

# Public Document Pack



Date: 27 February 2013  
Ask For: Anona Somasundaram  
Direct Dial: (01843) 577046  
Email: anona.somasundaram@thanet.gov.uk

## CONSTITUTIONAL REVIEW WORKING PARTY

7 MARCH 2013

A meeting of the Constitutional Review Working Party will be held at **10.00 am on Thursday, 7 March 2013** in the Pugin & Rossetti Rooms, First Floor, Council Offices, Cecil Street, Margate.

### Membership:

Independent Members: Mr Hills (Chairman) and Mrs Frampton (Vice-Chairman);

Councillors: Hayton, Nicholson, Watkins and Wright

## SUPPLEMENTARY AGENDA

Item  
No

Subject

6. **TO REVIEW CONSTITUTIONAL PROCEDURE RULES RELATING TO MOTIONS ON NOTICE, QUESTIONS AND CALL-IN** (Pages 1 - 6)

This page is intentionally left blank

---

## TO REVIEW CONSTITUTIONAL PROCEDURE RULES RELATING TO MOTIONS ON NOTICE, QUESTIONS AND CALL-IN

To: **Constitutional Review Working Party – 7 March 2013**

By: **Harvey Patterson, Corporate & Regulatory Services Manager**

Classification: **Unrestricted**

Ward: N/A

---

**Summary:** **To consider whether amendments are required to the Council Procedure Rules relating to motions on notice and questions and to the Overview & Scrutiny Rules relating to call-in.**

### **For Decision**

---

#### **1.0 Current Situation**

##### Questions and Notices of Motion relating to conduct of Members

- 1.1 Recently, there have been occasions where Members have submitted to full Council questions and motions on notice which have related to the ethical conduct of other Members. Although the Monitoring Officer accepted those questions and motions on the basis that the current council procedure rules did not preclude them, he did feel, nevertheless, that it was inappropriate for matters of ethical conduct to be the subject of discussion and debate at Council meetings for the reason that the ethical conduct of members is regulated by the Members Code of Conduct and the procedures adopted by the Council for dealing with complaints alleging a breach of the Code, none of which conceived any role for full Council as a complaints resolution forum.
- 1.2 Therefore the Working Party is recommended to further amend Council Procedure Rule (CPR) 14.5 (Scope of questions) to preclude questions that relate to ethical conduct of Members, and PR 16.4 (Scope of Motions on Notice) to preclude motions on notice that relate to the ethical conduct of Members.

##### Motions on notice, proposed by a member of the ruling party

- 1.3 CPR 16.3 (Putting the motion at the meeting) has been drafted and adopted on the assumption that it is Members of the opposition Political Group who generally submit motions on notice to Council thus, if the motion is seconded, entitling a member of the controlling political group to exercise a right of reply. However, as evidenced recently, members of the ruling Political Group also put forward such motions. It is therefore suggested that Rule 16.3 be amended so that in such circumstances a member of the largest opposition group has a right of reply.

##### Call-In and the Policy Framework

- 1.4 Overview & Scrutiny Procedure Rule 15.0 provides that any decision of Cabinet is subject to Call-In. This leaves open the question of whether a Cabinet decision in relation to the adoption of a policy or procedure that forms part of the Council adopted

Policy Framework can be Called In. It is, however, the view of the Monitoring Officer that the right of Call-In should not apply to Policy Framework documents for two reasons, firstly and most importantly, the policies and plans of the Council that form part of the adopted Policy Framework are in fact approved by full Council, albeit on the recommendation of the Cabinet, and secondly, prior to approval by full Council, the Overview & Scrutiny Panel must be formally consulted.

- 1.5 Consequently, as the Constitution already mandates pre-decision scrutiny of all Policy Framework documents, OSPR 15.0 (a) should be amended to make it clear that the right of Call-In will not apply to Cabinet recommendations made in relation to the approval of a policy or plan forming part of the Council's adopted Policy Framework.

#### Suggested Constitutional Changes

- 1.6 The procedure rules already referred to are set out at Annex 1 with track changes for the Working Party to consider:
  - 1.6.1 Council Procedure Rule 14.5 – Scope of questions;
  - 1.6.2 Council Procedure Rule 16.4 – Scope of motions on notice
  - 1.6.2 Council Procedure Rule 16.3 – Putting the motion at the meeting; and
  - 1.6.3 Overview & Scrutiny Procedure Rule 15.0 (a) – Call-in

## **2.0 Corporate Implications**

### **2.1 Financial and VAT**

- 2.1.1 None

### **2.2 Legal**

- 2.2.1 Any changes to procedural rules will require the Council's constitution to be amended.

### **2.3 Corporate**

- 2.3.1 The Council's constitution sets out the rules governing the Council's business.

### **2.4 Equity and Equalities**

- 2.4.1 None apparent

## **3.0 Recommendation(s)**

- 3.1 That the Constitutional Review Working Party recommends to the Standards Committee approval of the constitutional changes set out at Annex 1.

## **4.0 Decision Making Process**

- 4.1 Any recommendations of the Working Party will be referred to the next meeting of the Standards Committee, whose recommendations will then be presented to full Council for final approval.

Future Meetings	Date:
Standards Committee	7 March 2013
Council	18 April 2013

Contact Officer:	<i>Harvey Patterson, Corporate &amp; Regulatory Services Manager and Monitoring Officer, Ex 7005</i>
Reporting to:	<i>Dr Sue McGonigal, Chief Executive and S. 151 Officer, Ex 7002</i>

### **Annex List**

Annex 1	Suggested amendments to Council Procedure Rules 14.5, 16.4 & 16.3 and Overview and Scrutiny Procedural Rule 15.0 (a)
---------	--

### **Background Papers**

<b>Title</b>	<b>Details of where to access copy</b>
<i>None</i>	

### **Corporate Consultation Undertaken**

Finance	<i>n/a</i>
Legal	<i>n/a</i>

This page is intentionally left blank

### COUNCIL PROCEDURE RULE

#### 14.5 Scope of questions

A question shall not be:

- defamatory, frivolous or offensive;
- substantially the same as a question which has been put at a meeting of the Council in the past six months;
- such as to require the disclosure of confidential or exempt information; ~~or~~
- related to an individual planning or licensing application; or
- related to the ethical conduct of individual Members of Council.

#### 16.4 Scope (of motions on notice)

(a) Motions must:

- (i) be about matters for which the Council has a responsibility or which affect the district.
- (ii) Not relate to the ethical conduct of individual Members of Council.
- (iii) be expressed in such a form that it shall conform with the requirements of the Council Procedure Rules ...

#### 16.3 Putting the Motion at the Meeting

The Member whose name appears first on the Notice will move the motion during his or her speech and call for a seconder. If seconded, a member from the controlling political group or the opposition political group, as appropriate, will be entitled to a reply. ~~The~~ The motion shall then stand referred without further discussion to the Cabinet or appropriate Committee for determination or report unless the Council decides to debate the motion in accordance with Rule 19.

### OVERVIEW AND SCRUTINY PROCEDURE RULE

#### 15.0 Call-In

- (a) Call-in should only be used in exceptional circumstances, for example, where members of the appropriate Overview and Scrutiny Panel have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 13 (Decision Making). It shall not apply to Cabinet recommendations made in relation to the approval of a policy or plan forming part of the Council's adopted Policy Framework.

This page is intentionally left blank