only.

- 1.8 So far SAMT has not been requested to look at any aspect of the Terms of Reference of this Joint Committee. Clearly as the employees who would be affected by how the process is operated, they should have a say. It is proposed therefore that this report is sent to SAMT and reported back to Standards Committee.
- 1.9 In addition, there is the prospect of an imminent review of the SAMT structure as agreed at Executive on 16th September 2019.
- 1.10 In view of these changes the proposal is to consider the Terms of Reference today, to take Members’ views on the arrangements that they wish to be considered, to take the changes to SAMT and the next appropriate Strategic Alliance Joint Committee (SAJC) as well as NEDDC’s Standards Committee.
- 1.11 To enable the process for the recruitment of single authority Heads of Service or Directors to progress, it is proposed that this amendment be submitted directly to Council in November, subject to Standards Committee’s support.

2 Conclusions and Reasons for Recommendation

- 2.1 Members wished to review the arrangements for the JEAC and also SAMT has not been invited to consider this.
- 2.2 Members' ideas as to what they would want to see are requested.
- 2.3 Members are asked to consider the options for the Bolsover only Panel.

3 Consultation and Equality Impact

- 3.1 Consultation requirements have been dealt with in the report.
- 3.2 There are no equality impact issues.
- 3.3 If significant change is proposed, the arrangements will have to be raised again at UECC.

4 Alternative Options and Reasons for Rejection

- 4.1 As in the original report to Council.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 None save as a result of having an inequitable procedure.

5.2 Legal Implications including Data Protection

- 5.2.1 Legal Issues are dealt with in the report. There are no Data Protection issues.

5.3 Human Resources Implications

- 5.3.1 As set out in the report.

6 Recommendations:

That:

- 6.1 The amendment to create arrangements for single authority recruitment of Heads of Service and Directors as set out in the report be recommended to Council for approval in November.
- 6.2 Members give their views as to whether the current arrangements for the JEAC need any further changes.
- 6.3 The arrangements with any member suggestions are reported to SAMT.
- 6.4 That Standards Committee consider any feedback at a future meeting.

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<p>Is the decision a Key Decision?</p> <p>A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:</p> <p><i>BDC: Revenue - £75,000 <input type="checkbox"/></i></p> <p><i>Capital - £150,000 <input type="checkbox"/></i></p> <p><i>NEDDC: Revenue - £100,000 <input type="checkbox"/></i></p> <p><i>Capital - £250,000 <input type="checkbox"/></i></p> <p><input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
<p>Has the relevant Portfolio Holder been informed</p>	Yes
<p>District Wards Affected</p>	All indirectly
<p>Links to Corporate Plan priorities or Policy Framework</p>	All indirectly

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Appendix No	Title
1	Joint Employment and Appeals Committee Terms of Reference
2	Council report of 3 rd April
3	Council report of 6 th March
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
Sarah Sternberg, Head of Corporate Governance and Monitoring Officer	2414

JOINT MEMBER PANELS FOR STAFFING MATTERS

(1) Joint Employment and Appeals Committee (JEAC)

There will be a Joint Employment and Appeals Committee (JEAC) of 8 Members - four Councillors from North East Derbyshire District Council and four Councillors from Bolsover District Council.

The membership from Bolsover District Council shall include the Leader of the Council and Deputy Leader, a Cabinet Member and the Leader of the Largest Minority Group or their appointed substitute. Substitutes if called upon will replace an existing Member for the duration of an employment procedure in its entirety. At its conclusion, appointment reverts to the Member originally appointed. The Members and substitutes shall be appointed at the Annual Meeting. The rules of proportionality shall apply to this Committee.

The Joint Employment and Appeals Committee will meet as a Committee in relation to all appointments of the Strategic Alliance Management Team which includes the Statutory Officers and other Chief Officers/Deputy Chief Officers (employed by the Council under Joint Negotiating Committee (JNC) terms and conditions).

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The Joint Employment and Appeals Committee will meet as a Sub Committee of 4 comprised as one of the options below when dealing with a disciplinary or capability issue:

Option 1	Option 2
Leader BDC	Leader NEDDC
Deputy Leader NEDDC	Deputy Leader BDC
Cabinet Member BDC	Cabinet Member NEDDC
Leader of largest minority group NEDDC	Leader of largest minority group BDC

The Joint Employment and Appeals Committee will have the following roles and functions:-

Functions	Matters not delegated
<p>To interview candidates for posts within the Strategic Alliance Management Team</p> <p>To appoint candidates to posts within the Strategic Alliance Management Team, with the exception of the Head of Paid Service, Chief Finance Officer and Monitoring Officer</p> <p>To recommend to the councils' the appointment of the Head of Paid Service, Chief Finance Officer and Monitoring Officer</p> <p>To deal with the final stages of the grievance and harassment procedures for all Statutory Officers and other Chief Officers/Deputy Chief Officers</p> <p>To deal with appeals from the Chief Executive Officer and Chief Officers/Deputy Chief Officers including Statutory Officers, against action taken against them</p> <p>In respect of the dismissal of any of the Statutory Officers, namely the Head of Paid Service, the Monitoring Officer and the Section 151 Officer, the Joint Employment and Appeals Committee shall make a recommendation to the Councils which will be supported via a report from two of the councils' Standards Committee Independent Persons</p>	

Bolsover District Council

Council

3rd April 2019

Joint Employment Committee and Joint Appeals Committee

Report of the Joint Head of Corporate Governance and Monitoring Officer

This report is public

Purpose of the Report

- To set out proposals for revised arrangements for the Joint Employment Committee (JEC) and the Joint Appeals Committee (JAC) in relation to members of the Strategic Alliance Management Team (SAMT).
- To set out the views of Standards Committee and UECC on the proposals.

1 Report Details

- 1.1 The attached Council report (Appendix 1) was considered by Standards Committee on the 11th March. The Standards Committee recommended that its comments on the report be referred to the Union Employee Consultation Committee in order that these could be considered prior to the report being referred to Council at the meeting scheduled for 3rd April 2019. The UECC considered the report on the 25th March 2019.
- 1.2 As set out in the attached report the two Councils' Constitutions contain different terms of reference for the JEC and therefore the purpose and role of the Joint Committee is not clear and not consistent. Therefore revised arrangements are required. The attached report proposes that a Joint Employment and Appeals Committee be established. It also sets out the mechanism for making appointments to the roles with the Strategic Alliance Management team and the process for dealing with appeals on issues relating to capability, performance, sickness absence and conduct, in line with the established arrangements for all other Bolsover staff who have a right of appeal to the Employee Appeals Committee in such cases. The attached report sets out the need to have revised arrangements in place in order to have a clear and consistent approach and procedure across both Councils for members of the Strategic Alliance Management team which reflects ACAS guidance and the relevant statutory regulations
- 1.3 At Standards Committee on the 11th March, Members considered the procedure proposed in Appendix 1. The Committee recommended putting in place these

arrangements pending the planned formal Constitutional review. Consequently the Standards Committee made a recommendation to that effect to ensure a fair and workable arrangement was in put place. The Standards Committee will then reconsider the arrangements at the start of the new corporate year as part of the planned formal Constitution review in 2019/20.

- 1.4 UECC considered the proposals on the 25th March. Their draft resolution is:-

RESOLVED that

1. the views expressed at the meeting on the proposals put forward be incorporated into the recommendations made to Council for consideration of this matter on the 3rd April 2019;
2. recommendations made in the original report to Council on 6th March be made to Council on 3rd April 2019; and
3. it be noted that the arrangements agreed would be reviewed and comments incorporated as part of the Review of the Constitution 19/20 by Standards Committee.

The Committee was supportive of the temporary arrangements and the intended review and as can be seen agreed that the matter should be put to Council on 3rd April for approval of the temporary arrangements. The Committee's view is that there will be issues to consider as part of the review but that they can raise these at the time of the review.

- 1.5 As set out in the attached report the proposal includes an increase in the Joint Employment and Appeals Committee membership from each Council to 4 Members. This is to assist with the formation of the necessary Sub-Committees and making sure the number of Members from each Council is the same. The extra Member proposed is a Cabinet Member. This also adds more Executive Members to the appointments process for roles with the Strategic Alliance Management Team.
- 1.6 Given the revised arrangements need to be in place for both Councils, North East Derbyshire District Council approved the revised arrangements at their meeting on 4th March. This means that should this Council want to consider further alternative arrangements to these proposals, more time would be needed in order for the two Councils to agree and adopt a process.
- 1.7 As a reminder to Members, this report has no effect on appeals. These will still be heard before Members for all employees.

2 Conclusions and Reasons for Recommendation

- 2.1 The process for dealing with disciplinary/capability hearings for Joint Heads of Service and above relies on the consistency of the terms of reference of the JEC across the two Councils. Currently they are not the same and so it is not possible to keep existing arrangements.
- 2.2 Therefore there is a need for the arrangement to be revised and agreed across the Strategic Alliance so that there is in place a fair and workable process.

- 2.3 As set out in the this report the Standards Committee has already placed this issue at the top of its work plan as part of the planned Constitution review for the forthcoming corporate year which will enable further consideration of the matter.

3 Consultation and Equality Impact

- 3.1 Discussion has taken place with the relevant Union representatives as part of ongoing dialogue. Consideration by the UECC has also taken place enabling formal engagement and consultation on the proposals in order that UECC's comments are reported to Council. These comments are reported above.
- 3.2 There are no direct equality issues arising from the report. However failure to have consistency and a fair process in the two Councils needs to be addressed.

4 Alternative Options and Reasons for Rejection

- 4.1 To do nothing is not an option as that leaves the Strategic Alliance without joint arrangements for dealing with disciplinary/capability hearings for Joint Heads of Service level and above.
- 4.2 This process will be reviewed as part of the Standards Committee's planned annual review of the Constitution which will be undertaken in the new municipal year.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 There are no direct financial implications.
- 5.1.2 Risks relate to not having a suitable, satisfactory and consistent arrangement in place that is agreed across both Councils.

5.2 Legal Implications including Data Protection

- 5.2.1 As set out directly in the report and the risk section.
- 5.2.2 The Regulations to be complied with in respect of this subject are the Local Authorities (Standing Orders)(England) Regulations 2001, SI 3384.

5.3 Human Resources Implications

- 5.3.1 As set out directly in the report and the risk section.

6 Recommendations

That Council:

- 6.1 merge the Joint Employment Committee and the Joint Appeals Committee so that it becomes the Joint Employment and Appeals Committee (JEAC);
- 6.2 approve the proposed membership and Terms of Reference for the JEAC and the proposed amendment to the Scheme of Delegation to Officers as set out in Appendix 1.
(This includes approving the membership of the JEAC as 8 Members, 4 from each of the 2 Councils and appointing the additional Executive Member representative to the Committee)
- 6.3 notes that these arrangements will be reviewed as part of the 2019/20 planned annual Constitutional review by Standards Committee; and
- 6.4 give Delegated Authority to the Chief Executive as Head of Paid Service to make any minor alterations required to the process.

7 **Decision Information**

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the relevant Portfolio Holder been informed	Yes
District Wards Affected	None directly
Links to Corporate Plan priorities or Policy Framework	None as this relates to staffing matters.

8 **Document Information**

Appendix No	Title
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1	Joint Employment Committee and Joint Appeals Committee report to Council on 5th March 2019.
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
None	
Report Author	Contact Number
Sarah Sternberg	2414

Bolsover District Council

Council

6th March 2019

Joint Employment Committee and Joint Appeals Committee

Report of the Monitoring Officer

This report is public

Purpose of the Report

- To revise the process for the hearing of disciplinary and capability matters in relation to members on the Strategic Alliance Management Team (SAMT) to ensure the process is fit for purpose.

1 Report Details

- 1.1 Members of the Strategic Alliance Management Team (SAMT) are subject to a disciplinary and capability process that requires disciplinary and capability hearings to be heard by the Joint Employment Committee (JEC). The JEC's membership comprises both Council Leaders and Deputies and the Leader of the principal opposition in each Council.
- 1.2 Any appeal against a decision by the JEC would be made to the Joint Appeals Committee (JAC). The JAC's membership also comprises both Council Leaders and Deputies and the Leader of the principal opposition in each Council. An appeal cannot be heard by the same Members that heard the original disciplinary or capability case so revised arrangements are required.
- 1.3 In order to resolve the issue the following proposals are recommended.
 - The JEC and the JAC become one Committee entitled the Joint Employment and Appeals Committee (JEAC). The JEAC would sit as an 8 Member Committee to deal with appointments of SAMT members. This membership proposed is as follows.

Bolsover District Council (BDC)	North East Derbyshire District Council (NEDDC)
Leader	Leader
Deputy	Deputy
Cabinet Member	Cabinet Member
Leader of principal opposition	Leader of principal opposition

- In order to address the issues set out at para 1.2, capability and disciplinary cases for Directors and Heads of Service would be heard by a more senior officer, with a right of appeal to Members. If an appeal against any decision as a result of such a hearing is made then a sub-committee of the JEAC would be arranged. This sub-committee would comprise of 4 members, being 2 members from each Council (including at least one Opposition Member) in order to provide an equal representation of Elected Members from each Council. In such cases the sub-committee could comprise of the following:

Option 1	Option 2
Leader BDC	Leader NEDDC
Deputy NEDDC	Deputy BDC
Cabinet member BDC	Cabinet member NEDDC
Leader of principal opposition NEDDC	Leader of principal opposition BDC

- The proposals as set out in the report require amendment to the terms of reference for the JEC removing reference to dealing with disciplinary and capability matters for members of SAMT other than in relation to appeals against the initial decision. An amended set of the Terms of Reference is attached at **Appendix 1**.
- Amendment to the Scheme of Delegation to officers is also proposed to enable dismissal decisions regarding members of SAMT to be made by the Chief Executive officer, or the Strategic Directors in his absence. This would amend paragraph 10.28 (ii) as follows

To determine all staffing matters including but not limited to:

- ...
- (ii) *the appointment, dismissal, suspension, or discipline of staff, save that in relation to the Chief Executive Officer, Strategic Directors and Heads of Service, this does not include the appointment and, **in the case of statutory officers**, their dismissal.*

This has the effect of removing the power to dismiss statutory officers only from the delegation, leaving all other dismissal decisions within the scope of the power.

- For dismissals arising from the decision of the senior officer there would be a right of appeal to this sub-committee of the JEAC.
- 1.6 The proposed changes as set out in the report outline a mechanism for ensuring Members remain independent by not being engaged in the matter prior to any appeal. This ensures a fair and transparent process with a clear and separate appeal process.

2 Conclusions and Reasons for Recommendation

- 2.1 The current arrangements for hearings of disciplinary and capability issues relating to SAMT Members must be changed to meet the requirements of Natural Justice by providing a fair and independent appeal mechanism.

- 2.2 In addition there is need for a formal procedure to be agreed.

3 Consultation and Equality Impact

- 3.1 The Unions will be consulted as part of the process before this matter comes to the Council.
- 3.2 Equality implications are dealt with within the proposed documents.

4 Alternative Options and Reasons for Rejection

- 4.1 The existing arrangements are unreasonable and therefore an alternative mechanism that provides an independent appeal mechanism is required.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 There are no Finance implications.

5.2 Legal Implications including Data Protection

- 5.2.1 These are dealt with in the report.

5.3 Human Resources Implications

- 5.3.1 There are no direct Human Resources implications.
- 5.3.2 Members of SAMT are already subject to the JNC Conditions of Service in their contracts of employment.

6 Recommendations that Council

That Council:

- 6.1 Merge the Joint Employment Committee and the Joint Appeals Committee so that it becomes the Joint Employment and Appeals Committee (JEAC);
- 6.2 Approve the proposed membership and Terms of Reference for the JEAC appended to this report and the proposed amendment to the Scheme of Delegation to Officers;
- 6.3 Refer the Terms of Reference and the amendment to the Scheme of Delegation to the Standards Committee to note and for inclusion in the Constitution;
- 6.4 Approve the membership of the Committee as 8 members, 4 from each of the two Councils;
- 6.5 Appoints the additional Cabinet member representative to Committee; and

- 6.7 Give delegated authority to the Chief Executive and Head of Paid Service to make any minor alterations required to the process.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the relevant Portfolio Holder been informed	Yes
District Wards Affected	All indirectly
Links to Corporate Plan priorities or Policy Framework	All indirectly

8 Document Information

Appendix No	Title	
Appendix 1	Proposed Terms of Reference for the Joint Employment and Appeals Committee (JEAC)	
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)		
None		
Report Author		Contact Number
Sarah Sternberg Joint Head of Corporate Governance and Monitoring Officer.		01246 242414

JOINT MEMBER PANELS FOR STAFFING MATTERS

(1) Joint Employment and Appeals Committee (JEAC)

There will be a Joint Employment and Appeals Committee (JEAC) of four Councillors from North East Derbyshire District Council and four Councillors from Bolsover District Council.

One named substitute is made for each appointed Member of the Committee who can be called upon to replace an existing Member for the duration of an employment procedure in its entirety. At its conclusion, appointment reverts to the Member originally appointed.

The membership from Bolsover District Council shall include the Leader of the Council and Deputy Leader, a Cabinet Member and the Leader of the Largest Minority Group. The Members shall be appointed at the Annual Meeting. The rules of proportionality shall apply to this Committee.

The Joint Employment and Appeals Committee will meet as a Committee in relation to all appointments of the Strategic Alliance Management Team which includes the Statutory Officers and other Chief Officers/Deputy Chief Officers (employed by the Council under Joint Negotiating Committee (JNC) terms and conditions).

The Joint Employment and Appeals Committee will meet as a Sub Committee of 4 comprised as one of the options below when dealing with a disciplinary or capability issue:

Option 1	Option 2
Leader BDC	Leader NEDDC
Deputy NEDDC	Deputy BDC
Cabinet member BDC	Cabinet member NEDDC
Leader of principal opposition NEDDC	Leader of principal opposition BDC

The Joint Employment and Appeals Committee will have the following roles and functions:-

- (a) To interview candidates for posts within the Strategic Alliance Management Team
- (b) To appoint candidates to posts within the Strategic Alliance Management Team, with the exception of the Head of Paid Service, Chief Finance Officer and Monitoring Officer
- (c) To recommend to the Councils' the appointment of the Head of Paid Service, Chief Finance Officer and Monitoring Officer
- (d) To deal with the final stages of the grievance and harassment procedures for all Statutory Officers and other Chief Officers/Deputy Chief Officers

- (e) To deal with appeals from the Chief Executive Officer and Chief Officers/Deputy Chief Officers including Statutory Officers, against action taken against them
- (f) In respect of the dismissal of any of the Statutory Officers, namely the Head of Paid Service, the Monitoring Officer and the Section 151 Officer, the Joint Employment and Appeals Committee shall make a recommendation to the Councils which will be supported via a report from two of the Councils' Standards Committee Independent Persons

Bolsover District Council

Standards Committee

23rd September 2019

Review of Part 4 of the Constitution – Council Procedure Rules

Questions and Motions

Report of the Head of Corporate Governance and Monitoring Officer

This report is public

Purpose of the Report

- To consider whether there should be any changes to Part 4 of the Constitution - Council Procedure Rules.

1 Report Details

- 1.1 Part 4 of the Constitution details procedural rules in relation to Council and Council Committees. This report look specifically at Rule 8 Questions by the public, Rule 9 Questions by Councillors and Rule 10, Motions on notice. These rules are attached as Appendix i.
- 1.2 The main issues to consider with regards to these rules revolves around the number of questions and motions which are allowed and the overall time for consideration of questions and motions. In addition, whether they should be dealt with in the order of receipt, to assess the provision for urgency and to be satisfied that the scope and reasons for rejection are fit for purpose.
- 1.3 In order to consider whether there is a need for any change and to consider what practice neighbouring authorities adopt, a comparison of 5 neighbouring authorities was conducted with regards to each of these Rules.

Questions by the Public

- 1.4 Table 1, at Appendix ii. shows a comparison as to how the Council and neighbouring authorities govern questions by public to the Council.
- 1.5 The main difference is that Bolsover District Council restricts whom may ask questions as *“Members of the public who are on the Register of Electors for Bolsover or who are Non Domestic Rate Payers to the district”*. All the neighbouring authorities considered allowed **any** member of the public to ask questions.

- 1.6 Standards Committee may wish to consider amending the rule so as to allow any member or the public to ask a question so long as it meets the scope.
- 1.7 The other main difference is the amount of overall time allowed for public questions. Bolsover, North East and Bassetlaw Councils allow a total of 15 minutes unless an extension of time is approved by Council. The other authorities allow for 30 minutes in total.
- 1.8 Standards committee may wish to consider amending Rule 8 in order to extend the time allowed for questions to 30 minutes. It may be that as the Chair has the ability to agree to an extension of time, this is considered sufficient to ensure adequate time is given for questions. The issue of time is only likely to be an issue where there are a number of questions by the public on the council agenda.
- 1.9 All authorities save for Chesterfield Borough Council provide a scope of questions which also sets out on what basis a question may be rejected. The Authorities are consistent in the reasons for rejecting a question e.g.
- is not about a matter for which the local authority has a responsibility or which affects the district
 - is defamatory, frivolous or offensive;
 - is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
 - Requires the disclosure of confidential or exempt information.
 - Relates to a planning application that is in the process of being determined by the District Council.
- 1.10 Ashfield District Council also allows for questions to be rejected where they relate to an ongoing complaint being dealt with either by Council or the Local Government Ombudsman, Mansfield District Council limits the scope if it does not comply with the general principle of holding a member of the Council to account for their actions.

Questions on notice by Councillors

- 1.11 Table 2, at Appendix ii. shows a comparison as to how the Council and neighbouring authorities govern questions by notice by Councillors.
- 1.12 *A comparison of the neighbouring authorities has shown that all are consistent in the way in which they deal with motions. The only difference being that Chesterfield Borough Council have a restriction on time for consideration of motions on notice, set at 60 mins.*
- 1.13 Questions on notice by both members of the public and councillors must be provided 7 clear days prior to the meeting and will be heard in the order received. The issue for consideration of standards committee would be whether the scope for questions for members of the public should be replicated to apply to questions on notice by councillors.

Motions on Notice

- 1.14 Table 3 at Appendix 2 shows a comparison as to how the Council and neighbouring authorities govern motions on notice.

- 1.15 Bolsover District Council, like all the neighbouring authorities set out a scope for motions and reasons for refusal, which are generally consistent.
- 1.16 Ashfield District Council and Chesterfield Borough Council both expressly state that “any motion which is the responsibility of the Cabinet, Committee or Sub-committee, upon being moved and seconded shall stand referred to Cabinet, Committee or Sub-committee without debate.”
- 1.17 All Authorities require that motions be given at least 7 days’ notice. Ashfield District Council also allow for the Chair of the Council to consider a motion as a matter of urgency.
- 1.18 One authority sets a time limit for motions on notice of 60 minutes, the rest remain silent as to the time limit. The same authority also states that only one motion is to be considered per meeting

2 Conclusions and Reasons for Recommendation

- 2.1 To ensure the Council has in place a fit for purpose Constitution which complies with English law and reflects best practice.

3 Consultation and Equality Impact

- 3.1 The Chief Executive, Chief Financial Officer, Monitoring Officer and SAMT are consulted at various stages of the Constitution Review.

4 Alternative Options and Reasons for Rejection

- 4.1 Members may consider alternative options to any proposals put forward, where legally permitted.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 Failure to ensure the Constitution meets legal requirements can leave the Council open to challenge, as does failure to comply with the provisions of the Constitution. It is therefore essential that Constitution is regularly reviewed and given robust oversight.

5.2 Legal Implications including Data Protection

- 5.2.1 The Council is required under the Localism Act 2011 to prepare and keep up-to-date a constitution that contains its standing orders, code of conduct, such other information that the Secretary of State may direct and such other information that the authority considers appropriate.

5.3 Human Resources Implications

- 5.3.1 None

6 Recommendations

- 6.1 That Committee consider whether there should be any changes to Part 4 of the Constitution - Council Procedure Rule 8 as follows;
- To allow any member or the public to ask a question so long as it meets the scope.
 - To extend the time allowed for questions by the public to 30 minutes
 - To amend the scope for questions so as to allow questions to be rejected where they relate to either an ongoing complaint being dealt with either by Council or the Local Government Ombudsman or where they do not comply with the general principle of holding a member of the council to account for their actions.
- 6.2 That Committee consider whether there should be any changes to Part 4 of the Constitution - Council Procedure Rule 9 which would allow the scope for questions for members of the public to apply to questions on notice by councillors.
- 6.3 That Committee consider whether there should be any changes to Part 4 of the Constitution - Council Procedure Rule 10 as follows;
- To allow any motion which is the responsibility of the Cabinet, Committee or Sub-committee, upon being moved and seconded shall stand referred to Cabinet, Committee or Sub-committee without debate.
 - To set a limit on the number of motions or the time limit for consideration of motions.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	N/A

8 Document Information

Appendix No	Title
i. ii.	Council Procedure Rules, 8, 9 and 10 Comparison Tables
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
None	
Report Author	Contact Number
V Dawson -	2231

Appendix i – Council Procedure Rules 8, 9 and 108.

Questions by the Public

8.1 General.

- (a) Members of the public, who are on the Register of Electors for Bolsover or who are Non-Domestic Rate Payers to the District, may ask questions of members of the *Executive* at ordinary meetings of the Council.
- (b) Time allowed for questions and answers shall not, without the consent of the Council, exceed 15 minutes, or in the case of one questioner, 5 minutes.
- (c) Questions and responses shall not be a matter of debate.

8.2 Notice of Questions.

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Monitoring Officer no later than midday seven clear working days before the day of the meeting. Each question must give the name and address of the questioner and must name the Member of the Council to whom it is to be put.

8.3 Number of Questions.

At any one meeting no person may submit more than one question and no more than one question may be asked on behalf of any one organisation.

8.4 Scope of Questions.

The Monitoring Officer may reject a question if:

- (a) it is not about a matter for which the Council has a responsibility or which affects the district;
- (b) it is defamatory, frivolous or offensive;
- (c) it is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (d) it requires the disclosure of confidential or exempt information;
- (e) it breaches any procedure rule;
- (f) it relates to an item on the agenda for that Council meeting; or
- (g) it relates to a planning application that is in the process of being determined by the District Council.

If a question is rejected the person who submitted it will be notified in writing before the meeting and given the reasons for the rejection.

8.5 Record of Questions.

The Monitoring Officer will enter each question in a book open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection. Copies of all questions will be circulated to all members and will be made available to the public attending the meeting.

8.6 Order of Questions.

Questions will be asked in the order of which notice of them was received, except that the Chair of the Council may group together similar questions.

8.7 Asking the Question at the Meeting.

The Chair of the Council will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, the question will not be dealt with.

8.8 Supplementary Question.

A questioner who has put a question in person may also put one brief supplementary question without notice to the member who has replied to his or her original question. A supplementary question must arise directly out of the original request or reply. The Chair of the Council may reject a supplementary question on any of the grounds in rule 8.5 above or if the question takes the form of a speech.

8.9 Response

An answer may take the form of:

- (a) a direct oral answer
- (b) where the desired information is in a council publication or another published work, a reference to that publication; or
- (c) a written answer circulated later to the questioner.

8.10 Reference of Question to the Executive or a Committee.

Unless the Chair of the Council decides otherwise, no discussion will take place on any question, but any Councillor may move that the matter raised by a question be referred to the Executive or the appropriate board or Committee. Once seconded, such a motion will be voted on without discussion.

9. Questions By Councillors

9.1 On Reports of the Executive or Committee.

A Councillor may ask the Leader, the Chair of the Council or a Committee Chair questions without notice about an item in a report of the Executive or of that Committee when it is being considered.

9.2 Questions on Notice at Council Meetings.

Subject to rule 9.3, a Councillor may ask the Chair of the Council, the Leader, any Executive Members or the Chair any Committee a question about any matter in relation to which the Council has powers or duties or which affects the District.

9.3 Notice of Questions.

A Councillor may only ask a question under Rule 9.2 if either:

- (a) submitted the question in writing to the question to the Monitoring Officer no later than midday seven clear working days before the day of the meeting; or
- (b) the question relates to urgent matters, they have the consent of the Councillor to whom the question is to be put and the content of the question is given to the Monitoring Officer by 9 am on the day of the meeting.

9.4 Response.

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) a written answer circulated to the questioner.

9.5 Supplementary Question.

A Councillor asking a question under Rule 9.2 may ask one supplementary question without notice. A supplementary question must arise directly out of the original question or reply.

9.6 Number of Questions.

Questions on notice are limited to one per Councillor per meeting, plus one supplementary question.

9.7 Time for Questions.

There will be an overall time limit of fifteen minutes on Councillors' questions with no extension of time and questions not dealt with in this time will be dealt with by written response.

9.8 Format of Questions.

Councillors must confine their contributions to questions and answers and not make statements or attempt to debate. The Chair of the Council will decide whether a Councillor is contravening this rule and stop the Councillor concerned. The Chair of the Council's ruling will be final.

10. Motions - on Notice

10.1 Notice.

Except for motions which can be moved without notice under Rule 11, written notice of every motion, signed by at least one Councillor, must be delivered to the Monitoring Officer not later than midday on the day seven clear working days before the date of the meeting. These will be entered in a book open to inspection by the public.

10.2 Scope.

Motions must be about matters for which the Council has a responsibility or which affect the area. The Chair of the Council may, on the advice of the Chief Executive Officer, refuse a motion which is illegal, scurrilous, improper or out of order.

10.3 Motions Set Out in the Agenda.

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Councillor giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

Appendix ii.

Table 1 - Questions by public

Council	Who can ask	About what	To whom	Deadline	No of questions	Order of Questions	Time allowed
Bolsover District Council	Members of the public who are on the Register of Electors for Bolsover or who are Non Domestic Rate Payers	A matter for which the council has a responsibility or which affects the district	Members of Executive	By midday 7 clear days before meeting	One and supplemental	In the Order received	15 mins total, 5 mins if one question (unless consent of the Council)
North East Derbyshire District Council	Members of the public who are on the Register of Electors for North East r or who are Non Domestic Rate Payers	A matter for which the council has a responsibility or which affects the district	Members of cabinet	By midday 7 clear days before meeting	One and Supplemental	In the Order Received	15 mins total, 5 mins if one question (unless consent of the Council)
Chesterfield Borough Council	Any member of the public	Relate to the powers and duties of the council or affect the borough in some way.	To appropriate members of the Council	5 working days before meeting	One and supplemental	Doesn't specify	30 mins

Mansfield District Council	Any member of the public	Something the local authority has a responsibility for or which affects the district	The Elected Mayor, executive, Chairman of a Committee of any member of the Council	By midday 7 days before meeting	Can submit more than one question (but will only be allowed after dealing with other first question from other person and if 30 mins remains)	In the order received	30 mins in total, 5 min per question and supplementary
Ashfield District Council	Any member of the public	Something the local authority has a responsibility for or which affects the district	Members of Cabinet, the leader and a Chair of any Committee or Sub Committee	6 clear days before meeting	2 questions per person or organisation Max 4 questions per year by same person	In the order received	30 mins in total
Bassetlaw District Council	Members of the public	Something the local authority has a responsibility for or which affects the district	Members of Cabinet, chairmen of the Councils Committees and other Standing bodies	Noon, 7 clear working days before the day of the meeting	2 questions	Order determined by Chief Exec and Monitoring Officer	No question or answer may exceed 5 minutes without the permission of the Chairman and the totality of questions and answers may not extend beyond 15 mins

Table 2 - Questions on notice to members

Council	About What	To whom	Deadline	No of questions	Order of Questions	Time allowed
Bolsover District Council	Any power or duties which affect the district	Chair of the Council, the leader, Executive members or Chair of Committees	By midday 7 clear days before meeting Urgent matters with the consent of the councillor answering the question by 9am day of meeting	One and supplemental	N/A	15 mins total, 5 mins if one question no extension of time
North East Derbyshire District Council	Any power or duties which affect the district	Chair of the Council, the leader, Cabinet members or Chair of Committees	By midday 7 clear days before meeting Urgent matters with the consent of the councillor answering the question by 9am day of meeting	One and supplemental	N/A	15 mins total, 5 mins if one question no extension of time
Chesterfield Borough Council	Any power or duties of the council or which affects the borough in some way	Set rules for leader, but can ask Mayor or an cabinet member	3 working days	One and supplemental	N/A	30 mins
Mansfield District Council	Any matter in relation o which the	Chairman, member of executive,	7 working days Urgent matters with the consent of the	One and Supplemental	N/A	No time limit

	Council has powers or duties or which affects the District	chairman of any committee/sub-committee	chairman and Monitoring officer by 10am day of meeting			
Ashfield District Council	Must be about matters for which the council has a responsibility or which affect the district	Chairman, Cabinet Portfolio Holder or Chairman of any committee/sub-committee	7 clear days Urgent matters with the consent of the member to whom the question is directed if by 10am on day of meeting	One and supplemental	N/A	No time limit
Bassetlaw District Council	powers or duties or which affects the district.	Chairman, Leader, member of Cabinet Chairman of any committee or sub-committee or standing body	7 days clear days Urgent matters with the consent of the Chairman and the person to whom the question is directed if by 5pm on day of meeting	One and Supplemental	Chair will determine order	30 mins, unless chair agrees an extension

Table 3 - Motions on notice

Council	Submitted by	About what	Reasons for refusal	Deadline	No of questions	Order	Time allowed
Bolsover District Council	Signed by at least 1 Councillor	Matter for which the Council has a responsibility or which affects the area.	Illegal, scurrilous, improper, out of order	By midday 7 clear days before meeting		Heard in the order received	N/A
North East Derbyshire District Council	Signed by at least 1 Councillor	Matter for which the Council has a responsibility or which affects the area.	Illegal, scurrilous, improper, out of order	By midday 7 clear days before meeting		Heard in the order received	N/A
Chesterfield Borough Council	Signed by the member submitting them	Relate to the councils Powers and duties or affect the borough	Illegal, irregular or Improper	Not less than midday on the 8th working day before the meeting	No more than one notice of motion	Considered in the order received	60 mins – if not dealt with by this time, immediately put to the vote without further debate or amendment
Mansfield District Council	Must be signed by 3 members	Matter for which the council has a responsibility for which affects Mansfield district	Defamatory, frivolous or offensive Substantially the same as a motion debated by council	By noon 7 clear days before the meeting		N/A	N/A

			<p>in the past 6 months</p> <p>May lead to the discourse of confidential of exempt information.</p>				
Ashfield District Council	Must be signed by 2 members	Matters for which the council has a responsibility of which affect the district	<p>Defamatory, frivolous or offensive</p> <p>Substantially the same as a motion debated by council in the past 6 months</p> <p>May lead to the discourse of confidential of exempt information.</p>	By noon 7 clear days before the meeting, provision for urgent	No restriction	N/A	N/A
Bassetlaw District Council	Must be signed by 2 members	Matters for which the Council has a responsibility or which affect the district	Improper, out of order	7 clear days		Considered in the order received	N/A