



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

COUNCIL

2 February 2022

Report of the Director of Legal & Democratic Services and Monitoring Officer

Revisions to Council Constitution: Review of Council Procedure Rules

1. Purpose

- 1.1 To seek approval for proposed amendments to the Council Procedure Rules for inclusion in the Constitution.

2. Information and Analysis

- 2.1 It is a statutory duty under Section 9P of the Local Government Act 2000 for the Council to maintain and keep its Constitution up to date.
- 2.2 The Council has the power to make Standing Orders for the regulation of their proceedings and business and may vary or revoke any such orders under para 42 of Schedule 12 to the Local Government Act 1972. There is no prescribed form for the Standing Orders, but there are certain provisions specified in legislation that the Standing Orders must comply with. These are set out in the Legal Implications section in Appendix 1.
- 2.3 The Council's Standing Orders (known as the Council Procedure Rules) have been subject to a detailed review by the Director of Legal and Democratic Services in conjunction with the Chairman of the Council in order to ensure the smooth running of council business and that the procedures at council meetings are effective and efficient. Following the

review, revised Council Procedure Rules were drafted and presented to the Governance, Ethics and Standards Committee on 18 January 2022 for agreement and referral to Council for approval. The Committee agreed the revised Rules subject to the additional amendments set out in paragraph 2.5 below. The main amendments originally presented to the Committee are as follows:

- a) To re-order the order of business at meetings to enable items for which third parties are in attendance can be dealt with early in the meeting and ensure officer reports which require a formal decision are considered prior to expiry of the 3 hour time limit.
- b) To enable the order of business to be changed where required.
- c) To reflect the legislative provisions relating to the calling of extraordinary meetings.
- d) To limit the scope of motions so that they align with the provisions regarding questions and to limit the number to 1 per Member per meeting.
- e) To ensure that questions and Motions can be rejected if seeking to require Council to act in a way that is outside of its powers or otherwise unlawful.
- f) To clearly list the circumstances in which a notice of motion is not required.
- g) To require notice of questions by Members and the public to be given 10 days prior to the meeting to enable the question to be included in the agenda for the meeting so as to aid openness and transparency.
- h) To enable a question to be put to another Member if the Member to which it is directed is not in attendance at the meeting.
- i) To introduce a 30 minute time restriction on dealing with questions from Members, that may be extended by the Chair.
- j) To reduce the word limit for questions from 200 to 150 words to ensure questions are succinct and focussed.
- k) To clarify the rules of debate, in particular where a Member wishes to amend or withdraw a motion and what constitutes a valid amendment to a motion.
- l) To reflect the fact that the Monitoring Officer has delegated authority to grant dispensations in certain circumstances.
- m) To update the provisions on substitutes. Council is responsible for appointing members of Committees (including substitute members). The proposed wording will enable effective substitutes without the need to include a list of the names of all substitutes at the AGM.
- n) To make it clear that individuals are unable to record and report on meetings where exempt or confidential business is being considered.

- o) To ensure consistency in terminology.
- p) To re-order the Standing Orders generally so that they are clearer and more easily understood.

2.4 The additional amendments agreed by Committee are as follows:

- a) To add clarification that a reasonable period of time should elapse before adjourning a meeting that is not quorate to enable Members to join the meeting.
- b) To add the ability for a Member to withdraw a question.
- c) To ensure that a written response to a question should be sent out as soon as reasonably practicable after the Council Meeting and in any event within ten days.
- d) To tidy up the remaining inconsistencies in terminology and formatting and address any further drafting points.

2.5 The proposed Council Procedure Rules at Appendix 2 have been updated to incorporate the amendments agreed by the Committee. For ease of comparison, a copy of the current Council Procedure Rules appear at Appendix 3 for information.

2.6 It is proposed that Council agrees the proposed Council Procedure Rules as set out in Appendix 2 to this report for inclusion in the Constitution. As set out in the legal implications section in Appendix 1, by reason of Rule 19.3 of the current Council Procedure Rules, the proposed amendments to the Council Procedure Rules cannot be approved by Council at the first meeting on 2 February and will be adjourned to the next ordinary meeting scheduled for 23 March 2022.

3. Alternative Options Considered

3.1 Do nothing – this option is not appropriate as it will not ensure that the Council Procedure Rules are kept up to date and fit for purpose.

4. Implications

4.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

5. Consultation

5.1 Not applicable.

6. Background Papers

6.1 None identified.

7. Appendices

7.1 Appendix 1 – Implications.

7.2 Appendix 2 – Proposed Council Procedure Rules.

7.3 Appendix 3 – Current Council Procedure Rules.

8. Recommendations

That Council approves the Council Procedure Rules as set out in Appendix 2 to this report for inclusion in the Constitution.

9. Reasons for Recommendations

9.1 To ensure effective and efficient procedures at council meetings.

9.2 To comply with legislative requirements and ensure the Council's Constitution is kept up to date and fit for purpose.

Report Author: Helen Barrington

Contact details: helen.barrington@derbyshire.gov.uk

Implications

Financial

1.1 None.

Legal

- 2.1 The Council is required to prepare and keep up to date its Constitution as set out in Section 9P of the Local Government Act 2000 as amended. Approval by full Council of the recommendations in this report will enable the compliance with this duty.
- 2.2 Schedule 12 to the Local Government Act 1972 includes a number of statutory provisions the Council's Standing Orders must comply with:-
- the Council must hold an annual meeting. The annual meeting must be held between 8 and 21 days after the retirement of councillors in an election year, and in March to May in other years;
 - the Chairman can call an extraordinary meeting at any time. Any five members can requisition an extraordinary meeting if the Chairman fails to do so;
 - the quorum for a meeting is one quarter of the membership;
 - decisions are to be made by simple majority voting, with a casting vote to the Chairman;
 - the names of members at a meeting must be recorded; and
 - minutes must be recorded in a book and signed at the next suitable meeting.
- 2.3 Sections 20 of the Local Government and Housing Act 1989 empower the Secretary of State to make regulations requiring Councils to adopt certain procedural standing orders. The Secretary of State has exercised this power to make the:
- i. Local Authorities (Standing Orders) Regulations 1993, which require the adoption of standing orders concerning:-
 - (a) recorded votes; and
 - (b) the signing of minutes of an extraordinary meeting
 - ii. Local Authorities (Standing Orders) (England) Regulations 200, which require the adoption of a standing order concerning recording of votes taken at a budget decision meeting.

- 2.4 The proposed Council Procedure Rules comply with these legislative requirements.
- 2.5 Article 22 of the Constitution makes it clear that changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Governance Ethics & Standards Committee. The changes were considered by Governance, Ethics and Standards Committee on 18 January 2002 and therefore this constitutional requirement is discharged.
- 2.6 The current version of the Council Procedure Rules include the following provision:

“19. Suspension and Variation

19.3 Any motion to add to, vary or revoke any Standing Order, shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.”

As a result the proposed amendments to the Council Procedure Rules cannot be approved by Council at the first meeting and will be adjourned to the next ordinary meeting.

Human Resources

- 3.1 None.

Information Technology

- 4.1 None.

Equalities Impact

- 5.1 None.

Corporate objectives and priorities for change

- 6.1 This report links to the Council Priority of ‘High Performing Value for Money and Resident Focused Services’. The changes proposed will enable efficient and effective functioning of Council meetings.

Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

- 7.1 None.