

County Council

21 January 2015

Questions at Council



Report of Colette Longbottom, Head of Legal and Democratic Services

Councillor Simon Henig, Leader of Durham County Council

Purpose of the Report

- 1 To advise Council of a recommendation of the Constitution Working Group in relation to questions that can be raised at Full Council meetings.

Background

- 2 The Council's current Rules of Procedure, the relevant section of which is attached at Appendix 2, allow members of the public to ask up to three questions. This is a facility which has existed for some years.
- 3 When this facility was included in the Rules of Procedure, there were limited facilities for members of the public to raise issues of concern.
- 4 Following Local Government Review, the facility for residents to ask questions of the Council and raise issues which concern them have been increased, in particular, through the Area Action Partnerships. The Council also continues to operate a Petitions Scheme, including the facilities for electronic petitions after legislation, requiring it do so was repealed and recently overhauled the petitions process to make it easier to understand and use.
- 5 The Group was of the view that it is important that residents should be able to raise the profile of issues important to them in their locality. The Area Action Partnerships (AAPs) are a useful and successful channel for raising such issues. Since their launch in 2009, AAPs, with their Boards made up of seven public members and their staff based within communities, have become well established means for people to raise local concerns. In addition to the regular Board meetings, where public attendees regularly raise neighbourhood issues, AAP co-ordinators regularly deal with day to day issues raised with them in their local offices. These contacts mean the AAPs are an effective means to gauge broader issues of common concern across a locality. They also provide a significant convenience to residents by not requiring a journey to County Hall in order to raise their questions.
- 6 Members will be aware that Cabinet have operated a system of prioritising questions from AAPs in the public questions section, and on the 3rd October 2014, the Constitution Working Group considered whether the Rules of Procedure should be changed to include provision for questions to be raised on behalf of Area Action Partnerships so that issues raised at AAP meetings

that are more relevant to Council powers than the Executive, can be raised at Council.

- 7 The group also considered the nature of questions made at more recent Council meetings, and whether some of them could have been more meaningfully addressed in other ways. The group were concerned about the Council meeting being used as an alternative complaints process, and of the time used in either accommodating sometimes lengthy speeches or the Chairman, feeling compelled to repeatedly intervene to limit the length of speeches in order to enable business to proceed.
- 8 The Group also considered the fact that the facility for public questions is one that is used and that withdrawing it may create the unintended impression that public engagement in the democratic process, was not welcome. Having considered this, the Group came to the conclusion that the facility for public questions should remain, but that there should, in order to ensure that all Council business is transacted at a meeting, be time restrictions for dealing with them. In order to ensure that as many people as possible have the opportunity to raise questions in the time allowed, the group also agreed to recommend that questions should be limited to one per person, and that a protocol should be presented for Council approval, to inform people about what sort of questions would be declined to proceed to Council.
- 9 To this end the group requested that the Head of Legal and Democratic Services present amended Rules of Procedure for its consideration, covering the following:-
 - Incorporation of an agenda item for AAP questions for ordinary meetings of the Council;
 - Continuation of an item of public questions for ordinary meetings of the Council;
 - Limiting the time for public questions to 10 minutes; and
 - Allowing one question per person.
- 10 Draft amended Rules of Procedure are attached at Appendix 3, and a draft Protocol for members of the public wishing to ask questions at Council appears at Appendix 4.

Recommendations and reasons

- 11 Council is asked to:-
 - (i) Approve the draft amended Rules of Procedure at Appendix 3; and
 - (ii) Approve or amend the draft protocol at Appendix 4, and agree its inclusion in the Constitution at the May Annual General Meeting.

Appendix 1: Implications

Finance - none specific in this report.

Staffing - none specific in this report.

Risk - none specific in this report.

Equality and Diversity / Public Sector Equality Duty - none specific in this report.

Accommodation - none specific in this report.

Crime and Disorder - none specific in this report.

Human Rights - none specific in this report.

Consultation - none specific in this report.

Procurement - none specific in this report.

Disability Issues - none specific in this report.

Legal Implications - none specific in this report.

Appendix 2: Council Procedure Rules

CONTENTS**Rule**

1. Annual meeting of the Council
2. Ordinary meetings
3. Extraordinary meetings
4. Time and place of meetings
5. Notice of and summons to meetings
6. Chair of meeting
7. Quorum
8. Questions by the public
9. Petitions from the public
10. Questions by Members
11. Motions on notice
12. Motions without notice
13. Rules of debate
14. State of the County debate
15. Previous decisions and motions
16. Voting
17. Minutes
18. Record of attendance
19. Exclusion of public
20. Members' conduct
21. Disturbance by public
22. Suspension and amendment of Council Procedure Rules
23. Application to Committees and Sub-Committees
24. Appointment of Substitute Members on Council Bodies

1. ANNUAL MEETING OF THE COUNCIL

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 of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- (i) elect a person to preside if the Chairman of the Council is not present;
- (ii) elect the Chairman of the Council;
- (iii) elect the Vice-Chairman of the Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Chairman and/or the Head of Paid Service;
- (vi) subject to Article 7.02, elect the Leader in the year of an ordinary election of councillors;
- (vii) appoint the Overview and Scrutiny Committees, the Standards Committee and such other committees and sub-committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3 of this Constitution);
- (viii) agree the scheme of delegations or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- (ix) approve a programme of ordinary meetings of the Council for the year; and
- (x) consider any business set out in the notice convening the meeting.

1.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council meeting will:

- (i) decide which committees and sub-committees to establish for the municipal year;
- (ii) decide the size and terms of reference for those committees;
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules;

- (iv) make appointments to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive.
- (v) appoint the Chairmen and Vice-Chairmen of Committees.

2. ORDINARY MEETINGS

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. The order of business at ordinary meetings will be as follows:

- (i) elect a person to preside if the Chairman and Vice-Chairman are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from Members;
- (iv) receive any announcements from the Chairman;
- (v) receive a report from the Leader and receive questions and answers on the report;
- (vi) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Chairman are relevant to the Council's functions.
- (vii) receive petitions from the public in relation to matters which in the opinion of the Chairman are relevant to the Council's functions;
- (viii) receive a report from the Executive and receive questions and answers on the report;
- (ix) receive reports from the Council's committees and receive questions and answers on those reports;
- (x) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (xi) consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Management Board;
- (xii) consider motions; and
- (xiii) deal with questions from Members in accordance with Rule 10.

3. EXTRAORDINARY MEETINGS

3.1 Calling extraordinary meetings.

The Head of Legal and Democratic Services may call Council meetings in addition to ordinary meetings and those listed below may request the Head of Legal and Democratic Services to call additional Council meetings:

- (i) the Council by resolution;
- (ii) the Chairman of the Council;
- (iii) any 5 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.

3.2 Business

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 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.

4. TIME, PLACE AND DURATION OF MEETINGS

4.1 Time and Place of Meetings

The time and place of meetings will be determined by the Head of Legal and Democratic Services and notified in the summons.

4.2 Duration of Meetings

- (a) At an ordinary meeting of the Council, when two and a half hours have elapsed after the commencement of the meeting, the Chairman shall, at the conclusion of the debate on the item of business then under consideration, put the matter to the vote.
- (b) If there are other motions or recommendations on the agenda that remain to be dealt with they will be deemed formally moved and seconded (together with any amendments). No speeches will be allowed on these items and the vote will be taken in the usual way.
- (c) During the process set out in paragraphs (a) and (b) above the only other motions which may be moved are that a matter be withdrawn under Rule 13.8, that a particular Rule be suspended under Rule 22.1 or that a matter be delegated or referred to the Executive, a committee or sub-committee for decision or report under Rule 12.
- (d) When all motions and recommendations have been dealt with, the Chairman will declare the meeting closed.

5. NOTICE OF AND SUMMONS TO MEETINGS

The Head of Legal and Democratic Services will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least 5 clear days before a meeting, the Head of Legal and Democratic Services will send a summons signed by him 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.

6. CHAIR OF MEETING

The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to committee and sub-committee meetings, references to the Chairman also include the Chairman of committees and sub-committees.

7. QUORUM

The quorum of a meeting will be one quarter of the whole number of Members. During any meeting if the Chairman counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he does not fix a date, the remaining business will be considered at the next ordinary meeting.

8. QUESTIONS BY THE PUBLIC

8.1 General

Members of the public may ask questions of Members of the Executive at ordinary meetings of the Council.

8.2 Order of questions

Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.

8.3 Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Head of Legal and Democratic Services no later than midday 3 working days before the day of the meeting. Each question must give the name and address of the questioner.

8.4 Number of questions

At any one meeting no person may submit more than 3 questions and no more than 3 such questions may be asked on behalf of one organisation.

8.5 Scope of questions

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

- is not about a matter for which the Council has a responsibility or which affects the County;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- requires the disclosure of confidential or exempt information.

8.6 Record of questions

The Head of Legal and Democratic Services will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be available to all Members and the public attending the meeting. Copies of the questions asked at the meeting and the responses will also be available on the Council's website for a two year period.

8.7 Asking the question at the meeting

The Chairman will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chairman to put the question on their behalf. The Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

8.8 Written answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer. Copies of the questions and responses will be available on the Council's website for a two year period.

8.9 Reference of question to the Executive or a committee

Unless the Chairman decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Executive or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

9. Petitions from the Public

9.1 Notice of Petition

If a citizen wishes to present a petition to a Council meeting, notice must be given at least 10 working days before the meeting.

9.2 Presentation of Petitions

The petition organiser will be allowed 5 minutes to present the petition at the meeting. Only one person may speak to present a petition.

9.3 Number of Petitions

At any one meeting no person or organisation may present more than one petition.

9.4 Scope of Petitions

The Head of Legal and Democratic Services may reject a petition if it:

- Does not qualify under the scheme
- It is vexatious, abusive or otherwise inappropriate
- It is a petition qualifying under another enactment
- It is excluded by order e.g.
 - It relates to a planning decision
 - It relates to a licensing decision
 - 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 BY MEMBERS

10.1 On reports of the Executive or committees

A Member of the Council may ask the Leader or the chairman of a committee any question without notice upon an item of the report of the Executive or a committee when that item is being received or under consideration by the Council.

10.2 Questions on notice at full Council

Subject to Rule 10.4, a Member of the Council may ask:

- (a) the Chairman, a member of the Executive or the chairman of any committee or sub-committee, a question on any matter in relation to which the Council has powers or duties or which affects the County, and
- (b) the Chairman of the County Durham and Darlington Fire and Rescue Authority, a question on the business of the relevant Authority.

10.3 Questions on notice at Committees and Sub-Committees

Subject to Rule 10.4, a member of a committee or sub-committee may ask the chairman of it a question on any matter in relation to which the Council has powers or duties or which affects the County and which falls within the terms of reference of that committee or sub-committee.

10.4 Notice of questions

A member may ask a question under Rule 10.2 or 10.3 if either:

- (a) they have given notice of the question in writing or by electronic mail no later than midday 3 working days before the day of the meeting to the Head of Legal and Democratic Services; or
- (b) the question relates to urgent matters, they have the consent of the Chairman or member to whom the question is to be put and the content of the question is given to the Head of Legal and Democratic Services by 9.00 a.m. on the day of the meeting.

10.5 One Question per Member

A Member may ask only one question under Rule 10.2 or 10.3 except with the consent of the Chairman of the Council, committee or sub-committee.

10.6 Order of Questions

Questions of which notice has been given under Rule 10.2 or 10.3 will be listed on the agenda in the order determined by the Chairman of the Council, committee or sub-committee.

10.7 Content of Questions

Questions under Rule 10.2 or 10.3 must, in the opinion of the Chairman:

- (a) contain no expressions of opinion;
- (b) relate to matters on which the Council has or may determine a policy;
- (c) not relate to questions of fact.

10.8 Response

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 questioner.

10.9 Supplementary question

A Member asking a question under Rule 10.2 or 10.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

10.10 Length of Speeches

A Member asking a question under Rule 10.2 or 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.

10.11 Time Allowed for Questions at Council Meetings

- (a) The time allowed for consideration of questions submitted under Rule 10.2 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 conclude the meeting.
- (c) Any remaining questions shall be responded to in writing before the next ordinary meeting of the Council.

11. MOTIONS ON NOTICE

11.1 Notice

Except for motions which can be moved without notice under Rule 12, written notice of every motion, must be delivered to the Head of Legal and Democratic Services not later than 5.00 p.m. on the seventh working day before the Council meeting at which it is to be considered. Motions received will be entered in a book open to public inspection.

11.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order determined by the Chairman.

11.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the County.

11.4 Motion to remove the Leader

- (a) A motion to remove the Leader cannot be moved unless the notice of motion is signed by a number of councillors which is at least equivalent

to 15% of the total number of councillors on the Council and which includes councillors from at least 2 political groups.

- (b) In order for such a motion to be carried it must have the support of at least two-thirds of those members voting and present in the room at the time the question was put.
- (c) A motion to remove the Leader cannot be moved more than once in any rolling 12 month period.

11.5 One Motion per Member

No Member may give notice of more than one motion for any Council meeting, except with the consent of the Chairman.

11.6 Time Allowed for Motions

The time allowed for consideration of motions submitted under this Rule shall not, without the consent of the Council, exceed 30 minutes. At the conclusion of the speech being delivered at the expiry of 30 minutes (or such longer period to which the Council has consented) from the commencement of the Council's consideration of the first such motion, the Chairman shall put to the vote, without further discussion, all the questions necessary to dispose of the motion then under debate provided that:

- (a) if the speech to be concluded is a speech proposing a motion, the Chairman shall allow the motion to be formally seconded (without comment);
- (b) if the speech to be concluded is a speech moving an amendment, the Chairman shall allow the amendment to be formally seconded (without comment) and the mover of the motion to exercise his right of reply; and
- (c) otherwise, the Chairman shall allow the mover of the motion to exercise his right of reply.

Any remaining motions submitted under this Rule shall be deferred to the next ordinary meeting of the Council and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.

12. MOTIONS WITHOUT NOTICE

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 refer something to an appropriate body or individual;
- (e) to appoint a committee or member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion, subject to the provisions of the Budget and Policy Framework Procedure Rules in relation to amendment of the Executive's proposals for the Council's budget and policy framework;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Council procedure rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4; and
- (p) to give the consent of the Council where its consent is required by this Constitution.

13. RULES OF DEBATE

13.1 No speeches until motion seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

13.2 Right to require motion in writing

Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him before it is discussed.

13.3 Seconded's speech

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

13.4 Content and length of speeches

- (a) Speeches must be directed to the question under discussion or to a personal explanation or point of order.
- (b) A speech by the mover of a motion may not exceed five minutes without the consent of the Chairman.
- (c) Subject to paragraph (d) below, speeches by other Members may not exceed three minutes without the consent of the Chairman.
- (d) 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.

13.5 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 last spoke;
- (c) if his first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

13.6 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or

(iv) to insert or add words.

as long as the effect of (ii) to (iv) 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.
- (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.

13.7 Alteration of motion

- (a) A member may alter a motion of which he has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A member may alter a motion which he has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

13.8 Withdrawal of motion

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

13.9 Right of reply

- (a) 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.
- (b) 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.
- (c) The mover of the amendment has no right of reply to the debate on his amendment.

13.10 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 Rules; and
- (h) to not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4.

13.11 Closure motions

- (a) A member may move, without comment, the following motions at the end of a speech of another member:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he will put the procedural motion to the vote. If it is passed he will give the mover of the original motion a right of reply before putting his motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

13.12 Point of order

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 these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he considers it has been broken. The ruling of the Chairman on the matter will be final.

13.13 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.

14. STATE OF THE COUNTY DEBATE

14.1 Calling of debate

The Leader may call a state of the County debate annually on a date and in a form to be agreed with the Chairman.

14.2 Form of 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 County debate.

14.3 Chairing of debate

The debate will be Chaired by the Chairman.

14.4 Results of debate

The results of the debate will be:

- (i) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (ii) considered by the Leader in proposing the budget and policy framework to the Council for the coming year.

15. PREVIOUS DECISIONS AND MOTIONS

15.1 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 ten members.

15.2 Motion similar to one previously rejected

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

16. VOTING

16.1 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 was put.

16.2 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.

16.3 Method of Voting

Unless a recorded vote is demanded under Rule 16.4 the Chairman will take the vote by show of hands, or by use of the Council's electronic voting system if any, or if there is no dissent, by the affirmation of the meeting.

16.4 Recorded vote

If ten 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.

16.5 Right to require individual vote to be recorded

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

16.6 Voting at budget decision meeting

Immediately after any vote is taken at a budget decision¹ meeting of the Council there must be recorded in the minutes of the proceedings of that meeting the names of the members who cast a vote for the decision or against the decision or who abstained from voting.

16.7 Voting on appointments

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. The process will continue until there is a majority of votes for one person.

17. MINUTES

17.1 Signing the minutes

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

17.2 No requirement to sign minutes of previous meeting at extraordinary 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.

17.3 Form of minutes

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

18. RECORD OF ATTENDANCE

All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

¹ Budget decision means calculation of the Council tax requirement, calculation of the basic amount of Council tax, additional calculations where special items relate to part only of the area, calculation of Council tax for different variation bands, substitute calculations and calculation of the amount payable by billing authorities.

19. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 21 (Disturbance by Public).

20. MEMBERS' CONDUCT

20.1 Speaking at meetings

When a member speaks at full Council he must address the meeting through the Chairman. If more than one member signifies their intention to speak, the Chairman will ask one to speak. 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.

20.2 Chairman speaking

When the Chairman speaks during a debate, any member speaking at the time must stop.

20.3 Member not to be heard further

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 be not heard further. If seconded, the motion will be voted on without discussion.

20.4 Member to leave the meeting

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. If seconded, the motion will be voted on without discussion.

20.5 General disturbance

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

21. DISTURBANCE BY PUBLIC

21.1 Removal of member of the public

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

21.2 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.

22. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

22.1 Suspension

All of these Council Rules of Procedure except Rule 11.4(c), 16.5 and 17.2 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. Rule 11.4(c) can only be suspended by motion on notice and the motion must have the support of at least two thirds of those members present and voting.

22.2 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.

23. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

All of the Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the Executive. Only Rules 4-7, 10-13, 15-23 (but not Rule 20.1) apply to meetings of committees and sub-committees. Rule 7 does not apply to meetings of the Statutory Licensing Sub-Committees or the Area Licensing Sub-Committees or the Appeals Sub-Committees for which the quorum is as specified in Part 3A of this Constitution.

24. APPOINTMENT OF SUBSTITUTE MEMBERS ON COUNCIL BODIES

24.1 The substitution rules will not apply to meetings of the Executive, the Standards Committee or the Audit Committee.

24.2 Subject to any other restrictions elsewhere in the Constitution, any Member of the Council will be permitted to act as a substitute on a Council Body.

24.3 The Proper Officer may consider a request from a Member of a Council Body to appoint a substitute Member, providing that substitute Member is from the same political group.

24.4 In order to be eligible to sit as substitutes on regulatory or quasi-judicial committees or panels or staff appointments or disciplinary bodies established by the Council, Members must have received formal training in relevant procedures and the law.

24.5 Substitute Members will have all the powers and duties of any ordinary Member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

24.6 Substitute Members may attend meetings in that capacity only:

- (i) to take the place of the ordinary Member for whom they are designated substitute.
- (ii) where the ordinary Member will be absent for the whole of the meeting;
- (iii) where the ordinary Member has notified the Head of Legal and Democratic Services or the Democratic Services Manager of the intended substitution at least one hour before the start of the relevant meeting; and
- (iv) provided, in the case of area committees, that the substitution does not alter the balance on that committee between Members from the area and Members from the rest of the County.

Appendix 3: Revisions to the Council Procedure Rules

Amendments to paragraphs 2 and 8 of the Council Procedure Rules

2. ORDINARY MEETINGS

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. The order of business at ordinary meetings will be as follows:

- (i) elect a person to preside if the Chairman and Vice-Chairman are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from Members;
- (iv) receive any announcements from the Chairman;
- (v) receive a report from the Leader and receive questions and answers on the report;
- (vi) receive questions from, and provide answers to those that are submitted through Area Action Partnerships (AAPs), which in the opinion of the Chairman are relevant to the Council's functions.
- (vii) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Chairman are relevant to the Council's functions.
- (viii) receive petitions from the public in relation to matters which in the opinion of the Chairman are relevant to the Council's functions;
- (ix) receive a report from the Executive and receive questions and answers on the report;
- (x) receive reports from the Council's committees and receive questions and answers on those reports;
- (xi) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (xii) consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Management Board;
- (xiii) consider motions; and

(xiv) deal with questions from Members in accordance with Rule 10.

8. QUESTIONS BY THE PUBLIC

8.1 General

Members of the public may ask questions of Members of the Executive at ordinary meetings of the Council.

8.2 Time Allowed for questions

The time allowed for considering questions under this Rule shall not, without the consent of the Council, exceed 10 minutes.

8.3 Order of questions

Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.

8.4 Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Head of Legal and Democratic Services no later than midday 3 working days before the day of the meeting. Each question must give the name and address of the questioner.

8.5 Number of questions

At any one meeting no person may submit more than 1 3 questions and no more than 1 3 such questions may be asked on behalf of one organisation.

8.6 Scope of questions

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

- is not about a matter for which the Council has a responsibility or which affects the County;
- is defamatory, frivolous or offensive;
- is vexatious or abusive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- requires the disclosure of confidential or exempt information;
- is lengthy, or a speech;

- relates to a matter which is of purely personal concern to an individual or family members;
- relates to court action or threatened court action that the person or group are taking against the Council;
- is a request for compensation;
- contains a statement which is untrue;
- is an unintelligible question.

8.7 Record of questions

The Head of Legal and Democratic Services will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be available to all Members and the public attending the meeting. Copies of the questions asked at the meeting and the responses will also be available on the Council's website for a two year period.

8.8 Asking the question at the meeting

The Chairman will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chairman to put the question on their behalf. The Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

8.9 Written answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer. Copies of the questions and responses will be available on the Council's website for a two year period.

8.10 Reference of question to the Executive or a committee

Unless the Chairman decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Executive or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

Appendix 4: Protocol for Members of the Public wishing to ask questions at a meeting of the Council.

Protocol for Members of the Public wishing to ask questions at a meeting of the Council.

Durham County Council welcomes the involvement of members of the public in the democratic process and welcomes questions from members of the public on issues of importance to their neighbourhood.

This is why the Council encourages members of the public to become involved with their local Area Action Partnerships (AAPs) which are ideal places for residents to talk about local concerns and influence what is done about them. This is why, at public question-and-answer sessions at both Cabinet and Council, priority is given to questions that have been submitted by the public through the AAPs

The Council understands that, sometimes an issue may be important to a neighbourhood, but it has not been possible or convenient for residents to raise this through the AAPs in time.

The Council therefore allows members of the public to ask one question each on a matter of local concern.

Committee services staff who can be contacted at..... are happy to assist residents in understanding the process for asking the question.

Normally, your question will be forwarded to chief officers and the relevant Council members so that an answer can be prepared for your question and you are given the answer on the day that you ask it.

Committee services, will however sometimes advise you that your question may not proceed. This may be because your question is not suitable for Council.

Examples of sort of question would not go forward the Council?

- Lengthy questions running into paragraphs that are really speeches. There is a limited time for questions at Council and speeches cannot be accommodated.
- Matters of purely personal concern to you or family members. These can be addressed by talking to officers and your local member. If they are concerns regarding a service, then the Council has complaints processes in place and the Council meeting is not part of the complaints process.
- Court action or threatened court action you are taking against the Council. The council meeting is not the place to debate issues before the court decides upon them.
- Requests for compensation. The Council cannot pay out compensation simply because it is asked to do so in the Council chamber. Claim should be made to legal and Democratic services.

- Questions which contain a statement which is untrue.
- A Question which is vexatious or abusive. Vexatious does not mean annoying. In this context it means that your question is on a matter that you have pursued through other avenues to the point where you have been advised that the Council cannot assist you any further and will not be answering any further correspondence on the point. Abusive could include using inappropriate language or naming individuals in a derogatory way or a question used as part of a process targeted at an individual.
- Question which is defamatory, frivolous or offensive
- A question, an answer for which would require the disclosure of confidential or exempt information.
- A Question which is not about a matter for which the Council is not responsible
- A question which is substantially the same as one which is being put at a meeting of the Council in the past six months;
- An unintelligible question. In order to answer your question properly, Council needs to understand it. This is why questioners are advised to keep their questions as clear and short as possible.