



Procedure and rules for Members' Questions

Report Author:	Clive Tobin , Assistant Director for Governance and Democracy (Monitoring Officer) 01664 502541 ctobin@melton.gov.uk
Chief Officer Responsible:	Clive Tobin , Assistant Director for Governance and Democracy (Monitoring Officer) 01664 502541 ctobin@melton.gov.uk
Lead Member/Relevant Portfolio Holder	Councillor Glancy, Portfolio Holder for Governance, Environment & Regulatory Services

Corporate Priority:	Theme 5 – Right conditions to support delivery Theme 6 – Engaging and connected Council
Wards Affected:	All
Date of consultation with Ward Member(s):	N/A
Exempt Information:	N

1 Summary

- 1.1 To approve revisions to the procedure to be followed to allow questions to be asked at meetings of Full Council.

2 Recommendations

That Council:

- 2.1 **Approves the amendments to Rule 13 of the Meetings General Procedure Rules as set out in Appendix A.**

3 Reason for Recommendation

- 3.1 To provide a more effective and time efficient process for allowing Members of the Council to ask questions at meetings of Full Council.

4 Background

- 4.1 Members will be aware that, in common with most local authorities, this Council's Constitution allows members of the Council to ask certain other members questions at ordinary meetings of the Council. That process is set out in Rule 13 of the Meetings General Procedure Rules.
- 4.2 In summary, the rule currently provides:
- a) notice of questions must be given at least 4 working days before the meeting,
 - b) questions must relate to a matter in relation to which the Council has powers or duties or affects the Borough,
 - c) answers may be oral, by reference to a published document, or in writing,
 - d) a supplemental question may be asked following the answer,
 - e) a maximum of 20 minutes is allowed for questions and answers,
 - f) members may ask a maximum of 2 questions each,
 - g) statements may not be made by those asking questions nor is there debate on the subject matter of questions or answers.
- 4.3 Members will also be aware that recently there has been an increase in the number of questions being asked at each Council meeting which, in turn, has increased the time taken for this agenda item. This increase in the time spent on questions creates a risk that a meeting will adjourn immediately after 3 hours in accordance with rule 5.1, meaning that any unfinished business is considered on a future date. In turn, this carries the risk that an important item of business is not considered which may have other consequences.
- 4.4 Several members have asked Officers whether the procedure relating to questions can be amended to be more efficient. Officers have reviewed the law and practice relating to Council meetings and considered the procedures in place at other authorities.
- 4.5 The Constitution Review Working Group has now considered this issue and proposes certain amendments which should make the process more efficient.

5 Main Considerations

5.1 The legal position

- 5.1.1 Unlike certain aspects of the Council's Constitution, there are no statutory provisions which prescribe a procedure to be followed for Members to ask questions. There are however, statutory limitations relating to other aspects of procedure which, by implication, restrict the purpose for which member questions can be used.
- 5.1.2 The Council's current procedure originates from the model constitution which was published soon after the Local Government Act 2000 became law. The model constitution had no legal status but was drafted with input from various experts and representative organisations based on the law at that time. Its purpose was not to set out the law, but to suggest how local authorities could operate effectively within the law as it then stood.
- 5.1.3 Local authorities were free to adopt the model with or without amendments or could choose not to do so. Authorities which adopted the model have since had to amend it to reflect changes in the law and many have also made changes to suit their own structure and requirements (within the law).

5.2 Limitations

- 5.2.1 In common with other local authorities Melton's rules do not allow debate on the content of a question or the reply, since the purpose is not to make decisions but obtain information. If a member wishes to formulate policy on an issue which is the responsibility of the Council, they can give notice of a motion allowing debate on the matter concerned, provided that the matter concerned is a Council function and subject to any legislation which determines how decisions on such issues are made.
- 5.2.2 Where Cabinet has decided a matter which is solely an executive function, Council has no legal power to change that decision meaning that debating it would serve no purpose.
- 5.2.3 Similarly, whilst the process can to some extent be used for the purpose of holding the Council, Cabinet or Committee to account, it does not and can not take the place of the statutory Scrutiny function.
- 5.2.4 The current process does not allow publication of the text of the questions in the summons/agenda for the meeting which is not helpful in assisting transparency and given the requirement that this must be published 5 working days ahead of the meeting concerned.

5.3 Approach of neighbouring authorities

- 5.3.1 Officers have considered the procedure followed by neighbouring authorities. As set out above, there are no specific legal requirements for the process and other authorities are likely to have had their own considerations when drafting their process however, this comparison may be useful for members.

	Melton	Leicestershire	Harborough	Charnwood	Rutland	South Kesteven
Deadline for submission	4 clear working days notice	5 clear days notice	Midday on seventh working day prior to meeting	Midday on eighth working day before meeting	Midday on the third working day before meeting	None - Open question section
Time Limit	20 minutes	No	No overall limit but limit of 5 minutes for questioner and 5 minutes for responder and then 3 minutes for supplementary and 1 minute for response.	No	30 minutes	45 minutes
No of questions that can be asked per Member	2	No limit	No limit but every Members' first questions must be asked first.	No limit	1	1
Questions and answers circulated	No	Yes	No	Yes	No	No

	Melton	Leicestershire	Harborough	Charnwood	Rutland	South Kesteven
prior to meeting						
Supplementary questions	Yes	Yes (so long as Dem Services are notified prior to meeting)	Yes	Yes (so long as Dem Services are notified prior to meeting)	Yes	No
Can ask Committee Chairs questions	No	Yes	Yes	Yes	Yes	No (although can ask Chair or Vice Chair of Scrutiny and Opposition Group Leaders)

Suggested changes to procedure rules

- 5.3.2 Since the last date for questions to be received is currently after publication of the agenda, the detail of any questions is notified to members later, sometimes not until the meeting itself. The law states that an item of business may not be considered at a Council meeting unless it is set out in the agenda which must be published at least five days before that meeting. Any changes should therefore ensure that this rule is not breached.
- 5.3.3 Additionally, allowing questions to be submitted after the agenda is published limits the time available for the member to whom the question is addressed to prepare a response, a process which usually requires officer input. It is therefore suggested that the deadline for receipt of questions is the day before publication of the agenda so that:
- the text of the question can be included in the agenda, and,
 - more time is available to prepare a response.
- 5.3.4 It is suggested that a written answer is prepared and provided to members at or shortly before the meeting so that all members have an opportunity to read this. There may still be some cases in which it is appropriate to direct the questioner to a publication or where it is not possible to obtain the relevant information before the meeting, that a written answer is sent later.
- 5.3.5 It is further suggested that, if a written answer is circulated at or shortly before the meeting, this can be taken as read and the member asking the question may ask a supplemental question if they choose to do so. This will reduce the amount of time required to be spent on questions yet still allow a member who asks one to ask a supplemental question to obtain additional information.
- 5.3.6 Finally, it is suggested that the rules also provide clarification on two points:

- a) where a member addresses a question to a specified member, but the question does not fall within the specified member's remit, it will be referred to the appropriate member; and
- b) if a member has an interest in the subject matter of the question, that question will be referred to an appropriate member to respond.

5.3.7 No other changes are proposed in relation to the process summarised at 4.2 above which will otherwise remain as it is currently.

6 Options Considered

6.1 The Council could leave the rule as it is however, there is significant justification for updating the process to remain effective for the purpose for which it is designed.

7 Consultation

7.1 As indicated above, several members have suggested changes to the process, each of which have been considered in proposing the above changes. The proposed changes were also considered by the Constitution Review Working Group who support the recommended approach.

8 Next Steps – Implementation and Communication

8.1 Any changes would take effect from the meeting immediately following the meeting at which they are approved.

8.2 The published version of the Constitution will be updated to reflect the changes made and the Monitoring Officer will also make any consequential changes which may be required to ensure that the new provisions are not inconsistent with any other reference.

9 Financial Implications

9.1 There are no financial implications arising from this report.

Financial Implications reviewed by: Assistant Director for Resources – Deputy 151

10 Legal and Governance Implications

10.1 The Council's Constitution (Chapter 2, Part 1 - Section 4) sets out the process which allows members to ask questions at ordinary meetings of the Council.

10.2 As indicated above, there are no mandatory legal rules which must be followed to allow questions to be asked at meetings of the Council. This means that the Council has a broad discretion as to whether members may ask questions at meetings and, if so, the process to be followed. Any procedure which is put in place to allow questions to be asked must however, be compliant with the law generally and not contradict or undermine the law applying to other Council processes.

10.3 The proposed changes seek to provide a fair process which gives all members an opportunity to obtain information on business transacted by the Council, its Cabinet or Committees or which otherwise affects the Borough.

Legal Implications reviewed by: Monitoring Officer.

11 Equality and Safeguarding Implications

11.1 An Equality Impact Assessment (EqIA) has not been completed because there are no service, policy or organisational changes being proposed.

12 Data Protection Implications (Mandatory)

12.1 A Data Protection Impact Assessments (DPIA) has not been completed because there are no risks or issues to the rights and freedoms of natural persons.

13 Community Safety Implications

13.1 There are no community implications arising from this report.

14 Environmental and Climate Change Implications

14.1 There are no environmental or climate change implications arising from this report.

14.2 Other Implications (where significant)

14.3 There are no other implications arising from this report.

15 Risk & Mitigation

Risk No	Risk Description	Likelihood	Impact	Risk
1	Failure to meet statutory and constitutional obligations.	Low	Marginal	6

		Impact / Consequences			
		Negligible	Marginal	Critical	Catastrophic
Likelihood	Score/ definition	1	2	3	4
	6 Very High				
	5 High				
	4 Significant				
	3 Low		1		
	2 Very Low				
	1 Almost impossible				

Risk No	Mitigation
1	To consider and adopt the proposal presented in this report which will.

16 Background Papers

16.1 Report to Constitution Review Working Group

17 Appendices

17.1 Appendix A – Draft Amendments to Rule 13 of Chapter 3 Part 1 of Constitution.