

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

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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)
<p>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.</p>	<p>To remove the requirement</p> <p><i>Agreed</i></p>	<ol style="list-style-type: none"> 1. 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; 2. 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> 3. 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>
<p>All committees (with some exceptions e.g. licensing, standards hearings): Right of public to ask questions on agenda items.</p>	<p>Retain as is, subject to:</p> <p>(i) redraft for public’s clarity / ease of understanding and</p> <p>(ii) to formally confirm need for notice</p> <p><i>See notes from NAG in red italics.</i></p>	<p>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:</p> <ol style="list-style-type: none"> 1. 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> 2. it often difficult to answer or understand public questions when no notice has been provided of them in advance;

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		<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 length 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>
<p>Council Procedure Rule summary</p>	<p>[T&FG proposed change of CPRs as at 1 April 2020]</p>	<p>Response from Non-Aligned Group as at 18 April (in italics)</p>

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<p>Full Council: Right of members to speak and ask questions at meetings they attend</p>	<p>Retain as it is subject amends for clarity / ease of understanding <i>See notes under relevant section below.</i></p>	<p>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 retainedⁱⁱ; and in the case of all other meetings, 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);

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- (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

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(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?]*