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| Subject: | Review of Protocol for Public Questions | | |
| Date of Meeting: | 17 April 2012 | | |
| Report of: | Monitoring Officer | | |
| Contact Officer: | Name: | Liz Woodley | Tel: 291509 |
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| Ward(s) affected: | All | | |

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 One of the functions of the Standards Committee is to carry out periodic reviews of the Council's constitution. This report addresses the Protocol for Public questions.

2. RECOMMENDATIONS:

- 2.1 That the Committee considers whether any changes to the Protocol for Public Questions are necessary.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 At its meeting in June 2011, the committee agreed that as part of its systematic review of the council's constitutional documents, it should review the Protocol for Public Questions. The existing protocol at Part 9.9 of the constitution deals with questions at Cabinet, Cabinet Member and Committee meetings. At its meeting on 20 March 2012, the Governance Committee recommended for adoption by full council, a new constitution dealing with the return to the committee system. That new constitution includes a protocol for public questions at Committees and Sub-Committees. The revised protocol is attached as Appendix 1.
- 3.2 The Protocol does not apply to questions at full Council. These are regulated by the Council Procedure Rules, although the procedures are substantially the same.
- 3.3 Not all local authorities make provision for public questions. Where they are permitted, the rules relating thereto vary.

3.4 A review of some other local authority public question protocols has identified a number of areas upon which the Committee may wish to comment. As the officer with responsibility for, and experience of, operating the existing protocol, the Head of Democratic Services was invited to comment on those areas. His observations are included in the commentary below.

3.4.1 Should officers be precluded from asking questions?

In some councils, council officers cannot ask questions. If such a restriction were to be introduced, officers would be disenfranchised. In practice, questions from officers at Brighton & Hove are rare.

3.4.2 If a question is being posed on behalf of an organisation, should there be a requirement to disclose the organisation's name?

3.4.3 Should a limit be imposed on the number of questions being asked by an organisation at a meeting?

This is not considered necessary by the Head of Democratic Services.

3.4.4 In relation to a question, the same or similar to one which have been asked within the last 6 months (paragraph 6 (c)), should the protocol provide for a copy of that earlier answer to be provided to the questioner?

Whilst the existing protocol does not provide for this, in practice a copy is provided. The Head of Democratic Services does not consider an express requirement to provide a copy is necessary.

3.4.5 Should questions be excluded where the questioner has a commercial or financial interest in the matter?

3.4.6 Should questions be excluded which refer to current legal proceedings being taken by or against the council?

It is arguable that such questions are already excluded as they are likely to fall within the "disclosure of confidential or exempt information" qualification at paragraph 6 (d). However, the Head of Democratic Services has expressed the view that it would be helpful to expressly state no questions on legal proceedings. It may be helpful also to exclude cases where legal action has been threatened but not commenced. An additional subparagraph at Note 3 (c) in the following terms may be appropriate.

3 (c) matters which are the subject of legal proceedings, or which are the subject of threatened legal proceedings, following service of a pre-action protocol letter

4. COMMUNITY ENGAGEMENT AND CONSULTATION

4.1 The Head of Democratic Services has been consulted. His comments have been incorporated into section 3 above.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 There are no financial implications arising from the report

Finance Officer Consulted: Name Ann Silley Date: 26/03/12

Legal Implications:

5.2 Most changes to the council's constitution require approval by full Council. However, under Article 15 of the council's constitution the Head of Law has delegated powers to amend the Protocol for Public Questions at Committees and Sub-Committees. Therefore any changes considered by the Committee to be necessary or desirable can be made without reference to full Council. The new draft constitution at Article 13 provides a similar power for the Head of Law to amend the protocol.

Lawyer Consulted: Name Liz Woodley Date: 26/03/12

Equalities Implications:

5.3 There are none.

Sustainability Implications:

5.4 There are none.

Crime & Disorder Implications:

5.5 There are none.

Risk and Opportunity Management Implications:

5.6 There are none

Public Health Implications:

5.7 There are none

Corporate / Citywide Implications:

5.8 There are none.

SUPPORTING DOCUMENTATION

Appendices:

Draft Protocol for Public Questions

Documents in Members' Rooms

None

Background Documents

None