

QUESTIONS FROM MEMBERS TO COUNCIL

Council	31 March 2022
Previously Considered by:	
Standards Committee	10 March 2022
Constitutional Review Working Party	23 February 2022
Report Author	Director of Law and Democracy
Portfolio Holder	Cllr Ash Ashbee, Leader
Status	For Recommendation
Classification:	Unrestricted
Ward:	All

Executive Summary:

A report to consider revisions to the section on Members' Questions to Council under rule 14 in Part 4 of the Constitution (Rules of Procedure), specifically rule 14.6 - "Scope of Questions" and rule 14.8 - "Supplementary Questions".

Recommendation(s):

Council is recommended to amend the Council Procedure Rules as follows, which is in accordance with the recommendations of CRWP and Standards Committee:

1. Council Procedure Rule 14.6 - That the bullet point '- related to a matter which has already been raised as a Standards Complaint against a member and which has not yet been concluded through the Code of Conduct procedures.' be added to the list of reasons that would invalidate a question.
2. Council Procedure Rule 14.8 - That the following sentence be added at the end of the existing paragraph: 'The question must be a question and not a statement, and arise directly out of the response.'

Corporate Implications

Financial and Value for Money

There are no financial implications to this report

Legal

There are no legal implications to this report

Corporate

The ability of members to ask questions on notice to members of Cabinet and/or Chairs of committees is an important part of the democratic process and shows that the Council is open and transparent about its decision making. However, it is important that questions are asked in the right way and the opportunity is not wasted by time spent on inappropriate questions. Therefore it is important periodically to review the rules around the procedures for asking questions.

Equality Act 2010 & Public Sector Equality Duty

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

There are no equality implications arising out of this report.

CORPORATE PRIORITIES

This report relates to the following corporate priorities: -

- *Communities*

1.0 Introduction and Background

- 1.1 There have been a number of questions raised at Council recently by councillors which have been considered inappropriate, in that they would be better raised as operational issues to the department concerned or relate to issues about which the Council has little or no control - e.g. questions about national planning policy.
- 1.2 It has been perceived that some of these questions arise out of political motivation, but nevertheless it is relevant to consider whether rule 14.6, "Scope of Questions", can be amended to better guide members' questions. It is also relevant to consider rule 14.8, "Supplementary Questions".

2.0 The Current Situation

- 2.1 The current version of rules 14.6 and 14.8 are as follows, with possible amendments considered by both CRWP and Standards Committee shown in red:

14.6 Scope of questions

A question shall not be:

- defamatory, frivolous or offensive;
- related to a straightforward operational matter, which should be directed at a Service Director
- substantially the same as a question which has been put at a meeting of the Council in the past six months;
- such as to require the disclosure of confidential or exempt information;
- related to an individual planning or licensing application; or
- related to the ethical conduct of individual Members of Council unless the conduct relates to the Member acting as a Member of the Council.
- related to a matter which has already been raised as a Standards Complaint against a member and which has not yet been concluded through the Code of Conduct procedures.

When the Chief Executive considers rejecting a question, they will consult with the Chair of the Council first.

There is no right of appeal for rejected questions.

14.8 Supplementary question

A member asking a question under Rule 14.3 or 14.4 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. **The Chairman will be robust in refusing to allow questions which do not arise directly out of the original question or reply. The Chairman's view on the issue will be final.**

3.0 Consideration by the Constitutional Review Working Party

- 3.1 The Constitutional Review Working Party considered this report at its meeting on the 23 February and made the following points:

During consideration of the item it was noted that:

- While it is understood that Council should work at a high strategic level, sometimes members ask straightforward operational matter questions because they have not received a response from a service director.
- An operational question should only reach Full Council if the proper process has been followed without success. It should be a last resort because the task of preparing responses to questions at Council is resource intensive and involves a lot of senior officers' time. A members' portal is being designed to help members log and monitor operational enquiries. This should improve response times from Service Directors. negate the need to amend the constitution. The issue of operational questions at Council should be reviewed in six months time, once the portal is in place.
- The opportunity to ask a supplemental question should not be used as a chance to make a political statement, it should be used solely to ask a question arising from the response to the question.
- The Leader and Cabinet members are available to assist all members regardless of political party. Members are encouraged to get in touch if there is an operational matter that a Cabinet Member could help with.

It was proposed by Councillor Hopkinson, seconded by Councillor Rusiecki and agreed that the Working Party recommend the following amendments are considered by the Standards Committee:

'Council Procedure Rule 14.6

- There should be no restriction on questions relating to straight forward operational matters at this time. This would be reviewed in six months, following the implementation of the members portal.
- That the bullet point '*- related to a matter which has already been raised as a Standards Complaint against a member and which has not yet been concluded through the Code of Conduct procedures.*' be added to the list of reasons that would invalidate a question.

Council Procedure Rule 14.8

- That the following sentence be added at the end of the existing paragraph: *'The question must be a question and not a statement, and rise directly out of the response.'*

4.0 Consideration by Standards Committee

4.1 The Standards Committee considered this report at its meeting on the 10 March 2022 and made the following points:

- This report was considered by the constitutional review working party on 23 February 2022.
- There had been some issues recently when questions had been asked at council about operational issues which could have been directed at officers or issues about which the council has little or no control such as central government policy.
- The committee agreed with CRWP in respect of operational questions and wished to see the outcome of the app to improve communication with members and officers. The question of operational questions at council would be revisited once the app had been rolled out and in use for some time.
- The committee approved the proposal not to allow questions relating to ongoing standards complaints.
- Committee members expressed frustration that supplementary questions were often wordy statements, not proper questions.
- Members commented on the need for time necessary for members to form a supplementary question and the recent robust manner of the Chair in not allowing this.

4.2 Cllr Bayford proposed, Cllr Crittenden seconded and members AGREED to recommend to Full Council that:

'Council Procedure Rule 14.6

- There should be no restriction on questions relating to straight forward operational matters at this time. This would be reviewed in six months, following the implementation of the members portal.

Cllr Crittenden proposed and Cllr Scobie seconded an amendment to the wording that:

Council Procedure Rule 14.8

- That the following sentence be added at the end of the existing paragraph: 'The question must be a question and not a statement, and rise directly out of the response.' **An introduction to the question can be given but should be very brief.**

This amendment was LOST.

Cllr Fellows proposed, Cllr Jill Bayford seconded and members AGREED to put to Full Council that:

Council Procedure Rule 14.8

- That the following sentence be added at the end of the existing paragraph: 'The question must be a question and not a statement, and arise directly out of the response.'

5.0 Options

- 5.1 Members are asked to consider whether to accept the recommended suggested amendments, and/or make additional suggestions.

6.0 Next Steps

- 6.1 If approved, the Constitution will be amended accordingly.

Contact Officer: *Estelle Culligan (Director of Law and Democracy)*

Reporting to: *Madeline Homer (Chief Executive)*

Corporate Consultation

Finance: *N/A*

Legal: *N/A*