



Date: 15 February 2021
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CONSTITUTIONAL REVIEW WORKING PARTY

23 FEBRUARY 2021

A meeting of the Constitutional Review Working Party will be held at **5.00 pm on Tuesday, 23 February 2021** by Video Conference.

Membership:

Independent Members: Peter Tucker (Chairman); Patricia Causier.

Councillors: Hopkinson, Cllr Rev. S Piper, Tomlinson and Hart.

A G E N D A

Item
No

Subject

1. **APOLOGIES FOR ABSENCE**

2. **DECLARATIONS OF INTEREST** (Pages 3 - 4)

To receive any declarations of interest. Members are advised to consider the advice contained within the Declaration of Interest advice attached to this Agenda. If a Member declares an interest, they should complete the [Declaration of Interest Form](#)

3. **MINUTES OF PREVIOUS MEETING** (Pages 5 - 8)

To approve the Minutes of the Constitutional Review Working Party meeting held on 5 November 2020, copy attached.

4. **FULL COUNCIL QUESTIONS FROM MEMBERS OF THE PUBLIC AND COUNCILLORS** (Pages 9 - 18)

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Do I have a Disclosable Pecuniary Interest and if so what action should I take?

Your Disclosable Pecuniary Interests (DPI) are those interests that are, or should be, listed on your Register of Interest Form.

If you are at a meeting and the subject relating to one of your DPIs is to be discussed, in so far as you are aware of the DPI, you **must** declare the existence **and** explain the nature of the DPI during the declarations of interest agenda item, at the commencement of the item under discussion, or when the interest has become apparent

Once you have declared that you have a DPI (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must**:-

1. Not speak or vote on the matter;
2. Withdraw from the meeting room during the consideration of the matter;
3. Not seek to improperly influence the decision on the matter.

Do I have a significant interest and if so what action should I take?

A significant interest is an interest (other than a DPI or an interest in an Authority Function) which:

1. Affects the financial position of yourself and/or an associated person; or
Relates to the determination of your application for any approval, consent, licence, permission or registration made by, or on your behalf of, you and/or an associated person;
2. And which, in either case, a member of the public with knowledge of the relevant facts would reasonably regard as being so significant that it is likely to prejudice your judgment of the public interest.

An associated person is defined as:

- A family member or any other person with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- Any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- Any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000;
- Any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- any body in respect of which you are in a position of general control or management and which:
 - exercises functions of a public nature; or
 - is directed to charitable purposes; or
 - has as its principal purpose or one of its principal purposes the influence of public opinion or policy (including any political party or trade union)

An Authority Function is defined as: -

- Housing - where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease; or
- Any allowance, payment or indemnity given to members of the Council;
- Any ceremonial honour given to members of the Council
- Setting the Council Tax or a precept under the Local Government Finance Act 1992



If you are at a meeting and you think that you have a significant interest then you **must** declare the existence **and** nature of the significant interest at the commencement of the matter, or when the interest has become apparent, or the declarations of interest agenda item.

Once you have declared that you have a significant interest (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must:-**

1. Not speak or vote (unless the public have speaking rights, or you are present to make representations, answer questions or to give evidence relating to the business being discussed in which case you can speak only)
2. Withdraw from the meeting during consideration of the matter or immediately after speaking.
3. Not seek to improperly influence the decision.

Gifts, Benefits and Hospitality

Councillors must declare at meetings any gift, benefit or hospitality with an estimated value (or cumulative value if a series of gifts etc.) of £25 or more. You **must**, at the commencement of the meeting or when the interest becomes apparent, disclose the existence and nature of the gift, benefit or hospitality, the identity of the donor and how the business under consideration relates to that person or body. However you can stay in the meeting unless it constitutes a significant interest, in which case it should be declared as outlined above.

What if I am unsure?

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

If you need to declare an interest then please complete the declaration of [interest form](#).

CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 5 November 2020 at 5.00 pm by Video Conference.

Present: Mr Tucker (Independent Chairman), Mr Wellbrook (Independent Member), Councillors Hopkinson, Revd Piper, Tomlinson and Hart.

In Attendance: Cllrs Bailey, Garner and Whitehead.

122. APOLOGIES FOR ABSENCE

There were no apologies for absence.

123. DECLARATIONS OF INTEREST

There were no declarations of interest.

124. MINUTES OF PREVIOUS MEETING

At this point Mr Wellbrook acted as chairman due to Mr Tucker experiencing technical difficulties.

Concerns were raised that the minutes did not accurately reflect the meeting that took place in November 2019. Notably the issue of filtering complaints against statutory officers and the associated recommendation.

Cllr Revd. Piper was keen to make it clear for the public that the point in question had been raised at the Constitutional Review Working Party initially, before going to Council.

Cllr Piper proposed, in agreement with Mr Howes (Director of Corporate Governance and Monitoring Officer), that the minutes should more accurately reflect the views of this committee, regarding the filtering process in connection with statutory officers.

Cllr Tomlinson seconded the proposal.

With this amendment, the minutes of the previous meeting held on 21 November 2019 were agreed.

125. REVIEW OF PETITION SCHEME

Cllr Garner and Cllr Whitehead spoke under rule 20.1 on this item.

Nicholas Hughes, Committee Services Manager, outlined the proposed changes to the Council's petition scheme:

- To accept e-petitions from Change.org and 38Degrees.
- To completely remove the Council's e-petition facility.
- Retain ability to submit paper petitions.
- If under 50 signatories, to treat as correspondence.
- 50-1500 signatories, to deal with it as a petition by an officer in consultation with the Cabinet Member, then reported for information to Cabinet or Council, depending on subject matter.
- Council would debate petitions with over 1500 signatories.
- Members of the public can only speak to petitions to the Full Council with over 1500 signatories.
- The main rejection categories were mainly unchanged.

- The appeals process was unchanged.
- The scheme retained the ability to simultaneously do e-petition and paper petitions, but reported as separate numbers.

At this point Mr Tucker resumed position as Chairman.

The key issues raised during discussion were:

- Members were happy with accepting petitions from 38Degrees and Change.org instead of using the council petitions site in future.
- The importance of keeping petitions accessible to those without internet access by combining paper and electronic petitions, and the associated possibility of repeat signatures. It was felt that the necessity for inclusivity outweighed the accuracy of numbers.
- The view that decision making appeared to be controlled by Senior Officers rather than Members. This was discussed at length, covering the outcomes for each size of petition and it was felt that smaller petitions also needed assurance of the inclusion of a councillor.
- The reasoning for increasing the threshold of signatories for petitions to be debated at council. It was explained that this was in order to speed up the process, so that actions could be taken in a timely manner. Members were keen to ensure the public received a message of willingness from the council and felt that as there were not many petitions of that size it would be reasonable to keep the number at 1000.

It was proposed, seconded and agreed that the Committee would recommend to the Standards Committee the proposals for petitions set out in the in the report subject to the following changes:

1. That the number of signatories required to debate at council should be reduced from the proposed 1500 to 1000.
2. That the number of signatories signing paper and e-petition should be added together when calculating the threshold reached, rather than them being reported separately.
3. That the appropriate Cabinet member is copied into the response to the petitioner when a petition doesn't reach the minimum threshold (under 50 signatories) and is treated as correspondence.

126. REVIEW OF QUESTIONS WORD LIMIT

Cllr Whitehead and Cllr Bailey spoke under rule 20.1 on this item.

Nicholas Hughes, Committee Services Manager, presented the report.

It was proposed, seconded and agreed that the Committee would recommend to the Standards Committee the following:

To increase the word limit for Full Council questions from Members of the Public and Councillors from 50 words to 150 words.

127. USE OF NON-GENDER SPECIFIC PRONOUNS IN THE CONSTITUTION

Tim Howes, Corporate Director of Governance and Monitoring Officer presented the report.

The CRWP considered the request to use non-gender specific pronouns and a subsequent change to the constitution.

A member raised the point that the report was referring to removing non gender specific titles, rather than pronouns.

It was proposed, seconded and agreed:

1. That the Committee would recommend the report to the Standards Committee
2. To change the title of this report to 'Removing from the constitution gender-specific titles.'

Meeting concluded : 6.50 pm

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FULL COUNCIL QUESTIONS FROM MEMBERS OF THE PUBLIC AND COUNCILLORS WITH SUPPLEMENTARIES

CRWP

Report Author	Nicholas Hughes, Committee Services Manager
Portfolio Holder	Deputy Leader and Cabinet Member for Housing and Community Services
Status	For Recommendation
Classification:	Unrestricted

Executive Summary:

The original report regarding amending the rules on questions from members of the public and Councillors was considered by Full Council at its meeting on 10 December 2020. The report was returned to the CRWP as Members felt that they would like the issue of Members of the Public being allowed to ask supplementary questions considered as well as the possibility of an appeal process against rejected questions. There were no issues with the principle of increasing the word limit from 50 to 150. The report sets out how other Councils in Kent allow supplementary questions for the public and the pros and cons of changing our current rules regarding public questions.

Recommendation(s):

The panel is to consider the issue and is asked to make recommendations regarding supplementary questions for members of the public to the Standards Committee.

Corporate Implications

Financial and Value for Money

There are no financial implications to the report.

Legal

The rules surrounding asking questions at Full Council meetings are contained in the Council's constitution. Any substantial changes to the constitution should be brought to the Constitutional Review Working Party and the Standards Committee prior to be agreed upon at a meeting of the Full Council.

Corporate

Asking questions to the Council's Executive is a fundamental part of the Council's democratic process and an important way for individual Councillors and members of the public to hold the Executive to account.

Equality Act 2010 & Public Sector Equality Duty

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

This report relates to the following aim of the equality duty: -

- To eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act.
- To advance equality of opportunity between people who share a protected characteristic and people who do not share it
- To foster good relations between people who share a protected characteristic and people who do not share it.

CORPORATE PRIORITIES

This report relates to the following corporate priorities: -

- Communities

1.0 Introduction and Background

1.1 When the original report regarding amending the rules on questions from members of the public and Councillors was considered by Full Council at its meeting on 10 December 2020, the report was returned to the CRWP as members felt that they would like the issue of Members of the Public being allowed to ask supplementary questions considered as well as the possibility of an appeal process against rejected questions. Democratic Services have undertaken further desktop research in this area, the results of which are summarised in this report.

2.0 The Current Situation

2.1 This report will predominantly focus on the two issues raised at the last Council meeting regarding supplementary questions and the right of appeal against a rejected question. The original report supporting the revised word limit for questions is included at annex 1 of the report.

2.2 The Council does not currently allow for members of the public to ask supplementary questions, only Councillors can do so. In addition the Council does not allow any right

of appeal against the rejection of a question for either Councillors or members of the public.

3.0 Supplementary Questions for Members of the Public

- 3.1 Democratic Services have reviewed the processes of all of the Councils in Kent. Of the twelve Councils in Kent (inclusive of Thanet DC) five Councils allow members of the public to ask supplementary questions and seven do not.
- 3.2 Of those five Councils, it was unanimously the case that any supplementary question allowed had to relate directly to the original question asked. The Chair of the Council had the ability to reject or disallow any supplementary question that did not adhere to that Council's question rules or in their opinion did not sufficiently relate to the original question put. The Chair decision in this regard was final.
- 3.3 If the CRWP were inclined to allow members of the public to ask supplementary then thought must be put into how much time is allowed to ask and respond to a supplementary question. Currently Councillors are allowed one minute to ask a supplementary question and the respondent has two minutes to respond. It would seem reasonable to replicate this for members of the public. There would also need to be careful monitoring from the Chairman to ensure that any supplementary questions from members of the public were not simply statements that displayed dissatisfaction with the answer to the original question. In practice, other councils are quite strict about refusing supplementary questions which are, in fact, statements.
- 3.4 With the addition of supplementary questions, the CRWP must be mindful that this will increase the time it takes for each individual questioner to complete their turn. Whilst the addition of a total of three minutes to each question may not sound a great deal, members should bear in mind that the word limit for questions was recommended to be increased to 150, extending the length of questions, and that only 30 minutes is allowed in total. Allowing supplementary questions may therefore contribute to reducing the total number of members of the public who can ask questions.

4.0 Right of appeal against rejected questions

- 4.1 Democratic Services have reviewed the processes of all of the Councils in Kent. Of the twelve Councils in Kent (inclusive of Thanet DC) none allows any form of appeal against the rejection of a question for either a Councillor or a member of the public.
- 4.2 In addition to the fact that no other Council allows a right of appeal, there would be a significant administrative burden in providing an appeals process; points to consider include:
 - Most questions are received on the last day allowed, any appeal process would then have to happen in the five working days between the question deadline and the date of the meeting.
 - When would the appeal deadline be, taking into account the above?
 - There is already a short period of time for Cabinet Members and officers to draft answers to questions received, if there were an appeals process which

would effectively allow “late” questions, this would result in even less time for answers to be drafted.

- Who would consider an appeal? Questions are already considered and approved against the relevant criteria by the Chief Executive.
- What is the basis for an appeal?

4.3 It is in fact unusual for a question to be rejected and it is often the case that Democratic Services will assist people in amending their questions. However our ability to do this for all questioners is hampered by questioners leaving submissions to just before the deadline.

4.4 Since 1 January 2020, the Council has received 34 questions from members of the public and Councillors, 27 were accepted. Of the seven rejected, three concerned ongoing planning applications, three were deemed to be vexatious and one was considered substantially similar to a question received in the previous six months. Given that there is little objectivity in the rejection of questions related to ongoing planning applications, it leaves just four questions out of 34 that could potentially have been “appealable”. This amount doesn’t suggest that there is a substantial problem with an excess of questions being rejected that would require some sort of appeals process.

4.5 Given the above, Democratic Services do not feel that an appeals process would be an appropriate change to the current questions system.

5.0 Options

5.1 The CRWP makes recommendations to the Standards Committee on any element of the report.

Contact Officer: Nicholas Hughes, Committee Services Manager
Reporting to: Estelle Culligan, Director of Legal and Governance

Annex List

Annex 1: Original Report to Council re: extending the question word limit.

Background Papers

None

Corporate Consultation

Finance: Matthew Sanham, Financial Services Manager

Legal: Estelle Culligan, Director of law and Democracy and Deputy Monitoring Officer

FULL COUNCIL QUESTIONS FROM MEMBERS OF THE PUBLIC AND COUNCILLORS

Meeting	Council 10 December 2020
Previously Considered by	Constitutional Review Working Party - 5 November 2020 Standards Committee - 19 November 2020
Report Author	Nicholas Hughes, Committee Services Manager
Portfolio Holder	Deputy Leader and Cabinet Member for Housing and Community Services
Status	For Recommendation
Classification:	Unrestricted

Executive Summary:

The Leader and Deputy Leader of the Council asked Democratic Services to review the 50 word limit for Council questions submitted by both members of the public and Councillors with a view to increasing it. Democratic Services have undertaken that review comparing the TDC scheme with others in Kent. As a result Democratic Services are proposing an increase to the word limit for both questions from both members of the public and Councillors to 150 words.

Recommendation(s):

To consider the the following recommendation from the Standards Committee:

“The Standards Committee recommends to the Full Council to increase the word limit for Full Council questions from Members of the Public and Councillors from 50 words to 150 words.”

Corporate Implications

Financial and Value for Money

There are no financial implications to the report.

Legal

The rules surrounding asking questions at Full Council meetings are contained in the Council’s constitution. Any substantial changes to the constitution should be brought to the Constitutional Review Working Party and the Standards Committee prior to be agreed upon at a meeting of the Full Council.

Corporate

Asking questions to the Council's Executive is a fundamental part of the Council's democratic process and a major way of Councillors and members of the public holding them to account.

Equality Act 2010 & Public Sector Equality Duty

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

This report relates to the following aim of the equality duty: -

- To eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act.
- To advance equality of opportunity between people who share a protected characteristic and people who do not share it
- To foster good relations between people who share a protected characteristic and people who do not share it.

CORPORATE PRIORITIES

This report relates to the following corporate priorities: -

- Communities

1.0 Introduction and Background

1.1 The Deputy Leader and the Leader of the Council approached Democratic Services to ask for a review of the word limit for questions at Full Council submitted by members of the public and Councillors.

2.0 The Current Situation

2.1 The current word limit for questions to Full Council from members of the public and Councillors is currently 50 words. Democratic Services compared our questions scheme with other Council's across Kent. This research indicated that a 50 word limit was significantly less than the vast majority of other Council's in Kent.

2.2 Democratic Services carried out a small experiment regarding the word limits. A 50 word question takes approximately 20 seconds to present, a 150 word question takes approximately 60 seconds to present. This extension of the word limit will allow for

more background and for fuller and rounder questions, without the temptation to enter into political speeches, which is not the point of the question facility.

- 2.3 As such Democratic Services feel that an increase from 50 words to 150 words per question is the most appropriate increase, allowing for fuller questions, but still allowing for a significant number of questions within the respective 30 minute time limits.
- 2.4 An amended copy of the relevant section of the constitution is attached to this report at Annex 1.

3.0 Consideration by the Constitutional Review Working Party and the Standards Committee

- 3.1 When this report was considered by the Constitutional review Working party at its meeting on the 5 November, supported the report and the working party made the following recommendation:

“The Constitutional Review Working Party recommends to the Standards Committee to increase the word limit for Full Council questions from Members of the Public and Councillors from 50 words to 150 words.”

- 3.2 When the report was considered by the Standards Committee at its meeting of the 19 November, the Committee supported the report and made the following recommendation to the Full Council.

“The Standards Committee recommends to the Full Council to increase the word limit for Full Council questions from Members of the Public and Councillors from 50 words to 150 words.”

4.0 Options

- 4.1 Full Council can agree the recommendation from the Standards Committee, choose to keep the word limit the same as it currently is or choose to make different amendments to this section of the constitution.

Contact Officer: Nicholas Hughes, Committee Services Manager
Reporting to: Estelle Culligan, Director of Legal and Governance

Annex List

Annex 1: Amended extract of the Constitution.

Background Papers

None

Corporate Consultation

Agenda Item 4

Annex 1

Finance: Matthew Sanham, Financial Services Manager

Legal: Tim Howes, Director of Corporate Governance and Monitoring Officer

13.0 Questions by the Public and Press

13.1 General

Members of the public may ask questions of members of the Cabinet at ordinary meetings of the Council. The total time devoted to questions shall not exceed 30 minutes.

13.2 Order of questions

Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.

13.3 Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Appropriate Person at least five full working days before the day of the meeting. Each question must give the name and address of the questioner and must name the member of the Council to whom it is to be put.

13.4 Number of questions

At any one meeting no person may submit more than one question, limited to 150 words.

13.5 Scope of questions

The Chief Executive will reject a question if it:

- is not about a matter for which the local authority has a responsibility or which affects the district;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put by either a member of the public or a Councillor at a meeting of the Council in the past six months;
- requires the disclosure of confidential or exempt information;
- If the questioner is not normally a resident of Thanet; or
- If a question relates to an individual planning or licensing application.

13.6 Asking the question at the meeting

The Chairman will invite the questioner to put the question to the member named in the notice. If the questioner is not present the question shall not be put and shall be answered in writing.

13.7 Absence of Member Named and Written answers

Any question which cannot be dealt with during public question time because of lack of time will be dealt with by a written answer. If the member to whom the question is directed is not present, the question will be answered by the Leader or another Member nominated by the Leader for the purpose unless it is inappropriate for the Leader to give an oral answer or to nominate another Member to give an oral answer, in which case the question will be dealt with by a written answer.

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