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Mid Devon District Council

Standards Committee

Wednesday, 19 October 2022 at 6.00 pm
Phoenix Chambers, Phoenix House, Tiverton

Next ordinary meeting
Wednesday, 8 February 2023 at 6.00 pm

Please Note:

This meeting will take place at Phoenix House and members of the Public and Press are able to attend via Zoom. If you are intending to attend in person please contact the committee clerk in advance, in order that numbers of people can be appropriately managed in physical meeting rooms.

[Join Zoom Meeting Here](#)

Meeting ID: 816 2040 2333

Passcode: 503513

Membership

Cllr Mrs F J Colthorpe
Cllr R M Deed
Cllr C J Eginton
Cllr C R Slade
Cllr Mrs E J Slade
Cllr Mrs M E Squires
Cllr L D Taylor
Cllr Mrs N Woollatt
Cllr A Wyer

A G E N D A

Members are reminded of the need to make declarations of interest prior to any discussion which may take place

- 1 **Election of Chairman - Chairman of the Council in the Chair**
- 2 **Election of Vice Chairman**
To elect a Vice Chairman of the Committee for the municipal year 2022/23.
- 3 **Apologies and Substitute Members**
To receive any apologies for absence and notices of appointment of Substitute Members (if any).
- 4 **Public Question Time**

To receive any questions relating to items on the Agenda from members of the public and replies thereto.

Note: A maximum of 30 minutes is allowed for this item.

- 5 **Declarations of Interest Under The Code of Conduct**
To record any interests on agenda matters.
- 6 **Minutes** *(Pages 5 - 8)*
To consider whether to approve the minutes as a correct record of the meeting held on 9 February 2022.
- 7 **Chairman's Announcements**
To receive any announcements the Chairman of the Committee may wish to make.
- 8 **Task and Finish Group (Council Procedure Rules Review)** *(Pages 9 - 46)*
- 9 **Complaints**
To receive an update from the Monitoring Officer with regard to any on-going complaints being dealt with.
- 10 **Start Time of Meetings**
To consider a start time for future meetings of the Committee.
- 11 **Identification Of Items For The Next Meeting**
Members are asked to note that the following items are already identified in the work programme for the next meeting:

Stephen Walford
Chief Executive
Tuesday, 11 October 2022

Meeting Information

From 7 May 2021, the law requires all councils to hold formal meetings in person. The Council will enable all people to continue to participate in meetings via Zoom.

If you want to ask a question or speak, email your full name to Committee@middevon.gov.uk by no later than 4pm on the day before the meeting. This will ensure that your name is on the list to speak and will help us ensure that you are not missed. Notification in this way will ensure the meeting runs as smoothly as possible.

If you would like a copy of the Agenda in another format (for example in large print) please contact Andrew Seaman on: E-Mail: aseaman@middevon.gov.uk

Public Wi-Fi is available in all meeting rooms.

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **STANDARDS COMMITTEE** held on 9 February 2022 at 6.00 pm

Present

Councillors

C J Eginton (Chairman)
Mrs F J Colthorpe, D J Knowles, C R Slade,
Mrs M E Squires, Mrs N Woollatt and
A Wyer

Apologies

Councillor(s)

L D Taylor and R M Deed

Also Present

Councillor(s)

D R Coren, B G J Warren and A Wilce

Also Present

Officer(s):

Stephen Walford (Chief Executive), Karen Trickey (District Solicitor and Monitoring Officer), Maria De Leburne (Operations Manager for Legal and Monitoring), Sarah Lees (Member Services Officer) and Sally Gabriel (Member Services Manager)

Also in

Attendance:

John Smith (Independent Person)

26 **APOLOGIES AND SUBSTITUTE MEMBERS (00-02-59)**

Apologies were received from: Cllr R M Deed who was substituted by Cllr D J Knowles, Cllr L D Taylor and R Jeanes (Independent Person).

27 **PUBLIC QUESTION TIME (00-03-22)**

There were no questions raised by members of the public present in the meeting.

28 **MINUTES (00-03-30)**

The minutes of the previous meeting were approved as a true record and signed by the Chairman.

29 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00-04-24)**

Members were reminded of the need to make declarations of interest when necessary.

30 **CHAIRMAN'S ANNOUNCEMENTS (00-04-42)**

The Chairman had no announcements to make.

31 **REVIEW OF PROCEDURES (00-04-52)**

The Committee had before it a *report of the District Solicitor and Monitoring Officer considering a review of the Council's Procedure Rules.

The officer outlined the contents of the report which proposed the formation of a Task and Finish Group to consider amendments to the Procedure Rules and highlighted changes to the Standards Complaint Criteria which had previously been highlighted by the Independent Person.

Discussion took place with regard to:

- Whether the cross party group should include members of the committee
- How the members of the group would seek the views of all members and provide feedback
- The need to include one other member of the Committee as well as the Chairman
- An additional meeting of the Committee in April

RESOLVED that:

- a) A Task and Finish Group is established (consisting of the Group Leaders or their nominee, the Chairman of the Standards Committee and Cllr Mrs F J Colthorpe) to undertake a review of the Council's Procedure Rules as outlined in Section 2 of the report; and
- b) The Standards Complaint Criteria be amended as outlined in Section 3 of the report.

(Proposed by the Chairman)

Note: *Report previously circulated, copy attached to minutes.

32 **MOTION 577 - COUNCILLOR A WILCE (00-15-57)**

The following Motion had been forwarded from Council on 15 December 2021 for consideration by the Committee:

A Motion to improve public accountability and to address the inequality of rights of Members of the Council, when compared to members of the public.

This Council resolves that:

When an enquiry is made by a Member at any formal meeting (verbally, or in writing) and a substantive answer is not given at that meeting, a written response shall be sent to the enquiring member within 10 days.

Wherever possible, any written questions submitted in the absence of the Member shall be submitted in advance of the meeting, but a failure to do so will not invalidate that enquiry.

A copy of the question(s) and answer(s) will be circulated to members of the committee (or Full Council) and will also be attached to the minutes.

Cllr Wilce was invited to address the Committee: he explained that he had put forward his motion in the hope that it would provide some clarity with regard to how questions from Members were dealt with. He requested that Members had the same rights as members of the public in that any written response to questions raised were published alongside the minutes of the meeting. He added that the contents of the motion may fit well within the review of the procedure rules undertaken by the proposed Task and Finish Group.

It was therefore: **RESOLVED** that the contents of Motion 577 be considered as part of the work of the Task and Finish Group.

(Proposed by the Chairman)

33 **MONITORING OFFICER UPDATE (00-25-00)**

The Committee had before it and noted a *report of the District Solicitor and Monitoring Officer providing an update on conduct matters and to help identify any associated matters for future consideration.

Consideration was given to the Standards Training proposed, new dates would be arranged for in person events which would include an evening session.

Note: *Report previously circulated, copy attached to minutes.

34 **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING (00-27-00)**

It was suggested that the following items be added to the agenda for the next meeting of the Committee:

- The proposed additional meeting in April would receive an interim report on the work of the Task and Finish Group
- The June meeting would receive recommendations from the Task and Finish Group and also the Monitoring Officer's annual report.

(The meeting ended at 6.27 pm)

CHAIRMAN

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Mid Devon District Council STANDARDS TASK & FINISH GROUP (Council Procedure Rules Review)

Findings and Recommendations Report

Executive Summary

1. The Task & Finish Group recommends to the Standards Committee (for recommendation onto full Council) that the following amendments be made to the Constitution:
 - (a) The Council Procedure Rule 25.2 be suspended to allow the following amendments to be made to the Constitution at its next meeting.
 - (b) Subject to any further changes to recommendations (c), (d) and (g) below, the Council Procedure Rules be amended as outlined in Appendix B to this report.
 - (c) The Council Procedure Rules regarding Member Questions be amended as set out in Appendix B Rule 10.
 - (d) The Council Procedure Rules regarding Public Questions be amended as set out in Appendix B Rule 8.
 - (e) Members' Business remain on full Council but Members be asked to take account of the guidance on its use set out in this report at paragraph 4.4.
 - (f) The requirement for the Planning Committee to consider an Implications Report (if it proposes to determine an application contrary to policy and officer recommendation) before decision confirmed, be removed.
 - (g) The rules on Substitute Members be amended so that trained substitutes may come from any group where there is no other trained Member in the permanent Members' political group.
 - (h) The practice at full Council for Chairs to have to read out minutes of each committee (including PDGs and Cabinet) be stopped.
2. The Task & Finish Group recommends to the Standards Committee (for its resolution) that Motion 577 not be supported.

Report Detail

1. Introduction

- 1.1 The Task and Finish Group ("**T&FG**") was set up by its parent Standards Committee on 9 February 2022 to review the Council's Procedure Rules ("**CPRs**"). All group leaders¹ and a Standards Committee representative were appointed to the T&FG. The Group has been chaired by Cllr Eginton.

¹ Cllr Eginton (Conservative) April to May 2022 and Chair of T&FG; Cllr Deed (Independents Group); Cllr Evans (Conservative) Feb to April 2022; Cllr Clist, Deputy Leader (Lib Dems); Cllr Lloyd (Greens); Cllr Warren (Non Aligned Group)

- 1.2 The CPRs are set out in the Constitution Part 4, Section 1². Although the CPRs were the focus, the Panel noted that there are various other procedure rules covering different meetings and processes for the Council's member decision making and also that some matters raised for consideration did not form part of the CPRs. Consequently it has commented on procedural matters beyond the CPRs where it considered appropriate to do so without detracting from its terms of reference³.
- 1.3 The group also sought the views of other Members. The Chair of the Planning participated in the discussion on proposed changes to the Planning Committee. His investigations into the manner in which other councils' planning committees operated was welcome. In undertaking its review the Group also sought clarification on Motion 577⁴ from the mover of the motion⁵. Following on from the T&FG's preliminary findings on 1 April 2021, the T&FG requested that each group leader⁶ consult their own groups, to seek their group's views of the T&FG's proposed recommendations and identify any other issues for consideration. No other issues or objections were identified beyond those included in Appendix A.
- 1.4 The T&FG has considered all representations made to it before reaching its final recommendations which are set out in this report. The recommendations are supported by the Members of the T&FG unanimously with the exception of Recommendation 2 (Motion 577) which the Non-Aligned Group Leader considered should be accepted.

2. Current Council Procedure Rules

- 2.1 The T&FG noted that the CPRs cover the procedures applicable to full Council meetings but also some elements of the other committees and Policy Development Groups. Where other rules apply (being ones specific to specified committees or PDGs) these are listed below for information.

Full Council	All Council Procedure (Rules 1 to 27)
Cabinet	Council Procedure Rules 5-8, 11, 16.1 (other than 16.4 and 16.5) , 19, 20.1, 21 - 25 All Cabinet Procedure Rules (Rules 1 – 3)
Scrutiny	Council Procedure Rules 4 – 8, 11, 16.1 (other than 16.4 and 16.5), 19, 20.1, 21 - 25 Scrutiny Committee, Audit Committee, Standards Committee and Policy Development Group Procedure Rules (1 - 3, 5 – 7, 10 - 21, 23 – 26)
PDGs	Scrutiny Committee, Audit Committee, Standards Committee and Policy Development Group Procedure Rules (1 - 2, 4 - 6, 8, 10, 12, 14 - 15, 18, 22, 23)
Audit	Scrutiny Committee, Audit Committee, Standards Committee and Policy Development Group Procedure Rules (1 – 2, 5 – 6, 8, 10, 12, 14, 26)
Standards	Scrutiny Committee, Audit Committee, Standards Committee and Policy Development Group Procedure Rules (1 - 2, 5 - 6, 9 – 10)
Planning	Council Procedure Rules 5-8, 11, 16.1 (other than 16.4 and 16.5) , 19, 20.1, 21 – 25

² See [Constitution - MIDDEVON.GOV.UK](https://www.middevon.gov.uk/constitution)

³ Agenda for Standards Committee on Wednesday, 9th February, 2022, 6.00 pm - MIDDEVON.GOV.UK

⁴ A Motion "to improve public accountability and to address the inequality of rights of Members of the Council, when compared to members of the public. This Council resolves that: When an enquiry is made by a Member at any formal meeting (verbally, or in writing) and a substantive answer is not given at that meeting, a written response shall be sent to the enquiring member within 10 days. Wherever possible, any written questions submitted in the absence of the Member shall be submitted in advance of the meeting, but a failure to do so will not invalidate that enquiry. A copy of the question(s) and answer(s) will be circulated to members of the committee (or Full Council) and will also be attached to the minutes".

⁵ See Appendix A

⁶ This includes the Deputy Group Leader for the Liberal Democrats.

- 2.2 The T&FG recognised that as a whole the CPRs were not always easy to follow and that in itself had created some confusion in the rules as was apparent in the Scrutiny Committee in February 2022. The rules have developed overtime and in response to for example ad hoc amendments having been made overtime whether by individual motions or organisational or legislative changes which did not take account of other rules, some inconsistencies and gaps have crept into the CPRs. Consequently, on considering all the rules, the T&FG concluded the rules should be redrafted in their entirety as set out in Appendix B. With the exceptions set out below, the amendments do not materially change the existing rules. It is considered that the redraft serves to make the rules easier to follow by for example use of sub-headings, more consistency in wording and grouping of issues.
- 2.3 As indicated above, the T&FG also considered in detailed parts of the rules which have raised particular concerns in recent times. Amendments to these rules were highlighted to the political groups. Should any of these recommendations of the T&FG not be resolved, the Monitoring Officer will make appropriate amendments to Appendix B.
- 2.4 For completeness, the T&FG is aware that the Council's current Procedures Rules do not allow amendments to be made without such having been moved and stood adjourned (without discussion) to the next ordinary meeting of the Council⁷. This rule seeks to avoid ad hoc amendments being made 'on the hoof' to the CPRs. However, in instances where the changes have been fully considered in advance (as in the current case), this rule simply delays the Council's decision making. To avoid this unnecessary delay, it is therefore recommended that the relevant CPR be suspended for the meeting of full Council. As this technical requirement is an example of where the rules serve no useful purpose, the redraft of the CPRs in Appendix B accommodates an amendment to the relevant rule to ensure that future proposed CPR amendments which have been the subject of detailed consideration by the Standards Committee (as the committee responsible for overseeing the Constitution) there is requirement for the moved amendment to stand adjourned⁸.

Recommendation 1(a): The Council Procedure Rule 25.2 be suspended to allow the following amendments to be made to the Constitution at its next meeting.

Recommendation 1(b): the Council Procedure Rules be re-drafted as outlined in Appendix B.

3. Members' Questions

- 3.1 The T&FG reflected on the current rules in response to some, albeit limited, concerns about Members' ability to raise questions in Cabinet and / or that the public had more rights than Members to ask questions of a committee or the Cabinet. It also considered the specific representations by the mover of

⁷ Existing CPR 25.2

⁸ See Appendix B at Rule 20.2

Motion 577 which Council had referred to the Standards Committee for consideration.⁹

- 3.2 The group appreciated from the detailed advice sent to all Members¹⁰ in February 2022 that all Members are entitled to speak at full Council; all Members may at full Council ask questions in line with the existing CPR 13; and that councillors who were not members of a particular body did not have any general rights to speak (or therefore ask questions) but could seek the Chair's agreement to do so. It was noted that in addition, Cabinet members could attend Scrutiny Committee meetings where their decisions were 'called in', for the purpose of explaining the decisions under review (but could be asked by the committee to leave¹¹); and when a PDG is considering policy development and review matters, again given their role, relevant Cabinet members were (and should be) allowed to speak¹².
- 3.3 It was also noted that the provisions regarding non-member requests of chairpersons to "speak" proceed on the basis that the questioner is present at the meeting. It was recognised that the public had a right to ask questions only if they were present (remotely or in person) at meetings. Similar to Members' position, in their absence, the public could ask the Chair to read out their question, but the Chair was not required to do so.
- 3.4 The group appreciated that as Members are appointed by their groups to committees (or in the case of ungrouped members direct), as a result of a resolution of full Council, it followed that they only had rights to speak (and vote) if they were appointed to that particular body. If that were not the case, potentially all Members would be able to participate in all committees, potentially creating full Council style participation but for the absence of a right to vote.
- 3.5 After considering the various views on the matter, the T&FG concluded that the existing provisions were largely appropriate. The T&FG were satisfied that non-members' involvement in meetings should remain a matter for Chair's discretion. In response to concerns in the Motion about Member Questions not always being answered in public at meetings, the group considered that it would be helpful to extend the advance notice requirement by one working day – this is currently included in the relevant redrafted rule.

Recommendation 2: Motion 577 regarding Member Questions not be accepted.

Recommendation 1(c): Council Procedure Rules regarding Public Questions be amended as set out in Appendix B Rule 10.

4. Public Questions

- 4.1 The T&FG considered that the right of the public to ask questions (as was the case at full Council) should not be extended to all meetings as proposed. This view was formed because (with the exception of Planning

⁹ See Appendix A Document 1

¹⁰ Letter from MO to all Members dated 11 Feb 2022

¹¹ Existing Committee Procedure Rule 19(h)

¹² Existing Committee Procedure Rule 18(a)

Committee) the excluded committees were limited to those performing a quasi-judicial function (i.e. licensing and standards subcommittee hearings).

- 4.2 The group noted from research undertaken by the Planning Chair and experience across the country, that it was not common place to have public questions at Planning Committee. Instead, as was most often the case for planning committees, interested parties had a specific right to speak. It was noted that the additional 'public question time' right potentially prejudiced planning applicants and prolonged meetings. The rights were only available to residents or businesses based in the district, thereby not open to applicants who were looking to develop in the district for the first time. Further the rights were mainly used by objectors to make lengthy representations where questions were simply added at the end of speeches, thereby prolonging meetings; with 'questioners' using the opportunity to cover points that should have (or had already) been made by them in the course of the statutory consultation period. In support of retaining public questions for Planning Committee, the group noted that on occasion new points were raised by members of the public, but the main advantage of retaining public questions was that the committee was seen to listen to the public and take account of their views on policy and material planning considerations before planning applications were determined.
- 4.3 More generally, it was also recognised that it was often impossible for the Chair (to whom questions were in fact directed and should respond) and difficult for officers (who often answered for the Chair) to answer public questions in committee if advance notice had not been given of the questions.
- 4.4 After considerable debate (and a change from its preliminary view) the group considers that the Council should retain public questions at Planning Committee, with some changes to help address the understandable concerns and improve the use of public questions in the decision making process as well as to effectively engage the public in council work. The proposed redraft of the rule (see Appendix B Rule 8) seeks to improve the general understanding of the rules in the interests of transparency and openness. Further, to help ensure questions can more likely be satisfactorily answered in public at meetings, it recommends that the informal requirement for advance notice of questions from the public be formalised. In response to concerns about how questions have been used in Planning Committee, although it first concluded that there should be a limit to the number of words to 100, to avoid questions becoming lost in a lengthy submission as is currently prevalent in Planning Committee particularly by objectors to planning applications, on reflection it didn't consider such would assist.

Recommendation 1(d): Council Procedure Rule regarding Public Questions be amended as set out in Appendix B Rule 8.

5. Members' Business

- 5.1 Some concerns had been expressed about the use of Members' Business (a standard item on full Council agendas) to make comments which were for example, misleading at others' expense nor matters over which the Council had powers, knowing that there was no right to discuss or respond to the points made at the meeting. It was also noted that overtime such a standard agenda item at full council meetings had become less common place amongst councils.
- 5.2 In terms of considering why the item should remain, the group recognised that the item provided an opportunity for Members to raise good news and points of general public interest; and further that the provisos (e.g. time limits, number of questions, exclusion of matters already covered at the same meeting) were there to ensure that this standard agenda item was manageable.
- 5.3 The group concluded that with some informal guidance for Members from the Monitoring Officer and 'firm and fair' chairmanship, concerns raised about the potential misuse of Members' Business would be sufficient but the matter would be kept under review.
- 5.4 In considering what to include in that guidance the following points are considered relevant, particularly given that there is no right to respond at the time to comments even ones which may inadvertently or otherwise amount to a breach of the Code of Conduct (e.g. by bringing the office or Council into disrepute).
 - (a) The ambit of Members' Business is set out in the Council's Procedure Rules.
 - (b) Members may together use the time permitted, to each make (only) one statement or raise one question, lasting no more than two minutes each.
 - (c) Members' Business can only be included on the full Council agenda for up to 15 minutes in total and so no-one group of Members should seek to monopolise that time – the Chair may for example use his discretion to select which Members may speak in that time or stop Members who misuse the agenda item.
 - (d) Each statement / question may only concern a matter over which the Council has powers or duties or which affects the District; and has not been otherwise before the Council for consideration at the same meeting.
 - (e) The topics which may be covered in the relevant statement or question is wide. However the key thing to note is that the matter concerns council business not personal or political group business.
 - (f) The use of Members' Business must be compatible with other parts of the Constitution in particular the high standards of conduct expected of elected members. Members must not for example bring the Council into disrepute or be disrespectful to others.
 - (g) Whilst ensuring that the item doesn't turn into a debate in itself, the Chair may exercise his discretion to rule that inappropriate

comments be withdrawn by the relevant member, an apology given to the Council, or for a short point of correction or clarification to be made in response.

Recommendation 1(e): Members' Business should remain on full Council agendas but Members be asked to take account of the guidance on its use in paragraph 4.4.

6. Planning Committee Procedures

- 6.1 The following procedural matters specific to the Planning Committee whilst outside of the CPRs were identified for consideration during the T&FG's meetings:
- (a) Value of public questions with separate public rights to speak in committee given quasi-judicial role of Planning Committee;
 - (b) Value of implication reports;
 - (c) Potential conflict between ward member vs committee planning interests;
 - (d) Concerns about length of meetings and how meetings might be more concise without adversely affecting quality of decision making.
- 6.2 Item (a) was raised due to concerns about the procedures applicable to planning committee meetings. As noted in Section 4 above, the appropriateness of retaining Public Questions (given the specific public speaking rights at committee) were considered in detail.
- 6.3 Turning to item (b) the group had experience of the use of Implications Report in Planning Committee, which sought to provide a cooling off period for the committee to reflect on the grounds for determining an application contrary to policy and officer recommendation before a decision was confirmed. It did not form part of the CPRs but was a well-established process at the Council. It was reported that in practice particularly in the last 12 months or so, the reports had only delayed decision making and the committee had not changed its view, it being considered as a result by the senior planning officers and committee that there was no value in continuing with the practice. The members of the group noted with appropriate advice that it was reasonable to expect the costs implications to be advised upon and considered reasons to be identified by the advising officers and the committee at the meeting when applications are debated. Furthermore the group noted that in the event that it emerged subsequently that there is no reasonable prospect of the appeal being successfully defended, a further timely committee report may still be requested by the committee to help minimise the costs' risks.
- 6.4 Regarding (c) it was highlighted that members of the Planning Committee were undertaking a quasi-judicial role, rather than a ward representation role. There would often be conflicts between those roles (e.g. where planning policy supported a development but local residents who the member was duty bound to represent, objected). This had been evident on

several occasions at the Council. In response to such, it was noted that some authorities discouraged or prevented such Members from voting in planning committees. Such Members instead spoke as ward members, having a specific time allocated to them to do so before the committee debated the application and did not participate as a committee member. Concern had also been raised that ward members who were not members of the committee were prejudiced by not being a member of the committee, as they had less rights (to speak) on an application than committee members, therefore prejudicing their residents in comparison to those residents whose member was on the committee.

- 6.5 Although the T&FG recognised the clear case for changing the rules, it considered that Members fully appreciated the potential for conflict and the requirement in the Code not to use their position to improperly advantage or disadvantage another. Consequently, it was considered that such was sufficient to ensure that all members of the committee upheld their overriding responsibility to promote district planning interests above their local ward interests when sitting on the Planning Committee. In conclusion the group did not consider any change was needed.
- 6.6 The group touched upon a variety of other changes that might help cut down on the length of meetings where such did not prejudice the quality of the debate in Planning Committee. These included use of 'call in powers' of Members and the number of deferrals arising from the view that substantive information was not provided in sufficient time for Members to consider such or new information was needed to address concerns raised in committee. These matters were ones which concerned the operation of planning process and have not as such been considered by the T&FG. Whilst noting some issues with the current delegation to the Development Management Manager and Director of Place, it considers that Members would welcome a briefing by the Development Management Manager / Head of Place on the use of ward member call in of applications to committee.

Recommendation 1(f): The requirement for the Planning Committee to consider an Implications Report (if it proposes to determine an application contrary to policy and officer recommendation) before decision confirmed, be removed.

7. Miscellaneous Amendments to the CPRs

- 7.1 In considering the rules on Committee Substitutes, the group recognised that it was not always possible for members of small groups to identify a replacement where training was a requirement particularly in planning, but also other quasi-judicial committees. Consequently, the group proposes that in such instances substitutes may come from other political groups.
- 7.2 It was noted that the historic practice to present Committee and Cabinet minutes to full Council was not a specific requirement for full Council agendas. The group considered that agendas should still include all the minutes. This will ensure that questions may continue to be raised of the Chairs by Members without notice.

Recommendation 1(g): The rules on Substitute Members be amended so that trained substitutes may come from any group where there is no other trained Member in the permanent Members' political group.¹³

Recommendation 1(h): The practice of full Council for Chairs to have to read out minutes of each committee (including PDGs and Cabinet) be stopped.

10 June 2022

District Solicitor and Monitoring Officer
on behalf of the Task & Finish Group

¹³ See Appendix B Rule 3.1(b)

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Document 1

From: Cllr Ashley Wilce <awilce@middevon.gov.uk>

Sent: 21 March 2022 09:29

To: Karen Trickey <ktrickey@middevon.gov.uk>

Subject: Re: Questions re your Motion 577 to be returned by 27 March

Good Morning Ms Trickey

Please see insertions

Regards,

Cllr Ashley Wilce

TOTALLY Independent Member for Cullompton North

From: Karen Trickey

Sent: 13 March 2022 08:48

To: Cllr Ashley Wilce

Subject: Questions re your Motion 577 to be returned by 27 March

Dear Cllr Wilce

I refer to your motion *“to improve public accountability and to address the inequality of rights of Members of the Council, when compared to members of the public”* for which you requested that the Council resolve:

1. *When an enquiry is made by a Member at any formal meeting (verbally, or in writing) and a substantive answer is not given at that meeting, a written response shall be sent to the enquiring member within 10 days.*
2. *Wherever possible, any written questions submitted in the absence of the Member shall be submitted in advance of the meeting, but a failure to do so will not invalidate that enquiry.*
3. *A copy of the question(s) and answer(s) will be circulated to members of the committee (or Full Council) and will also attached to the minutes.”*

The Task & Finish Group (Council Procedure Rules) has considered your motion regarding changes to Member Questions within the context of the relevant Council Procedure Rule which of course only applies to full Council. The only point covered in your motion which has yet to be accommodated in some form within that context is the attachment of the question and answer to the minutes of full Council. The group has asked that I contact you to request that you clarify what you intended in your motion, it being recognised of course that your motion goes further than member questions at full Council given the references to *“any formal meeting”* and also *“members of the committee (or Full Council)”*.

I have set out some specific questions which might help you to explain what you intended and which will in any event assist the group’s final consideration of your motion particularly

within the context of Cabinet, PDG and committee meeting rules. Please would you let me have your response (whether to the specific queries below or otherwise) asap but no later than 27th March, so that I can consider them and relay them to the group at its next meeting on 1st April.

Questions: Regarding the application of your motion to “*any formal meeting*” it is understood that you are referring to public Cabinet, PDGs and committee meetings (for which unlike full Council meetings, there aren’t specific rights for any / all members to ask questions). With that in mind:

- i. *Were you primarily seeking to ensure that answers to any member questions (not substantively answered at the meeting) are attached to the minutes within 10 days (or even 10 working days)?*

Yes

- ii. *Referring to the second numbered point above in your motion, it is understood you were only referring to a question from a member who is not at the meeting. You refer understandably to (i) the question being in writing and (ii) that written question being submitted in advance of the meeting. However, you pre-fix it with only “*whenever possible*”. Could you explain the situations you had / have in mind where any written questions submitted by an absent member would not be submitted in advance to the Chair? If you meant something else, please explain.*

I did not want the fact that there was no 'notice' (or short notice) of the written question, to prevent that question being put, provided that it related to an Agenda item. See Q below.

- iii. *Did you intend that the member question and answer (when a substantive answer is not given at the meeting), would be attached to the minutes in all cases i.e. when a verbal question (regardless of its content) which is not on notice is raised in the meeting, rather than for example simply for written questions on notice?*

Yes, i.e. any question asked publicly, will be answered publicly, however it was put.

- iv. *Would the following wording which could be added to the existing rules which apply to Cabinet, PDGs and committee cover what you intended (noting that the group has already considered full Council rules): “when a question on an agenda matter is raised by a Member at a public meeting which cannot be substantively answered at the meeting, a written response shall be provided to the Member (and copied to all members of that committee / PDG or the Cabinet) within 10 working days by the Chairman (or such other person as he shall refer the matter) and attached to the minutes of the meeting” ?*

No - a response is not necessarily a substantive answer - a dodge that has been frequently used in the past.

If not, is there any other variation to your motion wording which you consider taking account of the points of clarification above, would better cover what you intended?

The constitution is unclear - do members have an absolute right to submit written questions in advance, or are there restrictions; if so, what are the restrictions, please?

Document 2

From: Cllr Graeme Barnell <gbarnell@middevon.gov.uk>

Sent: 11 March 2022 17:15...

Subject: Proposed rules of procedure

.... As part of the deliberations of the short life on committee procedures I'm concerned we have rules to ensure:-

1. All members have the right to speak and ask questions at all MDDC meetings at which they have right to attend including Cabinet and all policy and advisory committees.
2. Members of the public have the right to ask questions at all MDDC meetings at which they have right to attend.
3. Answers to members questions at all Committees are published either with the minutes of subsequently on the MDDC website.
4. Access of all members to place an item on the agenda of Scrutiny Committee is not diminished.
5. Rules are established that allow all members to request agenda items on any meeting to which they are entitled to attend. Ditto members of the public.

Document 3

Current rule	Proposal	Reason(s)
Planning Committee: Requirement for planning committee to consider an Implications Report (if it proposes to refuse an application contrary to policy and officer recommendation) before decision confirmed.	To remove the requirement <i>Agreed</i>	<ol style="list-style-type: none"> Such reports only serve to delay the determination of the matter as in practice the committee never / very rarely changes its decision when considering the Implications Report; With appropriate advice, it is reasonable to expect the costs implications to be advised upon and considered reasons to be identified at the meeting when the application is debated; or otherwise the application's determination should be deferred by the committee for further consideration and information. <i>[May need to defer to have sound wording for 'reasons for refusal.']</i> In the event that it emerges subsequently that there is no reasonable prospect of the appeal being successfully defended, a further committee report may still be considered when needed e.g. as happened recently. <i>[But done correctly and more openly and transparently.]</i>
All committees (with some exceptions e.g. licensing, standards hearings): Right of public to ask questions on agenda items.	Retain as is, subject to: (i) redraft for public's clarity / ease of under-standing and (ii) to formally confirm need for notice <i>See notes from NAG in red italics.</i>	The T&FG considered that the right should not be extended to all meetings as proposed, given that the only excluded committees were limited and appropriately so (e.g. licensing and standards subcommittee hearings etc.). Particular consideration was given to removing the right from Planning Committee particularly as: <ol style="list-style-type: none"> the questions are used to make representations, which have / or could have been made in the course of the public consultation; <i>The public consultation responses could have been made many months before and this could be the opportunity for members of public to update their views.</i> it often difficult to answer or understand public questions when no notice has been provided of them in advance;

		<p>3. the questions (which often took the form of long statements of personal opinion) unduly prolonged the meetings, without significant benefit to the committee's consideration, complaints having been made by members about the lengthy of some meetings; <i>This is not what has prolonged the meetings as there is a 30 minute time frame for public questions. What has prolonged meetings are too many applications or complicated applications on one agenda. NAG members have put forward the view that 'Public Questions' should be renamed 'Questions and Statements by the public.' There could still be the 3 minute limit per speaker and the 30 minutes overall. The East Devon DC Constitution Para 8 is suggested as a particular preferable substitute.</i></p> <p>4. on occasion some questions were clearly inappropriate, including defamatory or offensive comments and in the absence of notice, it was difficult for the chair to stop the questioner early enough; <i>This is considered an acceptable risk in the interests of public involvement. It does not happen that often.</i></p> <p>5. the use of public questions at planning committee was not common place for LPAs dealing with development control applications. <i>MDDC should retain Public Questions/Statements.</i></p> <p>However, it was recognised that the planning committee was the most well attended public meeting and the public valued that right which at times provided the committee with additional information pertinent to its consideration of the application. In order to address the legitimate concerns it is proposed to require advance written notice of the question (in line with informal requests for such since Covid restrictions and to limit each question to 100 words per question.ⁱ <i>The majority of NAG members do not agree with a requirement to submit questions in advance on agenda items although it could be 'advice' and encouraged. The 3 minute rule is considered sufficient restriction and there is no support for the 100 word limit.</i></p>
Council Procedure Rule summary	[T&FG proposed change of CPRs as at 1 April 2020]	Response from Non-Aligned Group as at 18 April (in italics)
Full Council: Right of members to	Retain as it is subject amends for clarity / ease	The T&FG concluded with some redrafting and additions for clarity/ ease of understanding of the current right at full council, the rule should be retained ⁱⁱ ; and in the case of all other meetings,

<p>speak and ask questions at meetings they attend</p>	<p>of understanding <i>See notes under relevant section below.</i></p>	<p>non-members' involvement in meetings should remain a matter for chair's discretion subject to ward members being able to speak in person at planning committee. <i>Agreed in principal by most but some do feel that any Member should be allowed to speak if they wish to contribute at most meetings [Planning excluded except for Ward Members.]</i></p>
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ⁱ Public Questions

- 0.1 **Questions from the Public:** Residents, electors or business rate payers of the District shall be entitled to ask questions at a meeting provided that:
- (a) the question(s) are relevant to an item on the Agenda for that meeting;
 - (b) all the questions from one ~~body~~ *person* do not exceed three minutes when read out, ~~nor 100 words for each question;~~ *[No support for the word number restriction.]*
 - (c) at least *two clear days'* *[Is this meant to be two clear **working** days? Practicalities – two clear days for Environment PDG on a Tuesday means questions would be sent on a Saturday etc. etc.!!!]* written notice has been given to the Member Services Manager (via email) of the question(s) to be asked; and
 - (d) the questions have not been rejected in accordance with Rule 0.5.
- 0.2 **Time for Public Questions:** Any public questions shall be dealt with at the beginning of the Agenda and limited to 30 minutes provided that the Chairman may extend the time, or proceed to the next agenda item within such shorter period if there are no questions or all permitted questions are answered.
- 0.3 **Attendance:** Persons submitting questions must be present (remotely or in person) at the meeting unless the Chairman agrees to address the question in the questioner's absence.
- 0.4 **Order of Questions:** Questions will be asked in the order they have been received.
- 0.5 **Scope:** The Chairman may, *following advice from either the Chief Executive, Monitoring Officer or Member Services Manager,* *[Why the advice from Officers?]* reject a question giving reasons to the questioner for its rejection if it:
- (a) Is not about a matter for which the Council has a responsibility or which affects the District;
 - (b) Is in his/her opinion scurrilous, improper, capricious, irrelevant or otherwise objectionable (e.g. spurious, vexatious);
 - (c) Is substantially the same as a question which has been put at a meeting to which these rules apply in the past six months;
 - (d) Requires the disclosure of confidential or exempt information.

0.6 **Supplementary question:** At the discretion of the Chairman questioners may ask one supplementary question.

0.7 **Answers to questions**

- (a) The Chairman of the meeting (or at meetings of the Council the appropriate committee chairman), shall respond to all valid questions.
- (b) Replies to questions may be verbal, in writing or by reference to a published document.
- (c) Replies which are not provided at the meeting shall be reported to the next relevant meeting and published alongside the draft minutes when available and circulated to all Members.

ii **Members' Questions**

0.1 **Questions without notice:** At a meeting of the Council, other than the Annual Meeting, a Member of the Council may ask the Leader, a Cabinet Member or the Chairman of a committee any question without notice upon an item of the report of the Cabinet or a committee when that item is being received or under consideration by the Council. *Agreed.*

0.2 **Questions on notice:** A Member may ask the Chairman of the Council, the Leader, a Cabinet Member or the Chairman of any committee any question which:

- (a) concerns the Council's powers / duties or which otherwise affects the District;
- (b) *relates to matters on which the Council has or may determine a policy; This is felt to be too restrictive as there may be legitimate questions members wish to raise which might not be a matter of policy.*
- (c) the Member has provided written notice of the question to the Chief Executive no later than noon, *two clear days preceding* the meeting; *[Practically does this mean noon on the Sunday before a Full Council meeting on the Wednesday?]*
- (d) *the question has first been discussed at a meeting of the Cabinet or committee and the Member is not satisfied with the adequacy of the answer contained in the relevant Minutes; Considered to be too restrictive and could prevent legitimate questions and issues being raised. Most Councils give members the right to ask questions as at (a) above without any restriction that it has previously been discussed.*

and

- (e) the question is not (in the opinion of the Chairman of Council taking account of the advice on the matter from the Chief Executive, Monitoring Officer or Member Services Manager):
 - (i) scurrilous, improper, capricious, irrelevant or otherwise objectionable (e.g. spurious, vexatious);
 - (ii) substantially the same as a question which has been put at a meeting of the Council in the past six months;
 - (iii) one which requires the disclosure of confidential or exempt information and the question is not to be raised in closed session;
 - (iv) one which contains expressions of opinion; *[Are members not entitled to express an opinion as the reason for the question?]* or
 - (v) one which relates to questions of fact.

0.3 **Questions relating to urgent business:** A Member of the Council may, with the advance permission of the Chairman, put to him, the Leader, a Cabinet Member or the Chairman of any committee any urgent question on notice under paragraph 0.2 without complying with sub paragraph 0.2(c) above, provided that:

- (a) the Chairman in his absolute discretion is satisfied that the matter raised in the question is of such urgency that compliance with sub paragraph 0.2(c) is precluded nor should its consideration be delayed until the next meeting of the Cabinet or appropriate committee; and
- (b) a copy of the question has been delivered to the Chief Executive no later than 9am the day before the Council meeting.

0.4 Order of Questions on notice

- (a) Questions under Rules 0.2 and 0.3 shall be taken at the appropriate point in the relevant committee report or in the absence of such, at the Members' Questions agenda item.
- (b) Questions and written answers shall be printed in order of receipt and circulated amongst the Members at the commencement of the Council meeting. *[How or when do the public become aware that their representative has raised such a question?]*
- (c) No discussion shall be allowed upon questions or answers save as is permitted under Rules 0.5 - 0.8 below.

0.5 Form of Response

- (a) The Chief Executive shall arrange for copies of on notice questions and answers to be sent to Members not present at the Meeting of the Council.
- (b) An answer may take the form of:
 - a direct oral answer at the meeting;
 - where the desired information is in a publication of the Council or other published work, a reference to that publication; or
 - where the reply cannot conveniently be given orally, a written answer circulated within 10 working days to the questioner. *[Where do other members or the public see the answers please?]*

0.6 Supplementary question: One relevant supplementary question to an answer to a question on notice shall be allowed to the original questioner but may be disallowed or not answered if the Chairman of the Council considers it in breach of paragraph 0.2(e). *[Should we include that the Chairman should give reasons?]*

0.7 Length of Speeches: A Member asking a question under Rules 0.1 - 0.3 and a Member answering such a question may speak for no longer than three minutes unless the Chairman consents to a longer period.

0.8 Time Allowed for Questions

- (a) The time allowed for consideration of all questions at full Council under Members' Questions agenda item which are submitted under this Rule 0 *[Do we have a typo?]* shall not, without the consent of the Council exceed 30 minutes.
- (b) At the conclusion of the answer to the question under consideration at the expiry of 30 minutes (or such longer period to which the Council has consented) from the time when the first questioner started to speak, the Chairman shall continue with the meeting unless the Council resolves otherwise at the meeting.
- (c) Any remaining questions shall be responded to in writing before the next ordinary meeting of the Council with written answers to be forwarded to all Members *[What about the public? Will the questions and answers be published alongside the minutes?]*

Council Procedure Rules

Introduction:

There are currently 20 procedure rules. They apply to all meetings of full Council (i.e. when all Members of the Council attend as voting members). Subject to the exceptions set out below in Rule 1 or where the rules provides or the context otherwise makes clear, they also apply to Cabinet and **Committees** (which latter term for the purposes of these rules, includes their sub-committees and Policy Development Groups).

1. Exceptions of Rules to Committees Meetings
2. Full Council
3. Substitute Members
4. Time Place and Notice of Meetings
5. Chairman of the Meeting
6. Quorum
7. Members' Business at full Council
8. Questions by the Public
9. Petitions from the Public
10. Questions from Members at full Council
11. Motions
12. Rules of Debate
13. State of District Debate
14. Previous Decisions and Motions
15. Voting
16. Minutes
17. Exclusion of the Public
18. Members' Conduct
19. Disturbance by the Public
20. Suspension and Amendment of Council Procedure Rules

1. Exceptions of Rules to Committee Meetings

Committee	Rules which don't apply
Audit	Members' Business (Rule 7) No motions other than those referred by full Council (Rule 11) No restriction on the number of times a member can speak during debate (Rule 12)
Cabinet	No appointment of Substitutes (Rule 3) Members' Business (Rule 7) No motions other than those referred by full Council (Rule 11) No restriction on the number of times a member can speak during debate (Rule 12)
Electoral Review	Members' Business (Rule 7) No motions other than those referred by full Council (Rule 11) No restriction on the number of times a member can speak during debate (Rule 12)
Policy Development Groups (PDGs)	Members' Business (Rule 7) No motions other than those referred by full Council (Rule 11) No restriction on the number of times a member can speak during debate (Rule 12)
Licensing	No appointment of Substitutes for sub-committees (Rule 3) Members' Business (Rule 7) Public Questions for sub-committees (Rule 8) No motions other than those referred by full Council (Rule 11) No restriction on the number of times a member can speak during debate (Rule 12)
Planning	Members' Business (Rule 7) No motions other than those referred by full Council (Rule 11) No restriction on the number of times a member can speak during debate (Rule 12)
Regulatory	No appointment of Substitutes for sub-committees (Rule 3) Members' Business (Rule 7) Public Questions for sub-committees (Rule 8) No motions other than those referred by full Council (Rule 11) No restriction on the number of times a member can speak during debate (Rule 12)
Scrutiny	Members' Business (Rule 7) No motions other than those referred by full Council (Rule 11) No restriction on the number of times a member can speak during debate (Rule 12)
Standards	No appointment of Substitutes for sub-committees (Rule 3) Members' Business (Rule 7) Public Questions for sub-committees (Rule 8) No motions other than those referred by full Council (Rule 11) No restriction on the number of times a member can speak during debate (Rule 12)

2. Full Council

2.1 Annual Meeting

2.1.1 Timing and business: In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement (four days after the election) of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May.

2.1.2 Business: The annual meeting will:

- (a) elect a person to preside if the outgoing Chairman of Council or Vice Chairman of the Council is not present;
- (b) elect the Chairman of the Council (subject to the statutory provisions in that behalf, a Councillor who is the present Chairman of the Council and has completed two consecutive years in such office shall not be eligible for re-election as Chairman of the Council for the ensuing year);
- (c) elect the Vice Chairman of the Council;
- (d) approve the minutes of the last meeting of the Council;
- (e) receive any announcements from the Chairman and/or the Chief Executive;
- (f) elect the Leader (following the ordinary election of councillors);
- (g) elect the Scrutiny Committee Chairman;
- (h) approve a programme of ordinary meetings of the Council for the year; and
- (i) consider any *other* business set out in the notice convening the meeting.

2.1.3 Appointment of Committees: At the Annual Meeting, the Council meeting will:

- (a) decide which Committees to establish for the municipal year;
- (b) decide the size and terms of reference for those Committees;
- (c) decide the allocation of seats to political groups in accordance with the political balance rules;
- (d) receive nominations of (any) ungrouped councillors to serve on each Committee and vote on each appointment
- (e) make appointments to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet (in respect of Executive functions);

2.2 Ordinary Meetings

2.2.1 Business: The order of business at ordinary meetings will be as follows:

- (a) elect a person to preside if the Chairman and Vice Chairman are not present;
- (b) approve the minutes of the last meeting (whether the annual meeting or otherwise);
- (c) receive any declarations of interest from Members;
- (d) receive any announcements from the Chairman;
- (e) receive Public Questions (as set out in Rule 8);

- (f) receive a report from the Leader and receive questions and answers on the report;
 - (g) deal with any business remaining from the last Council meeting;
 - (h) receive petitions from members of the public;
 - (i) debate single issues;
 - (j) consider Motions;
 - (k) consider recommendations from the Cabinet;
 - (l) consider any recommendations submitted by the Council's Committees;
 - (m) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
 - (n) receive Members' Business (as set out in Rule 7);
 - (o) consider any urgent items of business brought forward at the discretion of the Chairman and the reason for urgency must be announced at the meeting and recorded in the minutes;
- and
- (p) consider any other business specified in the summons to the meeting.

2.2.2 Variation of Order of Business: Business falling under items 2.2.1 shall not be displaced, but subject thereto the order of business may be varied:

- (a) by the Chairman at his/her discretion; or
- (b) by a resolution passed on a Motion (which need not be in writing) duly moved and seconded, which shall be moved and put without discussion.

2.3 Extraordinary Meetings

2.3.1 Those listed below may request the Proper Officer to call Council meetings in addition to Ordinary Meetings:

- (a) the Council by resolution;
- (b) the Chairman of the Council;
- (c) the Monitoring Officer; or
- (d) any five Members of the Council if they have signed a requisition presented to the Chairman of the Council and he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

2.3.2 The business to be conducted at an extraordinary meeting shall be restricted to the item of business contained in the request for the extraordinary meeting and there shall be no consideration of previous minutes or reports from Cabinet or Committees etc. except that the Chairman may at his absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business.

3. Substitute Members

3.1 Appointment

Where a member is appointed to a Committee or any committee / sub-committee of another council on which the District Council is represented, the member may appoint a substitute member to attend the meeting subject to the following qualification requirements:

- (a) In the case of the Audit, Licensing, Planning, Regulatory and Standards committees, all substitute members must have received training on the relevant committee's area of work.
- (b) Where the Member appointing a substitute is a Member of a Political Group the substitute Member shall only be from the membership of that same group unless there are no such trained members in that group.

3.2 Extent of the Substitution

- 3.2.1 Any such substitution shall have effect for the entirety of the meeting in respect of which the Notice has been given.
- 3.2.2 No more than two Members of the same Political Group shall be substituted at any meeting and no Member shall be substituted at more than two consecutive meetings of the same Committee.
- 3.2.3 Substitute Members may only attend meetings in that capacity where:
 - (a) the ordinary Member will be absent for the whole of the meeting;
 - (b) the ordinary Member has notified the Member Services Manager by email of the intended substitution at least one hour before the start of the relevant meeting; and
 - (c) in the case of area committees the substitution does not alter the balance on that committee between Members from the area and Members from the rest of the District.

4. Time, Place and Notice of Meetings

- 4.1 The time and place of meetings will be determined by the Chief Executive and notified in the summons.
- 4.2 The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules.
- 4.3 At least five clear working days before a meeting, the Chief Executive approved will send a summons approved by him/her to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

5. Chairman of the Meeting

- 5.1 The person presiding at the meeting may exercise any power or duty of the Chairman.
- 5.2 The Chairman of the Council, by virtue of office, is not eligible to hold office as a Chairman of any other committee during his/her term.
- 5.3 The ruling of the Chairman as to the construction or application of any of these Procedure Rules, or as to any proceedings of the Council, shall not be challenged at any meeting.

- 5.4** When the Chairman stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

6. Quorum

- 6.1** The quorum of a full Council meeting will be one quarter of the whole number of Members (rounded up) present at the meeting where physical presence is required (or in attendance including remotely where such physical presence is not required).
- 6.2** The quorum for a meeting of the Cabinet and any Committees will be one half of the number of members appointed to that body (rounded up) subject to a minimum of three in each case.
- 6.3** During any meeting if the Chairman counts the number of Members present and declares there is not a quorum present the meeting will adjourn and remaining business will be considered at a time and date fixed by the Chairman or failing such, at the next ordinary meeting.

7. Members' Business

- 7.1** At each ordinary meeting of the full Council, a period not exceeding 15 minutes shall be allowed during which any Member may make a statement or give preliminary verbal notice of a question provided that:
- (a) such statement or question must be relevant to some matter in relation to which the Council has powers or duties, or which affects the District and has not been otherwise before the Council for consideration at the same meeting;
 - (b) no Member may make more than one statement or give notice of more than one question;
 - (c) no Member shall speak pursuant to this Procedure Rule for longer than two minutes;
 - (c) the statement or notice of question shall not be the subject of discussion or reply at that meeting;
 - (d) after the expiry of the said period of 15 minutes the Council shall proceed to the next business; and
 - (e) such statement or question is not (in the opinion of the Chairman) scurrilous, improper, capricious, irrelevant or otherwise objectionable.

8. Questions from the Public

- 8.1** Residents, electors or business rate payers of the District shall be entitled to ask questions at a meeting provided that:
- (a) the question(s) are relevant to an item on the Agenda for that meeting;
 - (b) all the questions from one body shall not exceed three minutes when read out;
 - (c) written notice has been given to the Member Services Manager by noon plus one clear working day before the meeting (via email or otherwise as he / she agrees) of the question(s) to be asked; and
 - (d) the questions have not been rejected in accordance with Rule 8.5.

8.2 Time for Public Questions

Any public question shall be dealt with at the beginning of the Agenda and limited to 30 minutes provided that the Chairman may extend the time, or proceed to the next agenda time within the shortened period if there are no questions or all permitted questions are answered.

8.3 Attendance

Persons submitting questions must be present (remotely or in person) at the meeting unless the Chairman agrees to address the questions in the questioner's absence.

8.4 Order of Questions

Questions will be asked in the order they have been received.

8.5 Scope

The Chairman may, following advice from either the Chief Executive, Monitoring Officer or Member Services Manager, reject a question giving reasons for that rejection, if it:

- (a) Is not about a matter for which the Council has a responsibility or which affects the District;
- (b) Is in his/her opinion scurrilous, improper, capricious, irrelevant or otherwise objectionable;
- (c) Is substantially the same as a question which has been put at a meeting to which these rules apply in the past six months; or
- (d) Requires the disclosure of confidential or exempt information.

8.6 Supplementary question

At the discretion of the Chairman questioners may ask one supplementary question.

8.7 Answers to questions

8.7.1 The Chairman or at meetings of the Council the appropriate Committee chairman, shall respond to all valid questions.

8.7.2 Replies to questions may be verbal in writing or by reference to a published document.

8.7.3 Replies which are not provided at the meeting shall be reported to the next relevant meeting by publishing them alongside the draft minutes when available and by circulating them to all Members.

9. Petitions from the Public to full Council

9.1 Notice of Petition

- 9.1.1 If a citizen wishes to present a petition to a Council meeting, notice must be given at least 10 working days before the meeting.
- 9.1.2 Petitions to be debated at the Council Meeting will have been selected according to the Petitions Scheme (which is attached as Appendix D to the Constitution).

9.2 Presentation of Petitions

- 9.2.1 The petition organiser will be allowed 5 minutes to present the petition at the meeting.
- 9.2.2 Only one person may speak to present a petition.
- 9.2.3 The Council will debate a single petition for a maximum of 15 minutes (if the petition has 1500 signatures or more).
- 9.2.4 The Council's response to the petition may include one or more of the following:
 - (a) taking the action requested in the petition;
 - (b) not taking the action requested in the petition;
 - (c) considering the petition at a council meeting;
 - (d) holding an inquiry into the matter;
 - (e) undertaking research into the matter;
 - (f) holding a public meeting;
 - (g) holding a consultation;
 - (h) holding a meeting with the petitioners;
 - (i) calling a referendum;
 - (j) referring the petition for consideration by other committees such as the Scrutiny Committee;
 - (k) where the issue is one on which the Cabinet is required to make the final decision, the Council will decide whether to make recommendations to inform that decision;
 - (l) the petition organiser will receive a written acknowledgement of receipt of their petition, details as to when and where their petition will be considered and a letter giving the outcome which will also be published on the Council website.

9.3 Scope of Petitions

- 9.3.1 The Member Services Manager may reject a petition if it:
 - (a) does not qualify under the scheme;
 - (b) does not follow the Council's guidelines for submitting a petition;
 - (b) it is vexatious, abusive or otherwise inappropriate;
 - (c) it is a petition qualifying under another enactment;
 - (d) it relates to a planning, licensing or other regulatory decision;

- (e) it relates to any other matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment.

10. Questions from Members at full Council

10.1 Question without notice on reports of the Cabinet and Committees

At an Ordinary meeting of the full Council a Member of the Council may ask the Leader, Cabinet Members or the Chairman of a Committee any question without notice upon an item of the report of the Cabinet or a Committee when that item is being received or under consideration by the Council.

10.2 Questions on notice at full Council

A Member of the Council may, ask the Chairman of the Council, the Leader, a Cabinet Member or the Chairman of any Committee any question which:

- (a) concerns the Council's powers / duties or which otherwise affects the District;
- (b) relates to matters on which the Council has or may determine a policy;
- (c) the Member has provided written notice of the question to the Chief Executive no later than noon, two clear days preceding the Council meeting;
- (d) the question has first been discussed at a meeting of the Cabinet or Committee and the Member is not satisfied with the adequacy of the answer contained in the relevant Minutes;

and

- (e) the question is not (in the opinion of the Chairman taking account of the advice on the matter from the Chief Executive, Monitoring Officer or Member Services Manager) one which:
 - (i) is scurrilous, improper, capricious, irrelevant or otherwise objectionable
 - (ii) is substantially the same as a question which has been put at a meeting of the Council (or other meeting to which these rules apply) in the past six months;
 - (iii) requires the disclosure of confidential or exempt information unless the question is raised in closed session;
 - (iv) contains expressions of opinion; or
 - (v) relates to questions of fact.

10.3 Questions relating to urgent business

A Member of the Council may, with the advance permission of the Chairman, put to him, the Leader, a Cabinet Member or the Chairman of any Committee any question relating to urgent business of which notice has not been given in accordance with paragraph 10.2(c) above, provided that:

- (a) the Chairman in his absolute discretion is satisfied that the matter being raised is of such urgency that compliance with paragraph 10.2(c) is precluded nor should its consideration be delayed until the next meeting of the Cabinet or the Committee; and
- (b) a copy of any such question has been delivered to the Chief Executive no later than 9am the day before the Council meeting.

10.4 Order of Questions

- 10.4.1 Questions under 10.2 and 10.3 shall be taken at the appropriate point in the relevant Committee report or in the absence of such, at the Members' Questions agenda item.
- 10.4.2 Questions and written answers shall be printed in order of receipt and circulated amongst the Members at the commencement of the Council meeting.
- 10.4.3 No discussion shall be allowed upon questions or answers save as is permitted under Rules 10.5 to 10.8 below.

10.5 Form of Response

- 10.5.1 The Chief Executive shall arrange for copies of questions and answers to be sent to Members not present at the Meeting of the Council.
- 10.5.2 An answer may take the form of:
 - (a) a direct oral answer at the meeting;
 - (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
 - (c) where the reply cannot conveniently be given orally, a written answer circulated within 10 working days to the questioner and all Members.

10.6 Supplementary question

One relevant supplementary question to an answer to a question on notice shall be allowed to the original questioner but may be disallowed or not answered if the Chairman of the Council considers it in breach of paragraph 10.2(e).

10.7 Length of Speeches

A Member asking a question under Rules 10.1 to 10.3 and a Member answering such a question may speak for no longer than three minutes unless the Chairman consents to a longer period.

10.8 Time Allowed for Questions

- 10.8.1 The time allowed for consideration of all questions at full Council which are submitted under Rule 10 shall not, without the consent of the Council, exceed 30 minutes.
- 10.8.2 At the conclusion of the answer to the question under consideration at the expiry of 30 minutes (or such longer period to which the Council has consented) from the time when the first questioner started to speak, the Chairman shall continue with the meeting unless the Council resolves otherwise at the meeting.

- 10.8.3 Any remaining questions shall be responded to in writing before the next ordinary meeting of the Council with written answers to be forwarded to all Members.

11. Motions

11.1 Motions on Notice

- 11.1.1 **Notice:** Except for motions which can be moved without notice under Rule 11.7, written notice of every motion, must be delivered to the Chief Executive via Member Services at least eight clear working days before the Council meeting at which it is to be considered.
- 11.1.2 **Record of Motions:** Motions received will be entered in a record, in the order they are received, which is open to public inspection. Where a motion is rejected, the record need only comprise a summary giving reason(s) why it was rejected.
- 11.1.3 **Motion set out in Summons:** The Chief Executive shall set out in the Summons for every meeting of the Council all Motions of which notice has been duly given in the order in which they have been received, unless:
- (a) The motion is rejected in accordance with Rule 11.5; or
 - (b) The Member giving such a notice intimated in writing, when giving it, that he/she proposed to move it at some later meeting or has since withdrawn it in writing.
- 11.1.4 **Motion not moved:** Subject to 11.1.7 if a Motion set out in the Summons is not moved either by a Member who gave notice or by some other Member on his behalf it shall, unless postponed by resolution of the Council, be treated as withdrawn and shall not be moved without fresh notice.
- 11.1.5 **Speaking on the Motion:** Those moving and seconding the Motion at the Council meeting shall be invited to speak on the Motion. In the event that the Motion stands referred to another body as provided for in 11.1.6 the mover (or in his absence, the seconder) of the Motion shall be invited to the relevant meeting to amplify the Motion, but without any right to vote except as a member of the Cabinet or relevant Committee.
- 11.1.6 **Reference to Committee:** If the subject matter of any Motion, of which notice has been duly given comes within the province of the Cabinet or a Committee, it shall, after being formally moved and seconded (with those moving and seconding the motion having been given the opportunity to speak on the Motion), either:
- (a) stand referred to the Cabinet or the most relevant Committee as the Chairman may determine for consideration and report; or
 - (b) on an alternative motion being put forward and accepted, be dealt within in accordance with that alternative motion.

11.1.7 Consideration by full Council: The Chairman of Council may if he considers it convenient and conducive to the despatch of business allow the Motion to be dealt with at the meeting, at which it is brought forward.

11.1.8 Scope of Motions on Notice: Motions must:

- (a) be about matters for which the Council has a responsibility or which affect the District; and
- (b) not, in the opinion of the Chief Executive be out of order, illegal, irregular or improper.

11.1.9 If a motion is not within scope, the Chief Executive shall as soon as is practicable, submit the notice of motion to the Chairman of the Council and the motion shall not be accepted nor placed on the agenda without the Chairman's sanction.

11.1.10 In the event of non-acceptance, the Chief Executive shall inform the member giving notice as soon as reasonably possible of the reason(s) for the rejection.

11.2 Motion on Notice to Remove the Leader

In order for such a motion to be carried it must have the support of the majority of those members voting and present in the room at the time the question was put.

11.3 Motions without Notice

11.3.1 The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to adopt a recommendation on some other course of action arising from a report to the meeting or as a result of a petition submitted to the meeting or recommendation arising from single issue debate
- (e) to refer something to an appropriate body or individual;
- (f) to appoint a committee or member arising from an item on the summons for the meeting;
- (g) to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- (h) to withdraw a motion which may be moved in accordance with this procedure rule;
- (i) to amend a motion which may be moved in accordance with this procedure rule, subject to the provisions of the Budget and Policy Framework Procedure Rules in relation to amendment of the Cabinet's proposals for the Council's Budget and Policy Framework;
- (j) to proceed to the next business (such Motion may only be moved by a Councillor who has not spoken in the debate)
- (k) that the question be now put (such Motion may only be moved by a Councillor who has not spoken in the debate)

- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) to suspend a particular Council Procedure Rule;
- (o) to exclude the public and press in accordance with the Access to Information Procedure Rules;
- (p) not to hear further a Member named under Rule 18.2 or excluded from the meeting under Rule 18.3; and
- (q) to give the consent of the Council where its consent is required by this Constitution.

12. Rules of Debate

12.1 No speeches may be made unless the appropriate Notice has been given and until the Motion is seconded; or the appropriate Notice has been given and is moved by the Chairman of the meeting.

12.2 When seconding a motion or amendment, a member may reserve their speech until later in the debate.

12.3 Content and length of speeches

12.3.1 Speeches must be directed to the question under discussion or to a personal explanation or point of order.

12.3.2 No speech shall exceed:

- (a) Five minutes in the case of the mover of a Motion;
- (b) Three minutes in the case of the seconder;
- (c) Five minutes in the case of the Leader, the relevant Cabinet Member or the Chairman of a Committee dealing with the matters arising from committee reports except with the consent of the Chairman who shall have discretion to extend that time if it appears prudent in his judgement to do so;
- (d) Three minutes in all other cases except by consent of the Council; and
- (e) When the Council's annual budget is under discussion, the leader of each political group on the Council may speak for up to five minutes or such longer period as the Chairman shall allow.

12.4 When a Member may speak again

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another member;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

12.5 Amendments to motions

- An amendment to a motion must be relevant to the motion and will either be:
- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (i) to leave out words;
 - (ii) to leave out words and insert or add others; or
 - (iii) to insert or add words
 - (iv) as long as the effect of (i) to (iii) is not to negate the motion.
 - (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of provided that the Chairman may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course of action would facilitate the proper conduct of the Council's business.
 - (c) If an amendment is not carried, other amendments to the original motion may be moved.
 - (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
 - (e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

12.6 Alteration of motion

- 12.6.1 A Member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- 12.6.2 A Member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- 12.6.3 Only alterations which could be made as an amendment may be made.

12.7 Withdrawal of motion

- 12.7.1 A Member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder.
- 12.7.2 The meeting's consent will be signified without discussion.
- 12.7.3 No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

12.8 Right of reply

- 12.8.1 The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

- 12.8.2 If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- 12.8.3 The mover of the amendment has no right of reply to the debate on his/her amendment.

12.9 Motions which may be moved during debate

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Procedure Rules; and
- (h) Not to hear further a Member named under Rule 18.2 or excluded from the meeting under Rule 18.3.

12.10 Closure motions

- 12.10.1 A Member may move, without comment, the following motions at the end of a speech of another Member:

- (a) to proceed to the next business;
- (b) that the question be now put;
- (c) to adjourn a debate; or
- (d) to adjourn a meeting.

- 12.10.2 If a motion to proceed to next business is seconded and the Chairman considers the item has been sufficiently discussed, he/she will give the mover of the original motion (if there is one) a right of reply and then put the procedural motion to the vote.

- 12.10.3 If a motion that the question be now put is seconded and the Chairman considers the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion (if there is one) a right of reply before putting his/her motion to the vote.

- 12.10.4 If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman considers the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

12.11 Point of Order

A point of order is a request from a member to the Chairman to rule on an alleged irregularity in the procedure of the meeting. A member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of procedure set out in these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final.

12.12 Personal explanation

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

13 State of the District Debate

13.1 Calling of the debate

The Leader may call a state of the District debate annually on a date to be agreed with the Chairman.

13.2 Form of the debate

The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the state of the District debate.

13.3 Chairing of the debate

The debate will be chaired by the Chairman.

13.4 Results of the debate

13.4.1 The results of the debate will be:

- (a) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (b) considered by the Leader in proposing the Budget and Policy Framework to the Council for the coming year.

13.4.2 If the Leader fails to call a debate within nine months in any municipal year, it may be called by notice in writing to the Chief Executive signed by any 10 Members of the Council and that the debate shall be heard on the subject and form specified by those 10 Members.

14. Previous Decisions and Motions

14.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 10 Members.

14.2 Motion similar to one previously rejected

14.2.1 This Procedure Rule 14.2 shall not apply to Motions moved in pursuance of a recommendation of a Committee.

14.2.2 A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least ten members.

14.2.3 Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

15. Voting

15.1 Majority

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question is put.

15.2 Chairman's casting vote

If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.

15.3 Method of Voting

Unless a recorded vote is demanded under Rule 15.4 the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

15.4 Recorded vote

If 10 Members present at the meeting demand it, the names for and against *the motion or amendment or abstaining from voting will be taken down in writing* and entered into the minutes.

15.5 Right to require individual vote to be recorded

Where any Member requests it immediately after the vote is taken, their vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

15.6 Voting on appointments

- 15.6.1 If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken.
- 15.6.2 The process will continue until there is a majority of votes for one person.

15.7 Voting on the Budget and Council Tax

At a Budget meeting, the vote on any motion or amendment relating to the setting of the Budget (revenue and capital budget) and Council Tax or precept shall be by roll call and the names of Members who voted as for, against or in abstention to any such motion or amendment shall be recorded in the minutes of that meeting.

16. Minutes

16.1 Signing the minutes

- 16.1.1 The Chairman will sign the minutes of the proceedings at the next suitable meeting.
- 16.1.2 The Chairman will move that the minutes of the previous meeting be signed as a correct record.
- 16.1.3 The only part of the minutes that can be discussed is their accuracy.

16.2 No requirement to sign minutes of previous meeting at an Extra-ordinary meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

16.3 Form of minutes

Minutes will contain all motions and amendments in the exact form and order the Chairman put them.

17. Exclusion of Public

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Rule 19 (Disturbance by Public) or otherwise permissible in law.

18. Members' Conduct

18.1 Speaking at meetings

- 18.1.1 When a Member speaks at full Council he/she must address the meeting through the Chairman.
- 18.1.2 If more than one Member signifies their intention to speak, the Chairman will ask one to speak.
- 18.1.3 Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

18.2 Member not to be heard further

- 18.2.1 If a Member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman may move that the member not be heard further.
- 18.2.2 If seconded, the motion will be voted on without discussion.

18.3 Member to leave the meeting

- 18.3.1 If the Member continues to behave improperly after such a motion is carried, the Chairman may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period.
- 18.3.2 If seconded, the motion will be voted on without discussion.

18.4 General disturbance

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary.

19. Disturbance by the Public

19.1 Removal of member of the public

- 19.1.1 If a member of the public interrupts proceedings, the Chairman will warn the person concerned.
- 19.1.2 If they continue to interrupt, the Chairman will order their removal from the meeting room.

19.2 Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

20. Suspension and Amendment of Council Procedure Rules

20.1 Suspension

All of these Council Rules of Procedure except Rules 5.3, 15.5, 16.3 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

20.2 Amendment

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council unless the amendment is the subject of a report from the Standards Committee.

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