



Purpose: For Noting

Committee report

Committee	CORPORATE SCRUTINY COMMITTEE
Date	10 MAY 2022
Title	PROVISIONS RELATING TO PUBLIC AND MEMBER QUESTIONS
Report of	DIRECTOR OF CORPORATE SERVICES

EXECUTIVE SUMMARY

1. It was resolved at the Corporate Scrutiny meeting held on 12 April 2022 in response to concerns raised that there would have been no opportunity for the public or members to ask questions at the Cabinet meeting scheduled for 14 April 2022, (which had since been cancelled), that a report regarding the provisions within the Constitution relating to public and member question time be made available to the committee at its next meeting.
2. This report therefore provides Corporate Scrutiny committee members with the information requested in order provide explanation of the basis of the agenda setting process for that and the other related committee meetings for the single item of business scheduled for discussion, that of the draft Island Planning Strategy.

RECOMMENDATION

3. Members of the Scrutiny committee are asked to consider the content of the report in the context of their request for information with regards to public and member questions at the planned meeting of Cabinet on 14 April 2022 (which was since cancelled).
4. That members of the Scrutiny committee note the proposal for further constitutional amends be undertaken to remove any ambiguity that exists within the current Constitution in relation to member and public questions and as set out in this report that this be initiated by way of recommendation in the Monitoring Officer's report to Annual Council on 18 May 2022.

BACKGROUND

5. During the meeting of the Corporate Scrutiny meeting held on 12 April 2022, concerns were raised that there would have been no opportunity for the public or members to ask questions at the Cabinet meeting scheduled for 14 April 2022, (which had since been cancelled). Committee members therefore requested that a report be provided to its next meeting regarding the constitutional provisions for public and member question time. The relevant contextual information in relation to the single agenda item for this meeting, the draft Island Planning Strategy, is set out below in respect of the constitutional provisions.
6. A new local plan, the draft Island Planning Strategy had been prepared to replace the current Island Plan Core Strategy. There are specific requirements as set out by the Town and County Planning (Local Planning) (England) Regulations that require a local authority to follow a process for approval. This process includes the requirement for the Cabinet to formulate a draft plan and then make recommendation to Full Council on its final form prior to a period of representation and submission to the Planning Inspectorate if approval is granted.
7. Section 5 of the Constitution (budget and policy framework rules) recognises the statutory approval requirements of the Local development plan and as being reserved to Full council for decision, based upon a recommendation from Cabinet having undertaken due process in respect of relevant consultation activities.
8. Instigating the requisite decision-making process for that purpose necessitated the calling of a Full Council, Cabinet and Scrutiny meeting. Given the importance of the draft Island Planning Strategy, as a single major issue requiring due attention, these meetings were called as extra-ordinary meetings.
9. Starting with Full Council meeting protocols, Part 4A of the Constitution – Procedure rules governing Full Council makes provision for the arrangement of extra-ordinary meetings. Specifically, it states that “the business to be transacted at an Extraordinary Meeting shall be restricted to the matters for which the meeting was called as set out in the motion, and no other business shall be considered.”
10. Part 2 – Introduction to the Constitution, Section 6, Cabinet proceedings, it states that “Cabinet meeting agendas are determined by the Leader, in consultation with relevant chief officers.” But is less prescriptive of the business to be transacted.
11. Part 4B of the Constitution – Procedure rules governing how Full Council, Cabinet, Committees, Sub-Committees and boards operate, sets out the provisions for questions. Specifically, section 14 – Questions by Members and Section 15 – Questions by Members of the Public.
12. Section 14 states that “At Cabinet meetings, members of the council may ask questions about budget and policy at a strategic level and will be given an opportunity to speak on each item before the vote is taken.” However, it is not prescriptive as to how this should be undertaken. While having not been set out as a specific agenda item for members’ questions at the meeting, it does not require a specific agenda item of members’ questions for councillors to ask questions at the Cabinet meeting. The wider opportunity ‘to speak’ is given on each item of business on the agenda in respect of budget and policy at a strategic level as and when each

particular agenda item arises during the course of the meeting. This has without doubt been confusing for councillors, particularly when there is a separate “members questions” item on the agenda.

13. Section 15 – states that “Members of the public may ask a question at all Ordinary Meetings of Full Council, Cabinet and committees. Such a question must be within the remit of the meeting”. This is slightly clearer in that it had already been determined that these were not Ordinary meetings, thus determining that it was not an item for inclusion on the agenda.
14. Ultimately, it is for the chair of each of the meetings to determine the agenda within the confines of the council’s Constitution and any statutory obligations, in consultation with chief officers and any advice afforded to them, save for overview and scrutiny where there are specific statutory rules regarding the right of scrutiny committee members to request items to be included on the agenda and for non-members of that committee to use the councillor call for action process (Part 3 – Section 9 of the Constitution).

CONCLUSION

15. The Constitution does not set out to be prescriptive in all aspects of conducting local authority business, nor is it intended to do so. This allows flexibility to accommodate, where lawful and feasible to do so, on any specific issues that may arise in conducting council business. However, the Constitution belongs to the Council and the councillors who have been elected to serve on it. As such, it requires collective ownership of its governance arrangements.
16. Given the concerns raised by councillors as to the ambiguity in respect of matters relating to public and member questions and the arrangements for determining the agenda for a formal committee, it is considered timely and appropriate for a further review of the constitution to be undertaken.
17. The Monitoring Officer in his report to Annual Council on 18 May 2022, dealing with matters relating to political proportionality will set out the intended process for councillors to work together with staff on this and other aspects of constitutional updating required to afford similar clarity on matters that have been identified in need of doing so.

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