

Committee: Constitution Working Group

Agenda Item

Date: 27 September 2016

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Title: "Matters Arising" Agenda Item

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Item for decision

Summary

1. It has been the practice to include on agendas for meetings an item called "Matters Arising: To consider matters arising from the minutes." This report proposes the deletion of this as a standard agenda item for the reasons set out below.

Recommendations

2. Recommend to Council the deletion of the head of business: "deal with any matters arising from those minutes" in paragraph 1.1.4 (page (4)-5) and in paragraph 2.3 (page (4)-7) of the Council Procedure Rules.

Financial Implications

3. None

Background Papers

4. List of Councils in Essex with annotations regarding use of "matters arising".

Impact

- 5.

Communication/Consultation	None.
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	Legal implications are dealt with in the body of the report.
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

6. Agendas for meetings of the full Council and for Committee and Cabinet meetings routinely include as an item of business: “Matters Arising: To consider matters arising from the minutes.” This is provided for in the Constitution for annual and ordinary meetings of the Council. The provision is not applied by the Constitution to meetings of committees or of the Cabinet but is routinely included on the agenda.
7. The “Matters Arising” item can provide a helpful opportunity for members to obtain a progress report but it also carries risks. The authoritative work on Council procedures, *Knowles on Local Authority Meetings*, comments:

“One of the potential problems arising out of confirmation of minutes is the temptation for members to raise issues apart from simply confirming the minutes as a correct record. At its worst this can lead to an attempt to change a decision taken at the previous meeting and any such discussion should be ruled out of order by the chairman. Some authorities are known to provide an item on the agenda “Matters arising from the minutes” to allow, for example, members to be advised of the current position of items discussed at the previous meeting. However, this is not regarded as good practice and, unless the subject to be raised is related to a matter specifically referred to in the agenda, may infringe the statutory restriction that only business specified in the notice can be dealt with [section 110B, Local Government Act, 1072]. The model standing order provides the following:

“Signing the Minutes. The Chairman will sign the minutes of the proceedings at the next suitable meeting. The chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.” “

8. Section 110B referred to in paragraph 7 states:
 - (4) An item of business may not be considered at a meeting of a principal council unless either—
 - (a) a copy of the agenda including the item (or a copy of the item) is open to inspection by members of the public in pursuance of subsection (1) above for at least five clear days before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened; or
 - (b) by reason of special circumstances, which shall be specified in the minutes, the chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

One of the principles behind this is that the agenda should contain sufficient information to allow members of the public (and councillors) to decide whether they should attend. It also allows for publication of reports and access to background papers in advance of the meeting.

9. There are arguments in favour of the “matters arising” item. It can provide, as mentioned, a helpful opportunity for members to obtain a progress report on items in the minutes. On the other hand, it cannot be used to revisit decisions already made and can be a distraction from the main focus of meetings and can prolong them. Any decisions made under “matters arising” are likely to be unlawful and, as “*Knowles on Local Authority Meetings*” points out, may infringe the statutory restriction that only business specified in the agenda can be dealt with. On balance, the officer recommendation is to delete this as an agenda item. If members have concerns about a specific matter, it is better to include it as a free-standing item on the agenda for a meeting.

10. Uttlesford DC is, according to research by officers, the only district council in Essex to include a “matters arising” item on its agendas. The County Council also does not have “matters arising” as an agenda item.

Risk Analysis

11.

Risk	Likelihood	Impact	Mitigating actions
If “matters arising” is included as an agenda item, there is a possibility of legal challenge. (2)	Unlikely in the case of general discussion. More likely if decisions are made under “matters arising”.	Minimal in the case of general discussion. Could be significant if decisions are made under “matters arising”.	The principal mitigating action would be to remove the “matters arising” item from agendas. If members reject the recommendation, then a clear understanding that substantive decisions cannot be made under “matters arising” will reduce the risk.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.