



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

COUNCIL

30 November 2022

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

UPDATES TO THE CONSTITUTION: AMENDMENT TO THE CABINET PROCEDURE RULES

1. Purpose

- 1.1 To seek approval to amend the Cabinet Procedure Rules for inclusion in the Constitution.

2. Information and Analysis

- 2.1 On 7 April 2022, Cabinet considered a report confirming that for a number of years, Minority Group Leaders have been permitted to ask questions at Cabinet meetings relating to the contents of a report included in the agenda. This has become a matter of custom and practice but specific provision is not included in the Cabinet Procedure Rules that govern the proceedings at Cabinet meetings. As a result the custom and practice could be misunderstood, changed or ceased at any time.
- 2.2 In order to provide clarity and certainty, Cabinet agreed a form of wording to be inserted into the Cabinet Procedure Rules with the remaining Rules renumbered accordingly. The wording was considered by the Governance, Ethics and Standards Committee on 14 July 2022, and subject to the correction of minor draft points, agreed the amendments and referred them to Council for formal approval. It is therefore proposed that the following wording is inserted into the

Cabinet procedure Rules and the remaining Rules renumbered accordingly:

2.4 Questions by Minority Group Leaders

2.4.1 After giving notice in writing or by electronic email to the Director of Legal and Democratic Services by 12 noon at least 2 working days before the Cabinet Meeting (i.e. noon on a Monday before a Cabinet meeting on a Thursday) a Minority Group Leader may ask a question directly relating to the contents of a report included in the agenda for the Cabinet meeting.

2.4.2 The Director of Legal and Democratic Services may reject a question if it:

- exceeds 150 words in length;*
- does not directly relate to the contents of a report included in the agenda for the Cabinet meeting;*
- seeks to ask Cabinet to act in a way that is ultra vires (outside its powers), unlawful or illegal;*
- is defamatory, frivolous or offensive;*
- is substantially the same as a question which has been put at a Cabinet Meeting in the past six months; or*
- requires the disclosure of confidential or exempt information.*

2.4.3 If a Minority Group Leader who has submitted a written question is unable to be present, a written reply will be given, or the Leader may decide that the question will not be dealt with.

2.4.4 If the Cabinet Member to whom the question is asked is not present at the meeting, the Leader may answer the question, put the question to another Cabinet Member or indicate that a written reply will be given.

2.4.5 An answer may take the form of:

- a) a direct oral answer;*
- b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or*
- c) where the reply cannot conveniently be given orally, a written answer circulated later to the question.*

2.4.6 The time allocated for Minority Group Leaders' questions at each meeting will be 15 minutes. This period may be extended at the discretion of the Leader. Any questions not answered at the end of the time allocated for questions will be answered in writing.

2.4.7 Where a written response is to be given to a question, the response shall be sent to the questioner as soon as reasonably practicable after the Cabinet Meeting, but in any event within 10 days.

3. Consultation

3.1 Not applicable.

4. Alternative Options Considered

4.1 Not to insert the additional provisions into the Cabinet Procedure Rules, however this will mean that the ability for the Minority Group Leaders to ask questions at Cabinet will continue to be based on custom and practice that could be misunderstood, changed or ceased at any time.

5. Implications

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

6. Background Papers

6.1 None identified.

7. Appendices

7.1 Appendix 1 - Implications.

8. Recommendation

That Council agrees to amend the Cabinet Procedure Rules to include provision for questions from Minority Group Leaders as set out in paragraph 2.2 of the report for inclusion in the Constitution.

9. Reasons for Recommendation

9.1 In order to provide clarity and certainty in relation to Minority Group Leaders' questions at Cabinet meetings.

9.2 To ensure the Constitution remains fit for purpose and up to date.

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Implications

Financial

1.1 None directly arising.

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.
- 2.2 Paragraph 3 of Schedule A1 to the Local Government Act 2000 provides that “*Executive arrangements by a local authority may include provision with respect to—*
(a) the quorum, proceedings and location of meetings of the executive,
(b) the appointment of committees of the executive, and
(c) the quorum, proceedings and location of meetings of committees of the executive.”
- 2.3 Article 22 of the Constitution makes it clear 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 the Governance, Ethics and Standards Committee on 14 July 2022 and therefore this constitutional requirement is discharged.

Human Resources

3.1 None directly arising.

Information Technology

4.1 None directly arising.

Equalities Impact

5.1 None directly arising.

Corporate objectives and priorities for change

6.1 None directly arising.

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

7.1 None directly arising.