



Date: **1 November 2023**
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CONSTITUTIONAL REVIEW WORKING PARTY

9 NOVEMBER 2023

A meeting of the Constitutional Review Working Party will be held at **7.00 pm on Thursday, 9 November 2023** in the Council Chamber, Cecil Street, Margate, Kent.

Membership:

Independent Members: Peter Tucker (Chair);

Councillors: Austin, Britcher, Everitt, W Scobie and Scott

A G E N D A

Item
No

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 - 6)
To approve the Minutes of the Constitutional Review Working Party meeting held on 28 February 2023, copy attached.
4. **KEY DECISION DEFINITION** (Pages 7 - 12)
5. **REVIEW OF THE COUNCIL'S POLICY FRAMEWORK** (Pages 13 - 18)
6. **AMENDMENTS COUNCIL PROCEDURE RULES REGARDING FREQUENCY OF QUESTIONS** (Pages 19 - 22)

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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 28 February 2023 at 7.00 pm in Council Chamber, Cecil Street, Margate, Kent.

Present: Mr Peter Tucker (Chair) Mr Peter Lorenzo (Independent Member of the Standards Committee); Councillors Ashbee, Austin, Kup and Currie

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES OF PREVIOUS MEETING

The Chair proposed, Councillor Austin seconded and the Working Party agreed that the minutes of the meeting held on 01 September 2022 were a correct record.

4. START TIMES OF EVENING COUNCIL MEETINGS

Sameera Khan, Interim Head of Legal and Monitoring Officer, introduced the item to get the opinions of the councillors regarding the start times of evening Council meetings.

Members were asked to consider amending the start time of the evening Council meetings from the current start time of 19:00, to either 18:00 or 18:30. The Corporate Management Team had asked Democratic Services to contact the group leaders on this subject. There were no objections in discussing the amendment of start times to evening Council meetings.

During the discussion of the item it was noted that:

- The start time of 18:00 could be considered to be advantageous to officers and councillor's alike, finishing meetings and the working day at a more reasonable time.
- This was countered by other members stating that there was a need to attract more people of working age to run as councillors, the 18:00 would thus be more difficult to attend due to standard working hours.
- With the rise of flexible working schemes, many councillors would be able to attend earlier meeting times.
- Starting the evening meetings earlier would entail considerable savings on lighting and heating during the winter months.

It was proposed by Councillor Austin, seconded by Peter Lorenzo and agreed that the recommendation in the report be approved, namely:

'To keep the start times of evening at 7:00PM.'

5. AOB

Kent County Council's (KCC) attendance at the Joint Transportation Board Meeting's was discussed. KCC had stated that they would not be attending in-person to these

meetings, but would provide equipment in order for KCC officers to join in a hybrid manner. Members discussed this item, and it was noted as integral to the board that KCC officers were able to present items, and attend in order for board to make decisions. It was agreed by the Chair and Members that Councillor Ashbee, the Leader of the Council, would discuss this further with KCC.

Meeting concluded : 7.37 pm

KEY DECISION DEFINITION

Constitutional Review Working Party 9 November 2023

Report Author	Committee Service Manager
Portfolio Holder	Councillor Yates, Portfolio Holder for Corporate Services
Status	For Recommendation
Classification:	Unrestricted

Executive Summary:

As part of the review by the Independent Monitoring Officer, it was recommended:

“To review the scheme of delegation to ensure that it is clear and easy to understand and also includes appropriate conditions requiring engagement of Cllrs in strategic and high-risk decisions.”

This report looks at the current definition of a key decision and suggests some amendments to it in order to meet the recommendation set out above. The report asks the Constitutional Review Working Party to look at the changes and recommend them (with any further amendments they might wish to make) to the Standards Committee.

Recommendation(s):

Members are asked to make a recommendation to the Standards Committee regarding the Council’s key decision definition.

Corporate Implications

Financial and Value for Money

The key decision threshold gives clarity to the Council about the decision making process for spending significant amounts of money. Regular review of the thresholds keeps the definition relevant and minimises risk to the Council from incorrect decision making. Changes to these limits have no impact on the robustness of controls as these are picked up elsewhere under Contract standing orders and Financial Procedure Rules.

Legal

The Statutory Definition of Key Decision is as set out in Regulation 8 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 made pursuant to the Local Government Act 2000, which as follows:

“A “key decision” means an executive decision, which is likely— (a) to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority’s budget for the service or function to which the

decision relates; or (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.

In determining the meaning of “significant” for the purposes of paragraph (1) the local authority must have regard to any guidance for the time being issued by the Secretary of State in accordance with section 9Q of the 2000 Act.. Whilst there is currently no guidance under S9Q in this regard, guidance issued under S38 of the 2000 Act makes clear that the local authority should agree as a full council limits above which items are significant and publish these limits. A local authority is able to set different thresholds for different services or functions, bearing in mind the overall budget for those services and functions and the likely impact on communities of each service or function. The Council is able to review and amend these limits if considered appropriate and following consideration by full Council.

Risk Management

See the Financial and Value for Money section of the report.

Corporate

It is important for the Council to regularly review elements of its constitution to ensure that it remains up to date.

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 As part of the review by the Independent Monitoring Officer, it was recommended:

“To review the scheme of delegation to ensure that it is clear and easy to understand and also includes appropriate conditions requiring engagement of Cllrs in strategic and high-risk decisions.”

1.2 The Council has recently published revised Officer delegations as another strand of addressing this recommendation via the General Purposes Committee. This report allows the Council to review its key decision thresholds, thereby defining the decisions the Council considers to be so significant, strategic or high-risk that only the Cabinet may take them.

1.3 This report along with the officer delegations report referenced above and the Policy Framework report elsewhere on this agenda together will complete the work needed to satisfy the recommendation of the Independent Monitoring Officer.

1.4 The report shows the current definition and outlines the suggested changes and comments from both the Council’s management team and the Cabinet.

2.0 The Current Situation

2.1 The current definition of a key decision in the Council’s constitution (Part 2 para. 13.03) is:

Key decisions. A “key decision” which must be included in the Forward Plan, is an executive decision: ~~which is likely:~~

- 1) Which is likely to involve the incurring of expenditure, or the making of savings, by the Council, which are anticipated to be £250,000 or above. The exception to this rule being where approval has previously been received to incur that expenditure by the Executive, notwithstanding criterion 3; or
- 2) Where the Council is entering into a contractual obligation with a value of £750,000 or above; or
- 3) For the acquisition or disposal of land or property with a value of £750,000 or above; or
- 4) Where the effect would be on communities living or working in the district, in an area comprising two or more wards. However, decisions that impact on communities living or working in one ward will be treated as “key” if the impact is likely to be very significant.

2.2 Democratic Services undertook a desktop research exercise to discern if there was a common financial definition for key decisions amongst other Kent Councils. Our research found that the limits were as follows.

- One set at £50,000

- One set at £200,000
- Four set at £250,000
- One set at £300,000
- Four have the words significant rather than a figure.

2.3 CMT took these amounts into consideration and proposed the following amendments to the key decision threshold:

Key decisions. A “key decision” which must be included in the Forward Plan, is an executive decision: ~~which is likely:~~

- 1) Which is likely to involve the incurring of expenditure, or the making of **one-off** savings, by the Council, which are anticipated to be £250,000 or ~~above~~ **more***. The exceptions to this rule being: ~~where approval has previously been received to incur that expenditure by the Executive, notwithstanding criterion 3; or~~
 - a) **Where approval has previously been received to incur that expenditure by the Cabinet.****
 - b) **For the acquisition, enhancement or disposal of land or property with a value of £1m, a new key decision would be needed even if previous generic permission has been received via another key decision.**
- 2) ~~Where the Council is entering into a contractual obligation with a value of £750,000 or above;~~ Which is likely to **have an annual expenditure of less than £250,000, but has a total contract value over the lifetime of the contract of over £750,000.**
- 3) ~~For the acquisition or disposal of land or property with a value of £750,000 or above; or~~
or
- 3) Where the effect would be on communities living or working in the district, in an area comprising two or more wards. However, decisions that impact on communities living or working in one ward will be treated as “key” if the impact is likely to be very significant.

***With regard to property leases the £250k value is defined as the letting or taking of a lease with a cumulative rental value in excess of £250k over the first 5 years of the lease**

****Having the budget approved by Council does not mean that an individual has permission to proceed with their project.**

2.4 When presented with the proposed changes the Cabinet expressed no wish to amend them.

3.0 Main Changes

3.1 At first glance there may appear to be many changes, however there are no major changes to the definition and the changes that have been made are designed to clarify the existing definition rather than change it.

3.2 Paragraph 3 of the definition has been moved to be part of the exception to the 1st paragraph, to make it clear that this is part of the exception and not a separate point. The amount for the acquisition, enhancement or disposal of land or property has risen

from £750,000 to £1m, this reflects property price increases. Paragraph 2 has been amended to make clear at what levels contracts become key decisions.

- 3.3 It is also important for context that the Council's constitution does not permit any officer (including the Chief Executive) to take a key decision. All key decisions must be taken by Cabinet or an individual cabinet member. This has not changed.

4.0 Examples

- 4.1 Members may find some examples helpful to understand how the definition works.
- 4.2 **Example 1** - The Council wishes to purchase a new fleet of small refuse vehicles, the total cost is £3.2m. This would be a key decision as per paragraph 1) of the definition as it would be more than £250,000.
- 4.3 **Example 2** - The Council enters into a 4 four year contract for a new planning computer system, the cost is £105,000 per year. Therefore the total cost of the contract over its lifetime would be £420,000 as per paragraph 2 this would not be a key decision as the total contract value is less than £750,000 over its lifetime.
- 4.4 **Example 3** - The Council creates a land trust of £5m to purchase and regenerate properties in the district. This would be a key decision as per paragraph 1) of the definition as it would be more than £250,000. Once this decision had been made the appropriate officer then purchased a property of £650,000. This would not be a key decision as per paragraph 1a) as permission to spend that money had already been obtained via the original key decision. If however the appropriate officer then purchased a property of £1.5m this would be another key decision as per paragraph 1b) as it was over £1m.

4.0 Options

- 4.1 Members could agree one of the following options:
- a) To recommend the revised definition of a key decision as per paragraph 2.3 of the report to the Standards Committee.
 - b) To recommend other amendments on the key decision definition to the Standards Committee
 - c) To recommend to the Standards Committee that no amendments are made to the key decision threshold.

5.0 Next Steps

- 5.1 Once a proposal has been agreed by the Constitutional Review Working Party, it would be recommended to Standards for consideration and onward submission to Full Council.

- 5.2 If agreed by Council the changes to the key decision thresholds would be amended in the Council's Constitution and would become effective from the date of the Full council decision.

Contact Officer: Nick Hughes, Committee Services Manager

Reporting to: Sameera Khan, Interim Head of Legal Services and Monitoring Officer

Annex List

None

Background Papers

None

Corporate Consultation

Finance: Matthew Sanham (Head of Finance and Procurement)

Legal: Ingrid Brown (Head of Legal and Democracy & Monitoring Officer)

REVIEW OF THE COUNCIL'S POLICY FRAMEWORK

Constitutional Review Working Party	9 November 2023
Report Author	Committee Service Manager
Portfolio Holder	Councillor Yates, Portfolio Holder for Corporate Services
Status	For Recommendation
Classification:	Unrestricted

Executive Summary:

As part of the review by the Independent Monitoring Officer, it was recommended:

“To review the scheme of delegation to ensure that it is clear and easy to understand and also includes appropriate conditions requiring engagement of Cllrs in strategic and high-risk decisions.”

This report allows the Council to review the content of its Policy Framework, thereby defining the decisions the Council considers to be so significant, strategic or high-risk that only Full Council may take them. By defining the most important decisions, it allows for clarity on what can then be retained by Cabinet or Committees and in turn what can be delegated to the Head of Paid Service.

The report recommends updating the Council's policy framework by removing the Housing Investment Programme, the Food Law Enforcement Service Plan and the Local Transport Plan from its Policy Framework and replacing them with the Housing, Homelessness and Rough Sleeping Strategy, Housing Assistance Policy, HRA Business Plan and the Treasury Management Strategy. The reasoning for these changes are outlined in paragraph 2.6 of the body of the report.

Recommendation(s):

Members are asked to make a recommendation to the Standards Committee regarding content of the Council's Policy Framework.

Corporate Implications

Financial and Value for Money

There are no financial implications to the report.

Legal

The Local Government Act 2000 requires the Council to periodically review and update its written Constitution. The proposals to amend the policy framework as set out in this report are congruent with those requirements. Any decision in relation to the Council's Policy Framework must be taken by Full Council.

Risk Management

There are no risks associated with this report.

Corporate

It is important for the Council to regularly review elements of its constitution to ensure that it remains up to date.

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 As part of the review by the Independent Monitoring Officer, it was recommended:

“To review the scheme of delegation to ensure that it is clear and easy to understand and also includes appropriate conditions requiring engagement of Cllrs in strategic and high-risk decisions.”

- 1.2 The Council has recently published revised Officer delegations as another strand of addressing this recommendation via the General Purposes Committee. This report allows the Council to review the content of its Policy Framework, thereby defining the decisions the Council considers to be so significant, strategic or high-risk that only Full Council may take them.
- 1.3 This report along with the officer delegations report referenced above and the Key decision definition report elsewhere on this agenda together will complete the work needed to satisfy the recommendation of the Independent Monitoring Officer.
- 1.4 The report shows the Council's current Policy Framework and the changes proposed to it.

2.0 The Current Situation

- 2.1 The Council's Policy Framework consists of a number of plans and strategies which have been adopted by the Council. Some of these are required to be part of the Council's framework under the Local Government Act 2000. The Council can also decide to add further plans and strategies to its Policy Framework if it wishes.
- 2.2 When considering an item from its policy framework the associated report must be considered by the Council's Overview and Scrutiny Panel, its Cabinet and the final decision must be made by Full Council.
- 2.3 The Council's current policy framework is as follows:
 1. Community Safety Plan;
 2. Local Transport Plan;
 3. Plans and strategies which together comprise the Local Plan
 4. Council's Corporate Plan
 5. Housing Investment Programme
 6. Food Law Enforcement Service Plan;
- 2.4 The Council's management team reviewed the existing policy framework and made the following suggested changes:
 1. Community Safety Plan;
~~Local Transport Plan;~~
 2. Plans and strategies which together comprise the Local Plan
 3. Council's Corporate Plan;
~~Housing Investment Programme~~
~~Food Law Enforcement Service Plan;~~
 4. Housing, Homelessness and Rough Sleeping Strategy
 5. Housing Assistance Policy
 6. HRA Business Plan
 7. Treasury Management Strategy
- 2.5 The Local Transport Plan, the Housing Investment Plan and the Food Law Service Plan have all been removed from the plan and have been replaced by the Housing, Homelessness and Rough Sleeping Strategy, Housing Assistance Policy, HRA Business Plan and the Treasury Management Strategy.

2.6 The reasoning for this is set out below:

Item	Reason
Local Transport Plan - removal	The Local Transport Plan is part of the Local Plan which is already listed as part of the framework, so it is not necessary to list it separately.
Housing Investment Programme - removal	This term is no longer used, so is meaningless in the context of the plan, it has been replaced by a selection of other significant housing policies.
Food Law Enforcement Service Plan; - removal	The plan is still required, but it is not required to be part of the framework, so it is being recommended for removal.
Housing, Homelessness and Rough Sleeping Strategy	This is a significant housing policy that is deemed sufficiently important to be considered as part of the framework.
Housing Assistance Policy	This is a significant housing policy that is deemed sufficiently important to be considered as part of the framework.
HRA Business Plan	This is a significant housing policy that is deemed sufficiently important to be considered as part of the framework.
Treasury Management Strategy	Part of the statutory guidance that we must have regard to states that the Treasury Management Strategy should be approved by Full Council.

2.7 It is important to note that the policy framework is not an exhaustive list of items that should be considered by Full Council, there are still many items that by law have to be taken to Council, but are not required to be part of the framework.

2.8 Cabinet have reviewed the suggested changes and have raised no issues with them.

3.0 Options

3.1 Members could agree one of the following options:

- a) To recommend the proposed changes as they are to the Constitutional Review Working Party.
- b) To amend the proposed changes and recommend alternative proposals to the Constitutional Review Working Party.
- c) To recommend to the Constitutional Review Working Party that no changes are made to the Council's Policy Framework.

4.0 Next Steps

- 4.1 Once a proposal has been agreed by the Constitutional Review Working Party, it would be recommended to Standards for consideration and onward submission to Full Council.
- 4.2 If agreed by Council the changes to the Policy Framework would be amended in the Council's Constitution and would become effective from the date of the Full Council decision.

Contact Officer: Nick Hughes, Committee Services Manager

Reporting to: Sameera Khan, Interim Head of Legal Services and Monitoring Officer

Annex List

None

Background Papers

None

Corporate Consultation

Finance: Matthew Sanham (Head of Finance and Procurement)

Legal: Ingrid Brown (Head of Legal and Democracy & Monitoring Officer)

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AMENDMENTS COUNCIL PROCEDURE RULES REGARDING FREQUENCY OF QUESTIONS

Constitutional Review Working Party	9 November 2023
Report Author	Committee Services Manager
Portfolio Holder	Cllr Yates, Portfolio Holder for Corporate Services
Status	For Recommendation
Classification:	Unrestricted
Ward:	All

Executive Summary:

The current question rules allow for a question that has been asked by a Councillor to be asked again by a member of the Public within a six month period and vice versa. This report corrects this by amending the Council Procedure Rules so that no question irrespective of who asks it can be asked again in a six month period.

Recommendation(s):

To amend Part 4, Rules of Procedure, paragraph 13.5 of the Council's constitution to read:

"The Chief Executive will reject a question if it:.....

- is substantially the same as a question which has been **validly received** or put at a meeting of the Council in the past six months **by either a Councillor or a member of the public;**

To amend Part 4, Rules of Procedure, paragraph 14.6 of the Council's constitution to read:

"A question shall not be:.....

- substantially the same as a question which has been **validly received or** put at a meeting of the Council in the past six months **by either a Councillor or a member of the public;**

Corporate Implications

Financial and Value for Money

There are no financial implications arising directly from this report.

Legal

The legal implications are outlined throughout the report.

Risk Management

Corporate

Reviewing the Council's constitution on a regular basis ensures that the rules that Council meetings follow are up to date and ensure that business is conducted effectively and efficiently.

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 aims 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 current question rules allow for a question that has been asked by a Councillor to be asked again by a member of the Public within a six month period and vice versa. This can be seen from Part 4, Rules of Procedure, paragraphs 13.5 and 14.6 of the Council's constitution.

2.0 Current Rules

2.2 Part 4, Rules of Procedure, Paragraph 13.5 of the Council's constitution reads:

"The Chief Executive will reject a question if it:.....

- is substantially the same as a question which has been put at a meeting of the Council in the past six months

It could be interpreted that this paragraph means any question at all irrespective of its author, however as it sits in a section regarding questions from the press and public there is an equally valid argument that it only applies to questions covered by this section i.e questions from the press and public.

2.3 Part 4, Rules of Procedure, Paragraph 14.6 of the Council's constitution reads:

"A question shall not be:.....

- substantially the same as a question which has been put at a meeting of the Council in the past six months.

Again, as this paragraph sits in a section regarding questions from members of the Council it is reasonable to make a case that it only applies to those types of questions and not from other originators.

2.4 This ambiguity can lead to confusion for Democratic Services, Councillors and members of the public.

3.0 Proposed solution

3.1 Following discussion with the Monitoring Office, Democratic Services propose to make the following amendments:

To amend paragraph 13.5 of Part 4, Rules of Procedure in the Council's constitution to read:

"The Chief Executive will reject a question if it:.....

- is substantially the same as a question which has been **validly received** or put at a meeting of the Council in the past six months **by either a Councillor or a member of the public;**

To amend paragraph 14.6 of Part 4, Rules of Procedure in the Council's constitution to read:

"A question shall not be:.....

- substantially the same as a question which has been **validly received** put at a meeting of the Council in the past six months **by either a Councillor or a member of the public;**

3.2 These amendments make it clear that these sections are to be interpreted as meaning that if Democratic Services received a question from either members of the

public or Councillors that is substantially the same as one validly put in the last six months it will be rejected.

- 3.3 In addition “validly received” has also been added to the criteria. This has also been added, as there have been numerous occasions where both Councillors and members of the public have submitted almost identical questions, but because they were yet to be put, they could not be rejected for being “substantially similar”.
- 3.4 Given the recent significant increase in the number of questions received for question time at Full Council, these amendments will avoid repeat questions and will allow more time for a wider variety of questions to be asked by both members of the public and Councillors.
- 3.5 It is also important to note that all answers to both questions from members of the public and Councillors are available on the Council’s website at: <https://www.thanet.gov.uk/info-pages/speaking-at-council-meetings/>

4.0 Options

- 4.1 The Constitutional Review Working Party can choose to:
- a) Make recommendations to the Standards Committee as per the recommendations section of this report.
 - b) Make alternative recommendations to the Standards Committee as per the recommendations section of this report.
 - c) Recommend that no changes be made to the Council’s questions procedure.

5.0 Next Steps

- 5.1 Any recommendations from the CRWP will be considered by the Standards Committee and in turn will be presented to the Full Council for consideration.

Contact Officer: Nicholas Hughes (Committee Services Manager)

Reporting to: Ingrid Brown (Head of Legal and Democracy & Monitoring Officer)

Annex List

None

Background Papers

None

Corporate Consultation

Finance: Chris Blundell (Director of Corporate Services - Section 151)

Legal: Ingrid Brown (Head of Legal and Democracy & Monitoring Officer)