
Subject: OPTIONS FOR MEMBER AND PUBLIC PARTICIPATION AT COMMITTEE MEETINGS

Meeting and Date: Governance Committee – 26 March 2015

Governance Committee – 18 June 2015

Council – 22 July 2015

Report of: Director of Governance

Classification: UNRESTRICTED

Purpose of the report: This report sets out a range of approaches for member and public participation at meetings of the Cabinet and Committees of the Council.

Recommendation: That the Director of Governance be requested to develop proposals in respect of one or more of the models for member and public participation set out in Appendices A and B.

1. Summary

1.1 This paper sets out a range of options for member and public participation at meetings of the Cabinet and Council Committees.

1.2 In preparing this paper, we have been mindful that the structure of local government is based upon representative democracy rather than participatory democracy. However, it is recognised that the representative and participatory democracy are not absolutes and can co-exist within a single democratic system.

2. Introduction and Background

2.1 The Council at its meeting held on 28 January 2015 considered the following motion from Councillor P M Wallace in respect of increasing public participation at the meetings of Cabinet and Council committees:

“In the interests of transparency and improved decision making, this Council instructs officers to develop proposals for introducing 30 minute Public and Member Question Time sessions in the meetings of Cabinet and Council committees, thereby improving participation in the decision-making processes of this Council.”

2.2 It was resolved by Council that consideration of the matter be deferred until the first ordinary meeting of the Council after the Annual General Meeting in order to give officers time to produce a report on the matter.

The Current Arrangements for Public Participation

2.3 The Council currently has arrangements in place for public participation at the following meetings:

- Full Council – A member of the public may ask a written question on-notice (8 days) of any member of the Cabinet. A maximum of 3 minutes is allowed to read the question, with one additional supplementary question permitted (without notice but must arise from the answer given by the Cabinet member). A total of 15 minutes is allocated for public questions.
- Planning Committee – A member of the public may register to speak in favour or against a planning application to which public speaking applies. Procedural items (apologies, minutes, etc.) are excluded. A maximum of 3 minutes per

speaker (with a limit of 1 speaker for and 1 speaker against) is allowed to speak to the application. There is no provision for a member of the public to ask a question of an officer or councillor as part of their 3 minutes. The deadline for speakers to register is no later than 2 working days prior to the meeting.

- Scrutiny Committees – A member of the public may register to speak for up to 3 minutes in respect of a non-exempt, non-procedural item on the agenda. There is no provision for a member of the public to ask a question of an officer or councillor as part of their 3 minutes. The deadline for speakers to register is no later than 2 working days prior to the meeting.

2.4 In addition, separate from this the Licensing Act 2003 and Gambling Act 2005 permits member and public participation at Licensing Sub-Committee meetings in accordance with the regulations made under each Act.

3. The Current Arrangements for Member Participation

3.1 The rights of Members to participate in meetings where they are not a duly appointed committee member are set out in Council Procedure Rule 24. These apply to Committees and Sub-Committees of the Council only and not apply to meetings of the Cabinet, which are governed by the Executive Procedure Rules.

3.2 Members are not entitled to take part in any proceeding of a Committee or Sub-Committee of the Council unless:

- They are a duly appointed member of the Committee or Sub-Committee.
- They are requested by or permitted to do so by the Committee or Sub-Committee.
- The matter under discussion relates to a parish for which the member is the local district councillor
- They are the proposer or seconder of a motion which has been referred by Council to another committee has the right to attend that meeting to explain the motion.

3.3 It should be noted that under the rights granted to Members under Council Procedure Rule 24, Members are permitted to participate in the discussion with those Members appointed to serve on the Committee. This is not a right granted to the public.

3.4 In respect of the 3 committees referred to for public speaking, the arrangements for Members are as follows:

- Full Council – A Member may fully participate in the meeting subject to the Council Procedure Rules.
- Planning Committee – A Member may fully participate in the meeting as per paragraph 2.5 of this report, save that for in respect of planning applications where the Protocol for Speaking at Planning Committee applies.
- Scrutiny Committees – Council Procedure Rule 24 applies to the participation of Members who are not appointed to the Committee.

3.5 In addition, separate from this the Licensing Act 2003 and Gambling Act 2005 permits member and public participation at Licensing Sub-Committee meetings in accordance with the regulations made under each Act.

Terminology

3.6 In developing alternative models for member and public participation, the following terminology has been used.

- ‘Questions’ – Addressing, in writing or orally, a member or officer for the purpose of gaining specific information in response.
- ‘Speaking’ – Making statements of fact or opinion. It can be either for, against or neutral on a particular matter and it may, or may not, urge a particular course of action to be followed.
- ‘On Notice’ – Notice of intent to speak or ask a question at a meeting provided by a certain date in advance of the meeting.
- ‘Without Notice’ – Participation would be made on a ‘first come, first served’ basis at the meeting with no advance notification of a person’s intent to speak or ask a question at the meeting.

4. **Alternative Models for Member and Public Participation at Committee Meetings**

4.1 This report does not seek to present a finished procedure for member and public participation but rather alternative models that can be developed into proposals that can be presented to full Council. To this end, no specific proposals are identified for individual committees.

4.2 The options are set out in greater detail in the two appendices to this report, one for the public (Appendix A) and one for Members (Appendix B), but in summary are as follows:

- Option 1A: Status Quo – No change to the existing arrangements.
- Option 1B: Minor changes to existing arrangements.
- Option 2A: Questions only on notice to an Agenda Item.
- Option 2B: Questions without notice to an Agenda Item.
- Option 3A: Speaking on notice to an Agenda Item.
- Option 3B: Speaking without notice to an Agenda Item.
- Option 4A: Questions on notice to any matter.
- Option 4B: Questions without notice to any matter.
- Option 5A: Speaking on notice to any matter.
- Option 5B: Speaking without notice to any matter.

3.3 There is no requirement that the same models are adopted for both Members and the public.

5. **Evaluation of Options**

5.1 There is no preferred option set out in this report notwithstanding that there would be concerns about some of the options which are set out in the appendices. Instead Members are asked to consider the following factors in selecting their preferred model:

- **Representative Democracy** – Are Members seeking to strengthen the existing structure of representative democracy or are they seeking to move towards a more structure that is based more on the principles of participatory democracy in decision-making?
- **Outcomes** – These decisions will shape the preferred model(s).
What should the preferred model of public participation deliver?
What should the preferred model of member participation deliver?

What controls, if any, should be in place to manage the process?

Does the Council have the power to deliver the preferred model?

- **Exempt Business** – Should in principle the rights of speaking or questioning apply equally to both public business (in the white pages of the agenda) and exempt business (in the pink pages of the agenda)? The member of the public would have to speak or ask the question prior to the decision to resolve to exclude the press and public and would only have access to the agenda item title not the exempt report.
- **The Role of Members** – Should the same rights of speaking or questioning and the notice requirements for the public apply equally to District Councillors who are not members of the relevant committee? Or is there an assumption, as present in Council Procedure Rule 24 currently, that Members will have greater rights of participation than the public in keeping with the principles of representative democracy in order to provide a voice for their constituents?

Is there an expectation that a question asked by a Member will be answered? For example, is there a prerogative to decline to answer a question? Currently it is implicitly assumed that, even if it is a one word response, Members' questions will be answered.

- **The Role of Officers** – The Council's officer corps would be required to manage the research necessary for providing a briefing to Members on questions / topics.
- **The Role of the Public** – Is it the intention to use Member and Public participation as consultees / sounding boards to the decision-making process or will action be taken in response to Member and Public participation?

Is there an expectation that where a member of the public asks a question it will be answered? For example, is there a prerogative to decline to answer a question?

- **Resources and Administrative Impact** – Is the preferred model able to be delivered efficiently, effectively and at an affordable cost?

A model, or variety of models, with a high level of complexity could become difficult to administer and confusing for the public.

Should the question be linked to the business on the agenda? Questions on matters not on the agenda would have a resourcing implication in preparing additional briefings for Members.

5.2 In addition, there is a requirement that, regardless of the model chosen, the question or the subject of public speaking must be within the remit of the Committee. The Constitution under Part 3 (Responsibility for Functions) sets out in the areas of remits of individual committees.

5.3 It should be noted that some of the regulatory bodies, such as the Licensing Committee or Planning Committee, may have to be exempted from all or part of the preferred model.

6. Resource Implications

5.1 There will be resource requirements and these will be assessed once the preferred model has been selected.

7. Appendices

Appendix A – Models of Public Participation

Appendix B – Models of Member Participation

8. **Background Papers**

Constitution – Issue 19b, in particular the Council Procedure Rules and the Protocols on Public Speaking at Planning Committee and Overview and Scrutiny.

Contact Officer: Rebecca Brough, Team Leader – Democratic Support 01304 872304