

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL
EXECUTIVE MANAGEMENT'S REPORT TO THE
COUNCIL

20 November 2019

1. **Report Title** **Review and Update of the Borough Council of Newcastle-under-Lyme's Council and Committee Procedure Rules**
- Submitted by:** **Interim Head of Legal & Monitoring Officer- Caroline Elwood**
- Portfolio:** **Corporate and Service Improvement / Finance and Resources**
- Ward(s) affected:** **All**

Purpose of the Report

The report summarises proposed changes to the Council and Committee Procedure Rules.

Recommendations

That Council approves the amendments to the Council and Committee Procedure Rules as set out in Appendix A to the report.

Reasons

The Council and Committee Procedure Rules form part of the Council's Constitution (at Appendices 7 & 9) and deal with the rules, legal requirements and processes and procedures which govern full Council and Committees. The review updates the Procedure Rules where legal requirements have changed since the Rules were last reviewed and adds additional clauses and wording where clarification is helpful.

1. **Background**

- 1.1 The Council Procedure Rules and Committee Procedure Rules are currently at Appendix 7 and 9 of the Constitution. Neither has been updated for some time and this report recommends amalgamating the two documents into one and making a number of revisions.

2. **Issues**

- 2.1 The Council should regularly review its Constitution and update the provisions. The proposed amendments to the Procedure Rules take into account new legislative provisions eg the requirement to have a recorded vote on the Budget and the right to record meetings providing there is no disruption to the meeting. The Rules also adds a number of additional clauses to clarify issues and cover areas where the existing Constitution is silent. There is a new section on the Rules of Debate which are currently set out at Annex 2 as a diagram.
- 2.2. Annex 1 and Annex 3 have not been amended.

3. **Proposal**

3.1 A summary of the changes proposed is set out below. The comments of the Constitution & Member Support Working Group are included in the final column.

New Rule	Content	Former Rule & Justification	WG of 3 July Comment
1. Council Meetings	Amends the current wording dealing with the legal requirement to convene meetings & send the summons to members. Deletes the section on Special Meetings which is now dealt with at Rule 4	Formerly Rule 1	Noted
2. Annual Council	Sets out clearly the formal business required to be transacted legally at Annual Council	Formerly Rule 2 New Rule – expands on what is necessary at Annual Council	Requested amendment to clarify Outside Body appointments every 4 years
3. Ordinary Council Meetings	Sets out the order of business at an ordinary Council meeting	New Rule Details added for clarity	Agreed to delete section on consideration of business adjourned from last meeting
4. Special/ Extraordinary Meetings	Sets out in one rule who may call a special/ extraordinary meeting of the Council	Formerly Rule 1	Agreed to clarify “any 5 members” can require C Ex to convene meeting.
5. Quorum	Minor redraft of the minimum number required to be quorate & the process to be followed.	Formerly Rule 4	Noted
6. What the Council can decide	Refers to Part 3 for list of matters Council can decide.	Formerly Rule 5 Original wording retained with minor word change	Noted

7. Order of Business	Provides Business will be dealt with in agenda order unless meeting decides otherwise.	Formerly Rule 6 Original wording retained with minor word change	Noted
8. Urgent Business	Sets out when urgent business may be considered.	Formerly Rule 7 Original wording retained	Noted
9. Chair for the Meeting	States the Mayor will chair the meeting & in his/her absence The Deputy Mayor or another elected member if the deputy is unavailable.	Formerly Rule 2.2 Original wording retained	Noted
10. Confirmation of Minutes	Sets out the requirement to approve minutes. Rewords the section on extraordinary meetings & deletes section which states all cabinet and committee minutes will be reported to Council.	Formerly Rule 8 Wording amended to simplify the section on extraordinary meetings. No longer a requirement to report all minutes to Council as they are now all online	Noted
11. Matters for Decision by Council	Requires matters to be listed on the agenda (apart from limited exceptions) and sets out who may move and second agenda items	Formerly Rule 9 Largely original wording – amended slightly for clarity	Agreed to leave option of moving by an officer as currently drafted - even though may be rare
12. Motions moved without notice	Sets out the circumstances when a motion may be moved without notice. The section on closure motions is moved to Rule 15	Formerly Rule 10	Amended item 12. 1.f to delete reference to “starred minutes” and consequent resolutions
13. Questions at Council Meetings	Largely original wording but members asked to lodge questions 48 hours not 24 hours in advance to facilitate the research of answers and there is an added proposal that	Formerly Rule 11. Largely original wording but members may have views on proposed increased deadline to submit questions	Agreed NOT to amend notice period to 48 hours but to leave at 24 hours. Agreed to circulate

		<p>questions should be circulated on the evening. Leader and Deputy Leader added as named individuals. As before there is no requirement to answer a question – but this now links to the response being confidential within the definition in Access to Information Procedure Rules which would be a narrower reason to refuse to answer.</p>	<p>prior to the meeting & when members may decline to give an answer.</p>	<p>questions on the evening. Agreed to add Leader & Deputy Leader to the list and to keep the definition not to answer within Access to Info Procedure Rules. Agreed delete Member may decline to answer a supplementary question.</p>
14. Notices of Motion	of	<p>Summarises how Notices of Motion can be submitted, extends the current definition of what a NoM must relate to & provides the Mayor may exclude any which are vexatious, abusive or otherwise inappropriate.</p>	<p>Formerly Rule 14 Largely original wording but adds new definition section & power of Mayor to exclude inappropriately worded NoM's. Nb The WG may wish to review these amendments?</p>	<p>Approved definition of a relevant NoM and agreed Mayor acting on advice of CEx could exclude inappropriate NoM's</p>
15. Rules Debate	of	<p>New section which sets out the rules of debate which are currently referred to in annex 2. New flow chart drafted to reflect the rules</p>	<p>Formerly rule 13 & Annex 2 Updated to set out the requirements in more detail in the Rules as well as in annex 2.</p>	<p>Agreed</p>
16. Changing an earlier resolution	an	<p>Sets out when a resolution of Council passed in the last 6 months may be changed</p>	<p>Formerly Rule 14 Original wording retained –only cross references updated</p>	<p>Noted</p>
17. Voting		<p>Sets out how member vote and recorded votes. Now adds legal requirement to have a recorded vote at Budget Meetings.</p>	<p>Formerly Rule 15 Wording amended following legislative changes</p>	<p>Noted Agreed to make clear R17.6 was a legal requirement</p>

18. Duration of Meeting	Provides any meeting which has sat continuously for 3 hours will stand adjourned to a date to be agreed unless the majority of members present resolve to continue.	Formerly Rule 16 Wording largely unchanged	Agreed the Mayor would agree the date of any adjournment
19. Public Access to Meetings	Sets out right of public to attend meetings in accordance with the Access to Information Procedure Rules at Appendix 11	Formerly Rule 17 Original wording retained	Noted
20. Petitions	Refers to the Council's Petition Scheme at Appendix 18	Formerly Rule 18 Original wording retained	Noted
21. Recording & Social Media	Updated provision on recording & filming as new legislation now permits this, unless it is disruptive.	Formerly Rule 19 Wording amended following legislative changes	Noted
22. Disorderly Conduct & Disturbance	Very minor amendments to the section which deals with on disorderly conduct by Members & the public and the right of the Mayor to clear the room and adjourn the meeting.	Formerly Rule 20 Wording largely unchanged.	Noted
23. Records of Attendance	Altered current requirement for members to sign an attendance sheet to state the minutes will record all members present.	Formerly Rule 21 Updated as Attendance sheets are not always used	Noted
24. Personnel Matters	Sets out various HR and staffing matters. Wording unchanged.	Formerly Rule 22 Original wording retained	Agreed word change to refer to approved policies &

			procedures
25. Declarations of Interest	Re- draft of existing provision regarding declaration of interests. Now refers to DPI s etc and quotes from code	Formerly Rule 23 Updated to reflect the requirements of the current Member Code of Conduct	Noted but Agreed to ask Standards Committee to review wording of Member Code of Conduct as currently not v clear
26. Suspension, Variation & Revocation of the Rules of Procedure	Sets out how and when the Council may suspend the procedure rules. Certain rules are required by legislation and may not be suspended (ie minutes of meetings/ recording of votes/ votes at budget meetings & recording & social media)	Formerly R24 Updated to reflect recent legislative changes so that certain rules may not be suspended	Agreed
27. Confidentiality	Sets out the requirements to respect confidentiality of information within reports and cross references to Code of Conduct. Updated to refer to Chief Executive& not Head of Business Improvement	Formerly R25 Updated to reflect current management structure	Noted
28. Rules of Procedure to be given to Members	Amended to provide all members have a link to the Constitution & not a hard copy with regular updates.	Formerly Rule 26 Updated to reflect current practice	Noted
29. Interpretation of the Rules of Procedure	Provides the ruling of the Mayor or Chair of the meeting may not be challenged.	Formerly Rule 27 Original wording retained	Noted
30. Application to the Committee	Applies the rules to committees and sets out	Formerly Appendix 9 Separate Procedure	Agreed to add to one document

Procedure Rules.	rules for substitutes	Rules Committees amalgamated.	for now	
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A copy of the Council Procedure Rules is appended to this report.

4. **Reasons for Proposed Solution**

4.1 To update the current rules to reflect changes in legislative requirements since the last review and to clarify procedural requirements, particularly in relation to the Rules for Debate in full Council.

5. **Options Considered**

5.1 There is an option to do nothing but this would mean continuing to work with Rules which are partially out of date which is unhelpful and, especially where the legal position has changed, this should be reflected in the Rules.

6. **Legal and Statutory Implications**

6.1 All local authorities are required to have a written Constitution which must be kept under regular review and publicised. Any amendments to the Constitution require the approval of full Council.

7. **Equality Impact Assessment**

7.1 Where any equality impact has been identified it has been addressed.

8. **Financial and Resource Implications**

8.1 No significant additional resources will be required in relation to the recommendations.

9. **Major Risks**

9.1 That the Council and Committee Procedure Rules do not reflect up to date legal requirements and /or best practice resulting in challenge to Council decisions and/or reputational damage.

10. **Sustainability and Climate Change Implications**

10.1 Whilst sustainability and climate change implications are considerations in a range of procurement exercises, there are no direct implications for the Council and Committee Procedure Rules

11. **Key Decision Information**

11.1 This is not a key decision which requires inclusion on the Cabinet Notice of Decisions/ Forward Plan.

13. **Earlier Cabinet/Committee Resolutions**

The previous meeting of the Working Group in May requested a review of the Council and Committee Procedure Rules. The section dealing with Rules of Debate was deferred at the meeting on 3 July 2019.

14. **List of Appendices**

14.1 A copy of the Council and Committee Procedure Rules is attached at Appendix A to this report.

15. **Background Papers**

15.1 There are no background papers for consideration/inclusion.