

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 arte 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 on 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: <i>BDC:</i> <i>Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC:</i> <i>Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	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	
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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