

# Public Document Pack

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## **CONSTITUTIONAL REVIEW WORKING PARTY**

**1 MAY 2014**

A meeting of the Constitutional Review Working Party will be held at **10.00 am on Thursday, 1 May 2014** in the Council Chamber, Cecil Street, Margate, Kent.

### **Membership:**

Independent Members: Dr Jonathan Sexton (Chairman), Mrs Janet Bacon (Vice-Chairman)

Councillors: Hayton, Nicholson, Watkins and Wright

## **A G E N D A**

**Item**  
**No**

**Subject**

1. **APOLOGIES FOR ABSENCE**

2. **DECLARATIONS OF INTERESTS**

To receive any declarations of interests. Members are advised to consider the extract from the Standard Board Code of Conduct for Members, which forms part of the Declaration of Interest Form at the back of this Agenda. If a Member declares an interest, they should complete that Form and hand it to the Officer clerking the meeting.

3. **MINUTES OF PREVIOUS MEETING** (Pages 1 - 4)

To approve the Minutes of the Constitutional Review Working Party meeting held on 13 March 2014, copy attached.

4. **POSSIBLE REVIEW OF COUNCIL PROCEDURE RULES, PARTICULARLY IN RELATION TO OPPORTUNITIES FOR BACKBENCH MEMBERS' PARTICIPATION AT MEETINGS OF FULL COUNCIL** (Pages 5 - 26)

**Declaration of Interest form - back of agenda**

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## CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 13 March 2014 at 10.00 am in Council Chamber, Cecil Street, Margate, Kent.

**Present:** Dr Jonathan Sexton (Chairman) (Independent Member of the Standards Committee); Mrs Janet Bacon (Independent Member of the Standards Committee); and Councillors: Hayton, Nicholson, Watkins & Wright

**In Attendance:** Councillor King

### 22. APOLOGIES FOR ABSENCE

There were no apologies for absence.

### 23. MINUTES OF PREVIOUS MEETING

On the proposal of Councillor Watkins, seconded by Councillor Hayton, it was AGREED that the minutes of the meeting of the Constitutional Review Working Party held on 30 October 2013 be approved and signed by the Chairman.

### 24. DECLARATION OF INTERESTS

There were no declarations of interest.

### 25. SOCIAL MEDIA GUIDANCE FOR COUNCILLORS

It was proposed by Councillor Nicholson, seconded by Councillor Hayton and AGREED TO RECOMMEND to Standards Committee that the Social Media guidance for Councillors, as attached as Annex 1 to the report, be approved.

### 26. CIPFA CODE OF PRACTICE ON TREASURY MANAGEMENT

It was AGREED TO RECOMMEND to Standards Committee:

1. That the clauses as set out in Annex 1 to the report be approved;
2. That the consequential changes to the responsibilities of the Section 151 Officer in relation to Treasury Management, as set out at Annex 2 to the report, be approved.

### 27. RECORDED VOTES AT BUDGET MEETINGS OF THE COUNCIL - TO AMEND COUNCIL PROCEDURE RULE NO. 21

On the proposal of Councillor Nicholson, seconded by Councillor Watkins, it was AGREED TO RECOMMEND to Standards Committee that the recommendation as set out at paragraph 3.1 of the report be adopted, namely:

“THAT Council Procedure Rule 21 be amended as follows:

1. ***New Council Procedure Rule 21.6:***

***“21.6 Recorded votes at Council budget decision meetings***

*A recorded vote will be required at a meeting of the Council on motions, amendments or substantive motions relating to the approval of the budget or setting of council tax, whereby there shall be recorded in the minutes the names of the Members who cast a vote for the motion/ amendment or against the motion/amendment or who abstained from voting. As this is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 2001, it cannot be suspended under Council Procedure Rule 29.1”, and*

## **2. Amended Council Procedure Rule 21.3**

### **“21.3 Show of hands**

*Unless a recorded vote is demanded under Rule 21.4 or required under Rule 21.6, the Chairman will take the vote by show of hands (and a count if requested), or by means of an electronic voting system, or if there is no dissent, by the affirmation of the meeting.”*

### Electronic Voting

The question of whether to re-introduce electronic voting in the Council Chamber was raised by a Member. Some Members expressed the view that electronic voting was not ideal because members of the public would not be able to see how individual Members had voted. Glenn Back, Democratic Services & Scrutiny Manager, advised that the electronic voting component of the recently installed recording system could display how each Member voted.

It was NOTED that this was a matter that could be considered as part of the induction process following the 2015 district elections.

## **28. BUSINESS CONSIDERED AT BUDGET-SETTING MEETINGS - TO REVIEW COUNCIL PROCEDURE RULE 2.0**

On the proposal of Councillor Watkins, seconded by Councillor Hayton, it was AGREED TO RECOMMEND to Standards Committee:

1. THAT Option 1, as set out in the recommendation at paragraph 5.1.1 of the report be adopted, namely:

“Exclude from the budget-setting meeting agendas all items that do not relate to the budget, with the exception of the essential items of apologies for absence, minutes of previous meeting and declarations of interests, subject to a qualification similar to that used by Norfolk council as follows:

- *subject to the Chairman having discretion to accept additional items; but only in exceptional or urgent circumstances.”*

2. THAT the suggested amendment to Council Procedure Rule 2.0 relating to Option 1, as set out at Annex 1 to the report, be approved.

## **29. TO REVIEW APPOINTMENT OF SUBSTITUTES TO ATTEND MEETINGS**

Upon the report being discussed, a Member expressed the view that as the Planning Committee was ‘apolitical’ in nature, it should not matter from which political group a substitute to attend meetings of that committee is selected.

However, it was also suggested that as political balance rules applied to the Planning Committee and the political composition of the pool of substitutes mirrored that of the Committee, it seemed consistent that a substitute appointed to attend a meeting should be from the same political group as the committee member appointing them.

It was proposed by Councillor Nicholson and seconded by Councillor Watkins:

“THAT the Working Party RECOMMENDS to Standards Committee that Council Procedure Rule 5 and Clause 9 of the Protocol for the Guidance of Planning Committee Members and Officers be amended, as indicated at Annexes 1 and 2 to the report, respectively.”

Upon being put to the vote, this motion was declared CARRIED.

**30. REGISTERS OF INTERESTS AND GIFTS AND HOSPITALITY FOR OFFICERS - TO AMEND FINANCIAL PROCEDURE RULES TO REFLECT CURRENT PRACTICE**

It was proposed by Councillor Nicholson, seconded by Councillor Hayton and AGREED TO RECOMMEND to Standards Committee:

“THAT the amendments as set out at Annex 1 to the report be approved.”

The following previous practices were referred to by Members and it was NOTED that these could be subject to further consideration at a future meeting of the Working Party:

1. that of circulating updates of the constitution to Members at full council meetings;
2. that of referring up to full council any planning applications which represented a departure from Thanet Local Plan.

Meeting concluded : 10.55 am

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## REVIEW OF COUNCIL PROCEDURE RULES TO ENHANCE BACKBENCH MEMBERS' PARTICIPATION AT MEETINGS OF FULL COUNCIL

To: **Constitutional Review Working Party – 1 May 2014**

By: **Glenn Back, Democratic Services & Scrutiny Manager**

Classification: **Unrestricted**

Ward: **N/A**

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**Summary:** **To consider a report that was referred to the Constitutional Review Working Party by the Overview & Scrutiny Panel.**

### **For Decision**

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#### **1.0 Introduction and Background**

- 1.1 At its meeting on 11 March 2014, the Overview and Scrutiny Panel considered the report and annexes which are attached (*Annexes 1 to 4*). The Panel agreed to refer the report to the Constitutional Review Working Party for further consideration, but did not suggest that any further information should be obtained or presented to the Working Party.

#### **2.0 The Current Situation**

- 2.1 The Working Party is invited to consider the report to the Panel and to make recommendations on any of the topics covered, as it feels appropriate.

#### **3.0 Corporate Implications**

##### **3.1 Financial and VAT**

- 3.1.1 No specific additional budget need arises directly from this report, although the adoption of several of the options may have indirect resource implications, for example, in terms of the need to support more frequent, or more complex, types of meetings.
- 3.1.2 For example, if additional (or more complex) meetings of Council need to be arranged, that would require additional support from the Democratic Services team, both in terms of preparation for, and attendance at, evening meetings. Overtime is not payable for attendance at evening meetings, but the Council's flexi-time scheme would allow time to be taken off in-lieu during normal working hours. There would therefore be a direct impact on the ability of the team to cover other work. It is possible that if a sufficient number of extra meetings need to be serviced, that the additional work could no longer be accommodated through the flexi-scheme and additional resources might be needed. These implications could be investigated further should the Constitutional Review Working Party wish to pursue specific options outlined in the accompanying report.
- 3.1.3 In a similar way, if Council Procedure Rules permit questions without notice, or a state of the district debate, it may be necessary for there to be more officer support present at Council meetings from outside of Democratic Services. Similar arguments as above would apply in terms of the impact this could have on coverage of other duties within the normal working day.

### 3.2 Legal

- 3.2.1 Any constitutional changes arising from recommendations of the Panel must be considered by the Constitutional review Working Party, then Standards Committee, before being adopted by Council.

### 3.3 Corporate

- 3.3.1 The options outlined in the report would affect the Council's constitution, and in particular, the Council Procedure Rules, but may also affect other elements (e.g. the Overview & Scrutiny Procedure Rules).

### 3.4 Equity and Equalities

- 3.4.1 None directly arising from the report.

## 4.0 Recommendation

- 4.1 That the Working Party considers the report and decides whether to make any recommendations to Standards Committee.

## 5.0 Decision Making Process

- 5.1 Any recommendation of the Constitutional Review Working Party will be referred to the Standards Committee which, in turn, will make recommendations to Council for final adoption.

Future Meeting if applicable:	Date:
Standards Committee	6 June 2014
Council	10 July 2014

Contact Officer:	<i>Glenn Back, Democratic Services &amp; Scrutiny Manager, ext 7187</i>
Reporting to:	<i>Harvey Patterson, Corporate &amp; Regulatory Services Manager and Monitoring Officer, ext 7005</i>

### Annex List

Annex 1	Report to Overview & Scrutiny Panel (OSP)
Annex 2	Comparative CPRs <i>[Annex 1 to OSP report]</i>
Annex 3	Comparative analysis across 12 councils <i>[Annex 2 to OSP report]</i>
Annex 4	Examples of other options <i>[Annex 3 to OSP report]</i>



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### POSSIBLE REVIEW OF COUNCIL PROCEDURE RULES, PARTICULARLY IN RELATION TO OPPORTUNITIES FOR BACKBENCH<sup>1</sup> MEMBERS' PARTICIPATION AT MEETINGS OF FULL COUNCIL

To: **Overview & Scrutiny Panel, 14 January 2014**

Main Portfolio Area: **Business, Corporate and Regulatory Services**

By: **Democratic Services & Scrutiny Manager**

Classification: **Unrestricted**

Ward: **N/A**

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**Summary:** This report is to inform the Panel of the findings of a desktop exercise that has been carried by democratic services officers as a result of observations and concerns expressed by the Panel at its previous meeting

#### **For Decision**

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## **1.0 Introduction and Background**

1.1 Following the decision of the Panel on 8 October 2013 (*Minute No. 364 refers*):

"THAT a more detailed report be brought back to the Panel detailing the options for 'new governance arrangements' at Council meetings that would facilitate a report being presented to the Constitutional Review working Party and then Standards Committee prior to presentation to Council for a final decision"

officers carried out online research to explore the range of opportunities that are available for enhancing backbenchers' participation at full council meetings and to establish how certain characteristics of meetings at Thanet council compared with those of other East Kent councils.

1.2 Members will recall that at the Panel meeting on 8 October, the following suggestions were made:

- 1.2.1 fuller debate of the Leader's Report in which backbench members could take part, with earlier notification to Members of the topics to be covered;
- 1.2.2 review of the number of items (particularly policy framework matters) on the Council agendas;
- 1.2.3 greater scope for backbenchers' questions without notice;
- 1.2.4 swifter actions on urgent matters arising from council meetings.

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<sup>1</sup> Backbench members are, for the purposes of this report, interpreted as being all members apart from cabinet members

- 1.3 The last point above is not covered in this report, as processes have, since 8 October 2013, been put in place by officers to ensure that urgent actions are followed up quickly after council meetings.
- 1.4 The other suggestions by the Panel have been taken into account in the research, the findings of which are summarised below. It is hoped that the information will enable the Panel to discuss options to improve participation in full council debates, and enable it to take a decision as to whether to refer these issues to the Constitutional Review Working Party.
- 2.0 Post 2000 publications on enhancing the role of full council meetings**
- 2.1 Around the time of implementation of the Local Government Act 2000, under which it was mandatory for most councils to adopt new executive governance arrangements, attention was given to the importance of the role of council meetings.
- 2.2 Leading local government academics invited Council to consider the following possible items (with an officer commentary added against some):
- 2.2.2 ***First and second-reading debates*** on important plans and budgets. In the first-reading debate, party discipline could be relaxed with expression of individual views encouraged and voting dispensed with as the only decision would be to refer a proposal to a committee or review group. The second-reading debate would, on the contrary, be more formal with party discipline applied. Whilst such an approach might well increase opportunities to participate in the development of policies, a potential downside is that it would be very likely to increase the time it takes to obtain agreement to them, more or less adding a “committee cycle” in each case.
- 2.2.3 ***Consider reports from the executive*** with, perhaps, each cabinet member introducing a discussion on their role on a periodic basis. On this, it needs to be borne in mind that the Overview and Scrutiny Panel already does something similar, by inviting portfolio holders to address Panel meetings.
- 2.2.4 ***Have a question time*** at each meeting, with the executive having to respond. This would be unlike the current Leader’s report, in the sense that any Member would be able to ask a question, and such questions would probably be without notice (i.e. not limited to something that the leader has already said on report).
- 2.2.4 ***Discuss reports from overview and scrutiny committees and review groups***. Though some Councils allow their scrutiny committee to present general reports to Council without them needing to contain specific recommendations, it must be noted that Thanet’s Overview and Scrutiny Panel already has the right to refer reports to Council which do contain specific recommendations.
- 2.2.5 ***State of the area debates*** to focus on key issues facing the locality. It was suggested this would give expression to the Council’s role in community leadership. Any Member could participate in such debates, which could have wide-ranging remits, most likely not limited to services the Council itself delivers.
- 2.3 It should be noted that to facilitate the above full council would probably require more frequent or longer meetings; standing orders governing discussion would need to be reviewed to allow more flexible approaches; and the role of the chairman would

become more important in guiding business and in protecting the rights of all members, including non-executive members and those in opposition. Clearly, some of these options would require fairly detailed changes to the current Council Procedure Rules and some arguably go against the suggestions made by the Panel on the 8 October, as summarised above in paragraph 1.2.

- 2.4 It was also established during research that a publication of the Office of the Deputy Prime Minister (OPDM) (now known as the Department for Communities and Local Government), suggested other examples of “best practice”, including:
  - 2.4.1 ***Single issue council meetings and ‘council in seminar’ (procedure rules suspended)*** to enable deliberative debates of a policy, problem or proposal; though it must be noted that from time to time Council has adopted this approach (e.g. regarding “China Gateway”, where the council meeting was run as though it were a planning committee and public rights to speak were offered).
  - 2.4.2 ***Extended sessions for councillors to question lead councillors*** (possibly following lead councillors’ report/s on key issues); again, this option could be considered akin to the current Leader’s report, but probably with wider ranging rights to speak than Thanet’s current rules, which limit speaking to group leaders
  - 2.4.3 ***Inviting outside speakers to facilitate or prompt debate***; where this has been done within Thanet, it has usually been kept separate from the main Council meeting, either taking place just before the Council meeting, or during an adjournment. Again, it needs to be borne in mind that the Overview and Scrutiny Panel already has wide-ranging powers to invite “witnesses” to attend meetings and generally adopts more flexible rules of debate than those currently applying to Council meetings.
  - 2.4.4 ***Individual councillors being able to initiate a council debate*** on a particular subject;
  - 2.4.5 ***Opposition days*** (debates take place on a subject chosen by the opposition group/s);
  - 2.4.6 ***Council acting in overview and scrutiny mode*** by taking evidence from external witnesses on policy matters; though as suggested above, the Overview and Scrutiny Panel already has rights to refer matters to Council (and the executive).
  - 2.4.7 ***Non-executive councillors meeting as an ‘assembly’***;
  - 2.4.8 ***Time set aside for ward issues***.
- 2.5 But in considering the above options, it needs to be borne in mind that most again would require additional and/or longer Council meetings if the items were to be added, and in some cases it could be argued that the suggestions may well fit the framework of Overview and Scrutiny meetings as well as that of Council meetings.
- 3.0 **Reviews undertaken by two other Councils to enhance backbench Members’ participation at full council meetings**
- 3.1 Evidence of two studies similar to that currently commissioned by the Panel was found: firstly, that by Epping Forest District Council in 2005/06; and, secondly, that by Croydon Council in 2007.

### **Epping Forest Council's review – 2005/06**

- 3.2 Following consideration of most of the options listed at paras 2.2 and 2.4 above, Epping Forest Council agreed to adopt:
- state of the district” debates;
  - single issue council meetings;
  - receiving reports from the Overview & Scrutiny Chairman, Leader and Portfolio Holders at every council meeting and giving Members the opportunity to ask questions without notice on those reports.
- 3.3 Epping Forest also provides that questions without notice can be put on “any other matter of a non-operational character relating to the powers and duties of the council or affecting the district or its inhabitants”.
- 3.4 As there was no evidence on their website to confirm that either state of the district debates or single issue council meetings were actually taking place, a telephone call to Epping Forest Council's democratic services confirmed that those two options had never been implemented, but that the Council still received written reports from the scrutiny chairman and portfolio holders. Officers were informed that there had not been sufficiently sustained interest by Members to enable some of the options to take place. However, it was the intention of the council to hold a single issue/state of the district meeting in about a year's time for the purpose of considering the council's local plan.
- 3.5 If the panel is interested in the Epping Forest model, more details could be submitted to a meeting of the Constitutional Review Working Party.

### **Croydon Council's review - 2007**

- 3.6 This resulted in the following refinements to council agenda items:
- 3.6.1 Extending a rotating “**Councillors' Ward Open Session**” from 15 to 25 minutes and introducing a requirement that a cabinet member must respond to each ward councillor (the time limit being two minutes per response). Thus each of the five ward councillors have three minutes to speak on a subject matter of which they have given advance notice and the relevant Cabinet member(s) must respond.
- 3.6.2 The ‘**Business Report of the Cabinet and Councillors' Written Questions**’ being renamed, ‘**Business Report & Councillors' Written Questions**’ to include written reports of the Chair of Scrutiny.
- 3.6.3 The number of speakers on “**Urgent Debate Motions (x2)**” being restored to 6 (*from 4*) – with 18 minutes for each motion.
- 3.7 Croydon council still has each of those agenda items, although the urgent debate motions have been renamed, “motions for debate” and the business reports are now taken in two parts: (1) the scrutiny business report (*to update the council on scrutiny activity since the previous council meeting and to advise on any major issues that need to be considered by scrutiny*); (2) business report of the Leader. Both business

reports are subject to written and oral questions (i.e. those without notice) by all members of the council.

- 3.8 Again, if the Panel is interested in such options, further details could be presented to the Constitutional Review Working Party.

**4.0 Current ways in which Thanet council backbench members can participate in full council meetings**

- 4.1 **Questions on notice**, under Council Procedure Rule (CPR) 14
- 4.2 **Supplementary question without notice**, under CPR 14
- 4.3 **Notices of motion** under CPR 16 (up to a maximum of 2 notices per member per meeting)
- 4.4 **Speaking on motions and amendments**, under rules of debate under CPR 19
- 4.5 **Submitting a petition**, under the petitions scheme (Part 5 – Codes and Protocols)
- 4.6 **Voting on recommendations before the council**
- 4.7 **Comments and questions on notice on the Leader's report - other political Group Leaders only**

**5.0 Analysis of full council meetings across East Kent**

- 5.1 The following analyses were undertaken:

**5.2 Opportunities for questions without notice at council meetings in East Kent**

- 5.2.1 Questions without notice (or spontaneous questions) can be used to call the executive to account.
- 5.2.2 The varying degrees to which Members can question executive members or committee chairmen without notice across the five councils in East Kent have been examined, with reference being made to the respective constitutions, minutes and agendas, and the findings are as summarised at Annex 1.
- 5.2.3 It will be noted that Ashford & Canterbury councils only receive minutes of the executive and committees (even when being requested to take the final decisions on matters). However, in Canterbury's case, the recommendations of the executive are set out in the agenda front sheet, together with supporting reasons, and Members are requested to bring along executive reports to the meeting. Thanet, Dover & Shepway, on the other hand, receive officers' reports setting out the recommendations of those bodies.
- 5.2.4 The extent to which questions without notice can be asked at council meetings can be ranked as follows:

(Most scope)

**Ashford** – allows questions without notice on any item being considered at the council meeting (i.e. not limited to the “speech” of a Member during a debate, as in TDC)

↓

**Canterbury** – allows questions without notice on both recommendations and resolutions recorded in the minutes of the executive and committees (*nb, in the research analysis, 6 questions on executive minutes were noted for the period from 1 January 2012 to 31 October 2013 ; and 2 questions on committee minutes*)

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**Shepway** – allows questions without notice on reports of Cabinet and committees

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**Thanet** – allows questions without notice on reports of Cabinet and committees but only if the questions are put during Members' speeches

↓

(Least scope)

**Dover** – has no scope for questions without notice (apart from on the Leader's report)

- 5.2.5 It could be argued that the ability of Thanet backbench members to participate in debates on cabinet and committee recommendations has improved since July 2007, as prior to that time, recommendations were simply listed on the agenda front sheet with their corresponding minute reference numbers and if a member wished to speak on any recommendation, they were required, under CPR 15, to notify the Corporate Programme Manager (would now be Democratic Services Manager) in advance of the meeting. The recommendations for which notice to speak had been received were then treated as “reserved minutes” at the meeting of council, i.e., they were debated, but only after formal adoption of other recommendations by the council. That can be regarded as something of a “legacy model” because it was similar to the way recommendations forward were made via minutes under the old-style committee system. Now that full reports are submitted to council where decisions are required, all recommendations of cabinet and committees are subject to the normal rules of debate.

- 5.3 Democratic Services could, if the Panel is interested, obtain and present to the Constitutional Review Working Party further details regarding asking questions without notice.

## **6.0 How Leader's Reports compare across East Kent**

### **Thanet – background to constitutional rule**

- 6.1 Until the annual meeting in 2009, Thanet applied the “announcements” clause of the modular constitutional council procedure rules relating to items of business for an ordinary meeting of council, as referred to in the first row Annex 1, as the only way to receive announcements by the Leader:

*“receive any announcements from the chairman, leader, members of the cabinet or the head of paid service”*

- 6.2 After May 2009, the practice of receiving a leader's report as a separate agenda item was adopted. At one meeting, a written report by the Leader was received; at another a joint written report by the Leader and the Chief Executive. Otherwise, the reports have been oral.
- 6.3 A review took place at the end of November 2010, culminating in the adoption of a new CPR 2.2, based on the Kent County Council rules, which allowed the Leader of

the Council to give an oral report, each of the other political group Leaders to make comment and ask questions, and the Leader of the Council to have a right of reply.

- 6.4 The new CPR 2.2. has been adapted over time, owing to changed circumstances – primarily the increased in the number of group leaders - but the basic principles on which it is based have not changed.

- 6.5 CPR 2.2 currently reads:

The Leader of the Council may make an oral report, not exceeding ten minutes, on key issues arising since the last meeting of Council.

The Leaders of any other Political Group may comment on the Leader's Report. The comments of the Leaders of the other Political Groups shall be limited each to five minutes. The other Group Leaders will comment in an order determined by the number of Councillors within those Political Groups, with the largest Group commenting first, and so on.

The Leader has a right of reply to each Group Leader limited to two minutes, in hierarchical order, to any comments made on his/her report.

The Leader of the Council and the Leader of any other Political Group may appoint substitutes to speak on their behalf.

No motions may be moved nor resolutions passed under this item.

- 6.6 Clearly, CPR 2.2 restricts participation by backbenchers, as previously any member, as opposed to only political group leaders, could comment and ask questions.

- 6.7 The summary of practices in other councils in East Kent is as follows:

- **Ashford:** announcements under the modular constitutional rule (*as outlined at para 7.1 above*) only
- **Canterbury:** in practice, announcements only
- **Shepway, Dover & Thanet:** share the same principles, i.e. Leader's report is oral; Leader receives comments and questions without notice from other political group leaders; and the Leader has a right of reply.

- 6.8 Clearly, there are changes that could be made to how the Leader's report could work including requiring the report to be written, and potentially opening out the ability to ask questions beyond Group Leaders. However although this could potentially increase the ability of Members to get involved, it could easily become difficult for the Chairman to manage such an open-ended session, and time-limits or other means of "managing" such an agenda item may be needed.

## **7.0 How many full council meetings do the five East Kent councils have?**

- 7.1 One comment made by members of the Overview and Scrutiny Panel was that they felt backbench members did not have sufficient time or opportunity to participate in

debates at Council meetings. It is noted that some of the above options could lengthen the Council meetings. Thus, in order to provide some context, a review of the length of Council meetings in east Kent was undertaken. Data found in relation to the period from 1 January 2012 to 31 October 2013 is set out in table 1.

Table 1

<b>Council</b>	<b>Total number of meetings (excluding annual)</b>	<b>Number of ORDINARY meetings</b>	<b>Number of EXTRAORDINARY meetings</b>	<b>DURATION of ordinary and extraordinary meetings</b>
Thanet	14	10	4	31 hrs 50 mins
Canterbury	12	11	1	23 hrs 11 mins
Dover	15	10	5	25 hrs, 28 mins
Ashford	11	9	2	Info not available from the council's website
Shepway	15	10	5	-do-

7.2 It should be noted that two of Dover's extraordinary meetings took the form of presentations by external organisations, and two of Canterbury's extraordinary meetings which were convened for the purpose of conferral of freedom of the city have been excluded from the analysis.

7.3 It is clear from the data that Thanet already devotes the most time to council meetings.

## **8.0 More detailed analysis of meeting statistics of Dover, Canterbury & Thanet**

### Questions, Motions on Notice and Petitions

8.1 Data relating to the number of questions, motions on notice and petitions received / debated by Thanet, Canterbury & Dover councils during the period from 1 January 2012 to 31 October 2013, is as shown in Table 2.

Table 2

<b>Council</b>	<b>No. of public questions</b>	<b>No. of Members' questions (on notice)</b>	<b>No. of motions on notice submitted</b>	<b>No. of motions on notice debated</b>	<b>No. of petitions</b>	<b>No. of petitions debated</b>
Thanet	21	24	17	12	8	5
Canterbury	4	1	1	1	20	2
Dover	1	70	11	9	0	0

8.2 It will be noted that Dover council receives considerably more questions on notice than the other two councils. However, that may result from the restriction in their constitution that precludes Members' questions without notice (apart from on the Leader's report),



- 8.3 Thanet receives by far the most public questions. However, a large proportion of the 21 questions received were in relation to the Pleasurama Development site. It is expected that the overall number of questions from members of the public may reduce once locally topical or contentious issues have been resolved.
- 8.4 Thanet also receives the highest number of motions on notice and debates the most petitions and motions on notice.

#### Thanet's CPR 16.3 – motions on notice

- 8.5 Possible changes to Thanet's procedural rule 16.3 were presented to the last meeting of Council on 5 December but were rejected. Thanet's rule is different from the rule of other councils in that it makes provision for a member of the controlling political group to have a right of reply prior to the decision on whether or not the motion "stands referred" to cabinet or appropriate committee:

#### *CPR 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 will be entitled to a reply, 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".*

- 8.6 In some Councils, if a motion on notice "stands referred", no Member is permitted to speak to it, not even the proposer.

#### Policy Framework Issues and Reports / recommendations from Cabinet

- 8.7 It is difficult to make meaningful comparisons between the number of policy framework matters that Thanet council debates with that debated by other councils as the non-statutory list of policy framework documents varies from council to council.
- 8.8 However, it was found that in the case of Thanet council:
- 8.8.1 five policy framework issues were considered in the period from 1 January 2012 to 31 October 2013;
- 8.8.2 three policy framework issues were debated at the ordinary meeting on 19 April 2012;
- 8.8.3 one policy framework issue was debated at the ordinary meeting on 28 February 2013; and
- 8.8.4 one (community safety plan) was debated at the extraordinary meeting which followed the annual meeting on 16 May 2013.
- 8.9 It could be argued that the agenda for Thanet council's meeting on 19 April 2012 was too congested in that it had three policy framework items (in addition to two other recommendations from Cabinet).
- 8.10 If, for each of the 3 councils, the cabinet recommendations on policy framework matters are combined with other cabinet recommendations (*excluding those on*

*budget reports, HRA account or treasury reports*), a more like to like comparison, as shown at Table 3, can be made.

Table 3

<b>Council</b>	<b>Number of Cabinet Recommendations</b>
Thanet	17
Canterbury	16
Dover	10

## 9.0 **Comparative length of speeches during debate**

9.1 The times allowed by Members to speak during debates are as illustrated in Table 4:

Table 4

Thanet	Cabinet members and Chairmen of Committees – when presenting items – 5 minutes  Proposer winding up – 5 minutes  All others – 3 minutes
Canterbury	Under Rules of debate – content and length of speeches:  10 minutes for the Leader to present a report to the council or the budget; 10 minutes for the Leader to deliver his/her priorities speech at annual or budget meetings In those cases, leaders of two largest opposition groups – 10 minutes each Leader allowed 10 minutes in total to respond to opposition speeches  Otherwise, 3 minutes
Ashford	All – 5 minutes
Dover	Proposer to wind up 8 minutes Otherwise, 3
Shepway	All – 5 minutes

9.2 These are broadly comparable in terms of time allowed, with the exception of Canterbury, which allows more time for consideration of the budget.

**10.0 Examples of where options to enhance community leadership role and backbench Members' ability to call the executive to account have been adopted by councils across England**

**10.1 State of the District debates – to promote community leadership**

10.1.1 Interestingly, some councils who made provision for state of the district debates in their constitutions have either never initiated them (like Epping Forest – see above) or have phased them out over time (for example, Richmondshire, Adur, Bedford and Welwyn Hatfield councils)

10.1.2 However, in other councils debates still take place, albeit with varying profiles and formats.

10.1.3 Dover council receives a report from Cabinet on the state of the district:

↓

**Stratford-upon-Avon and Huntingdonshire:** Leader's Annual State of the District Report / Address followed by open debate (as part of ordinary meeting agenda). In Stratford's case, the debate takes place at the first meeting after the annual meeting (*matters raised to inform the budgetary process for the following municipal year*); in Huntingdonshire, the annual debate takes place in the Autumn.

↓

**Sunderland and Borough of Poole** - an extraordinary or special meeting of council, held in a different venue.

↓

**Wyre Forest** - State of the District Event, not included in the council meeting calendar, although the public debate takes place in the council chamber.

10.2 If the Panel is interested in such options, further details could be presented to the Constitutional Review Working Party.

**11.0 General comparative analysis - 12 councils across England**

11.1 Online research, involving looking at agendas and council procedure rules, was carried out in relation to 12 councils in England:

Epping Forest, Arun, Ashfield, Breckland, Fenland, Rother, Welwyn Hatfield (*chosen on the basis that those 8 councils had been evidenced to have state of the district debates*);

Medway (*on the basis that it had been found to receive scrutiny reports at each council meeting*);

Aylesbury (*on the basis that it was known to have an open question time at its meetings*);

Bexley (*on the basis that it was known to publish a written Leader's Report in council meeting agendas*)

East Hampshire and Bournemouth – *on a random basis*

11.2 The information sought in relation to opportunities for enhanced member participation and the number of councils in which that information was found are as detailed at

Annex 2, with a fuller description of some examples being given in the last column of the table (where available).

- 11.3 Details of examples of other options to enhance debate, which were discovered on a more random basis, are provided at Annex 3.

## **12.0 Other provisions which can affect the length and nature of debates**

- 12.1 It is worth noting other provisions which can affect the length and nature of debates, for example:

### **12.2 Flexed Discussion**

At any time during a council meeting, CPRs 19.4 (Content and length of speeches) and 19.5 (When a member may speak again) can be waived to enable flexible discussion to take place, without the constraints on how long and how many times a member can speak at a meeting.

### **12.3 Closure motions**

Procedural motions, CPR 19.10 (c) to proceed to the next business; and (e) to adjourn a debate can be moved when debate is under way. CPR 19.11 outlines what procedures the Chairman must take if either closure motions is moved.

As pointed out in “Knowles on Local Authority meetings” – “A Manual of Law and Practice, 6<sup>th</sup> Edition, Deborah Upton with Stephen P Taylor” (page 158), there is nothing to prevent the chairman him/herself applying the closure, *with the consent of the meeting*, if they are of the opinion that the views of the minority have been reasonably heard<sup>2</sup>. This they can do simply calling on the mover of the motion to reply to the debate.

## **13.0 Options**

- 13.1 The Panel may wish to refer options to the Constitutional Review Working Party regarding:

13.1.1 Changing the Council Procedure Rules as set out in the report.

13.1.2 Changing the Council Procedure Rules using alternative ways to those set out in the report.

- 13.2 Alternatively, the Panel may decide not to make any recommendations regarding changing the Council Procedure Rules.

## **14.0 Corporate Implications**

### **14.1 Financial and VAT**

- 14.1.1 None arising directly from this report, although adoption of new options may have cost implications, for example, in terms of more frequent, or additional types of, meetings.

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<sup>2</sup> As per court ruling in Wall –v- Exchange & Northern Assets Corporation 1981.

## 14.2 Legal

- 14.2.1 Any constitutional changes arising from recommendations of the Panel must be considered by the Constitutional review Working Party, then Standards Committee, before being adopted by Council.

## 14.3 Corporate

- 14.3.1 The options outlined in the report would affect the Council's constitution, and in particular, the Council procedure Rules, but may also affect other elements (e.g. the overview & Scrutiny Procedure Rules).

## 14.4 Equity and Equalities

- 14.4.1 None directly arising from the report.

## 15.0 Recommendation(s)

- 15.1 That the Panel considers the options outlined in the report and annexes and decided which, if any options or models should be presented to the Constitutional Review Working Party for further consideration.

## 16.0 Decision Making Process

- 16.1 Any recommendations of the Panel will be referred to the Constitutional Review Working Party, which will make recommendations to the Standards Committee, which, in turn, will make recommendations to Council for final adoption.

<b>Future Meeting if applicable:</b>	<b>Date:</b>
Constitutional Review Working Party	tbc
Standards Committee	tbc
Council	tbc

Contact Officer:	Glenn Back, Democratic Services & Scrutiny Manager, ext 7187
Reporting to:	Harvey Patterson, Corporate & Regulatory Services Manager and Monitoring Officer, ext 7005

### Annex List

Annex 1	Comparison of council procedure rules of East Kent Councils as they relate to the ability of Members to ask questions without notice on executive and committee reports or minutes
Annex 2	Comparative analysis – across 12 councils
Annex 3	Examples of councils who have adopted “other” options to enhance debate – <i>found on a random basis</i>

### Background Papers

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

### Corporate Consultation Undertaken

Finance	<i>Will be undertaken as and when firmer proposals emerge</i>
Legal	<i>Harvey Patterson, Corporate &amp; Regulatory Services Manager</i>

COMPARISON OF COUNCIL PROCEDURE RULES AS THEY RELATE TO THE ABILITY OF MEMBERS TO ASK QUESTIONS WITHOUT NOTICE ON EXECUTIVE AND COMMITTEE REPORTS OR MINUTES

COUNCIL	Council Procedure Rules	WHAT HAPPENS IN PRACTICE
(Modular Constitution)	<p>A) <i>(items of business at ordinary meetings)</i></p> <p><i>“receive reports from the executive and the Councils committees and receive questions and answers on any of these reports”</i></p> <p>B) <i>(Questions by members on reports of the executive or committees)</i></p> <p><i>“A Member of the Council may ask the leader or the chairman of a committee any question without notice upon an item of the report of executive or a committee when that item is being received or under consideration by the Council.”</i></p>	N/A
Thanet District	<p>A) CPR 2.1(vii), which <b>does not make provision for questions and answers</b> ,states:</p> <p><i>“receive reports from the Cabinet Leader, members of the Cabinet and the Council’s Committees etc”</i></p> <p>B) CPR 14.1 <b>restricts questions to Members’ speeches</b>. Wording is:</p> <p><i>“A member of the Council <u>may during his or her speech</u> ask the Leader or Chairman of a committee any question without notice upon an item of the report of the Cabinet or a Committee when that item is being received or under consideration by the Council.”</i></p>	<p>Council receives officers’ reports containing executive and committee recommendations, <u>not</u> minutes:</p> <p>Not customary for questions without notice to be asked by Members during their speeches.</p>
Shepway District	<p>A) Same as modular</p> <p>B) Same as modular, except with addition of the words, “relevant Cabinet Councillor”, as follows-</p> <p><i>“A councillor may ask the leader <u>or relevant Cabinet Councillor</u> or Chairman of a committee any question without notice upon an item of the report of the Cabinet or a committee when that item is being received or under consideration by the Council.”</i></p>	<p>Council receives officers’ reports with executive and committee recommendations to Council, <u>not</u> minutes</p> <p>Members’ questions without notice not evidenced in the minutes of full council meetings.</p>

COUNCIL	Council Procedure Rules	WHAT HAPPENS IN PRACTICE
(Modular Constitution)	<p>A) <i>(items of business at ordinary meetings)</i></p> <p><i>“receive reports from the executive and the Councils committees and receive questions and answers on any of these reports”</i></p> <p>B) <i>(Questions by members on reports of the executive or committees)</i></p> <p><i>“A Member of the Council may ask the leader or the chairman of a committee any question without notice upon an item of the report of executive or a committee when that item is being received or under consideration by the Council.”</i></p>	N/A
Dover District	<p>A) Significantly different from the modular rule in that questions are qualified as being on “written notice”:</p> <p><i>“receive questions (on written notice) from members of the Council to the Leader and members of the Cabinet”</i></p> <p><i>“receive questions (on written notice) from members of the Council to chairmen or vice-chairmen of overview and scrutiny committees and chairmen or vice-chairmen of other committees of the Council.”</i></p> <p>B) There is no corresponding clause on questions on reports without notice.</p>	<p>Receives officers’ reports with recommendations, <u>not</u> minutes.</p> <p>Questions without notice on reports not provided for in the constitution.</p>
Canterbury City	<p>A) Rules refer to recommendations rather than reports:</p> <p><i>“receive <u>recommendations</u> from the Executive, and receive questions and answers on any of these <u>recommendations</u>.”</i></p> <p><i>“receive <u>recommendations</u> from the council’s committees and receive questions and answers on any of these <u>recommendations</u>.”</i></p> <p>B) Same as modular, with the minor exception of “Chairman” being substituted by, “chair”.</p>	<p>Minutes of executive, overview &amp; scrutiny and committees received at full council meetings</p> <p>Recommendations contained within the minutes are for approval, and thus subject to debate.</p> <p>Resolutions on delegated matters recorded in minutes for receiving and noting.</p> <p>Members’ questions without notice on both recommendations and resolutions evidenced in minutes</p>
Ashford Borough	<p>A) Same as modular rule</p> <p>B) Wider scope for questions without notice than provided for within the modular rulez</p> <p><i>“A Member may ask the Leader, Member(s) of the Cabinet (Executive) or the Chairman of any Committee, or Sub-Committee any question on</i></p> <p>(i) Any matter then under consideration by the Council (without written notice) ...”</p>	As for Canterbury above.



## Comparative Analysis – 12 English Councils

Arun, Ashfield, Aylesbury Vale

Bexley, Bournemouth Breckland, East Hampshire, Epping Forest, Fenland, Medway

Information sought	Number of Councils	More detailed description for some of the examples
How many receive written Leader's reports that are included in the agenda for each meeting and are open to questioning by Members?	<b>1</b>	Bexley: <ul style="list-style-type: none"> <li>Other Members given the opportunity to discuss and debate any topic included in the report;</li> <li>Time allowed 30 minutes</li> </ul>
How many receive written reports from the Leader and all portfolio holders at each meeting and allow questions by any Members on the reports?	<b>3</b>	Fenland: 60 minutes for questions without notice  Ashfield: 30 minutes for questions without notice  Epping Forest: 20 minutes ( <i>but Chairman can extend by a further 10 minutes</i> ) for questions without notice on reports or on any other "non-operational matter (see question time below)
How many produce a list of topics for the Leader's report in the agenda and table a fuller version at the meeting?	<b>1</b>	(Medway)
How many receive OSP reports at each meeting?	<b>3</b>	
How many have scope for questions without notice on cabinet / committee reports or minutes?	<b>8</b>	

Information sought	Number of Councils	More detailed description for some of the examples
How many have a general open question-time?	<b>2</b>	<p>Aylesbury Vale – CPR on questions by Members states:</p> <p><i>“A member of the council may ask the leader, relevant cabinet member or chairman of a committee any question without notice:-</i></p> <ul style="list-style-type: none"> <li><i>• Upon an item of the report of the cabinet or a committee when that item is being received or under consideration by the Council; or</i></li> <li><i>• During question time which will last for an hour and may be extended at the discretion of the Chairman . . .”</i></li> </ul> <p>Epping Forest (as above)</p> <ul style="list-style-type: none"> <li>20 minutes for questions on reports by leader and portfolio holders OR any other matter of a non-operational character relating to the powers and duties of the Council or affecting the district or its inhabitants.</li> </ul>
How many receive all cabinet and committee minutes/reports?	<b>5</b>	
What is the length of speeches?		
All 5 minutes	<b>5</b>	
Mover 10, others 5	<b>2</b>	
Mover 5, others 3	<b>3</b>	
Mover 8, others 3	<b>1</b>	

### Examples of councils who have adopted “other” options to enhance debate (found on a random basis)

Option	Examples
Motions for debate  <i>(different from motions on notice, which can “stand referred” without being debated)</i>	Kent County Council: <ul style="list-style-type: none"> <li>Each political group is permitted to place a motion on the agenda for time-limited debate (45 minutes for each motion)</li> </ul> Croydon Council <ul style="list-style-type: none"> <li>Two permitted at each meeting (one from each of the two political groups comprising the council)</li> </ul>
Opposition business	Shepway District: <ul style="list-style-type: none"> <li>One item of business in each ordinary meeting may be raised by an opposition party - with the number of items each group can raise in any municipal year being determined by its relative numerical size</li> </ul>
Questions by the Leader of the opposition to the Leader of Council	Fenland: <ul style="list-style-type: none"> <li>20 minutes permitted for this agenda item</li> </ul>
Single issue meeting	None found with this description. It has been described as a “meeting such as community safety involving appropriate external agencies”.  It is noted that Dover had 2 meetings <i>(during the period from 1 January 2012 to 31 October 2013)</i> for the purpose of receiving presentations from external organisations
Council in Committee	Bournemouth
Time set aside for ward issues	Croydon: <ul style="list-style-type: none"> <li>As described at para 3.6.1 of report</li> </ul>

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## THANET DISTRICT COUNCIL DECLARATION OF INTEREST FORM

### Do I have a personal interest?

You have a **personal interest** in any business of your authority where it relates to or is likely to affect:

- a) An interest you must **register**.
- b) An interest that is not on your register, but where the well-being or financial position or you, members of your family (spouse; partner; parents; in laws; step/children; nieces and nephews), or people with whom you have a close association (friends; colleagues; business associates and social contacts that can be friendly and unfriendly) is likely to be affected by the business of your authority more than it would affect the majority of:
  - Inhabitants of the ward or electoral division affected by the decision (in the case of the authorities with electoral divisions or wards.)
  - Inhabitants of the authority's area (in all other cases)

These two categories of personal interests are explained in this section. If you declare a personal interest you can remain in the meeting, speak and vote on the matter, unless your personal interest is also a prejudicial interest.

### Effect of having a personal interest in a matter

You must declare that you have a personal interest, **and the nature of that interest**, before the matter is discussed or as soon as it becomes apparent to you except in limited circumstances. Even if your interest is on the register of interests, you must declare it in the meetings where matters relating to that interest are discussed, unless an exemption applies.

### When an exemption may be applied

An exemption applies where your interest arises solely from your Membership of, or position of control or management on:

1. Any other body to which you were appointed or nominated by the authority.
2. Any other body exercising functions of a public nature (e.g. another local authority)

### Is my personal interest also a prejudicial interest?

Your personal interest will also be a **prejudicial interest** in a matter if all of the following conditions are met:

- a) The matter does not fall within one of the **exempt categories** of decisions
- b) The matter affects **your financial interests** or relates to a **licensing or regulatory matter**.
- c) A member of public, who knows the relevant facts, would **reasonably think your personal interest is so significant** that it is likely to prejudice your judgement of the public interest.

### What action do I take if I have a prejudicial interest?

- a) If you have a **prejudicial interest** in a matter being discussed at a meeting, you must declare that you have a prejudicial interest as the nature of that interest becomes apparent to you.
- b) You should then leave the room, **unless members of the public are allowed to make representations, give evidence or answer questions about the matter**, by statutory right or otherwise. If that is case, you can also attend the meeting for that purpose.
- c) However, you must immediately leave the room once you have finished or when the meeting decides that you have finished (if that is earlier). You cannot remain in the public gallery to observe the vote on the matter.

- d) In addition you must not seek to **improperly influence** a decision in which you have a prejudicial interest.

**This rule is similar to your general obligation not to use your position as a Member improperly to your or someone else's advantage or disadvantage.**

### **What if I am unsure?**

If you are in any doubt, Members are strongly advised to seek advice from the Monitoring Officer or the Democratic Services Manager well in advance of the meeting.

## **DECLARATION OF PERSONAL AND, PERSONAL AND PREJUDICIAL INTERESTS**

**MEETING** .....

**DATE** ..... **AGENDA ITEM** .....

**IS YOUR INTEREST:**

**PERSONAL** ☐

**PERSONAL AND PREJUDICIAL** ☐

**NATURE OF INTEREST:**

.....  
.....  
.....

**NAME (PRINT):** .....

**SIGNATURE:** .....

Please detach and hand this form to the Committee Clerk when you are asked to declare any interests.