
MOTIONS ON NOTICE AND PETITIONS - REPORTS BACK TO COUNCIL

To: **Constitutional Review Working Party – 2 September 2014**

By: **Democratic Services & Scrutiny Manager**

Classification: **Unrestricted**

Ward: **Not applicable**

Summary: **To review the current practice of reporting back to Council on decisions made by Cabinet, Panels, Boards and Committees in relation to petitions and motions on notice.**

For Decision

1.0 Introduction and Background

1.1 Under the Council's current council procedure rules and petitions scheme, some petitions and motions on notice received by full council can, or must, be referred to Cabinet or another decision-making body for determination or report. Apart from the automatic referrals of "small petitions" to Cabinet or appropriate committee (*as referred to in paragraph 2.2 below*), there is no provision in the constitution to require reports to be brought back to full Council. However, it is the Council's practice to do so and, at the same time, enable a debate to take place if Members so wish.

1.2 Occasionally, the merits of this practice have been questioned by some Members, particularly where debate has already taken place at a full council meeting. However, other Members have stated the view that full council must have at least one opportunity to debate a petition or motion on notice that have been referred to it.

1.3 This matter was raised again at the last meeting of this Working Party, when it was AGREED:

"THAT officers should review the practice of enabling debate at meetings of full Council on reports back that are purely 'for information' relating to petitions and motions on notice, and bring a report to the next meeting of the Working Party".

2.0 The Current Situation

2.1 Petitions and motions that have been received by full Council since 18 April 2013 are summarised at Annex 1.

2.2 Basically, there are two types of petitions that must be referred by Council to Cabinet or another decision-making body: the "small petitions" (*i.e., those with 25 to 649 signatures*), which must be referred without debate for report (back) to Council within three ordinary meetings; and the "large petitions" (*with at least 1,000 signatures*) relating to an executive function, which must be referred, with or without debate, to Cabinet.

2.3 Similarly, motions on notice relating to an executive function must be referred to Cabinet, with or without debate. Those relating to an issue on which only full council

can take a decision cannot be referred, and will fall if not debated or adopted. Motions falling into this latter category are listed at Section B of Annex 1.

2.4 It will be noted from Annex 1 that:

- a) of the fourteen items listed in Section A, five were debated upon initial receipt by council, although four had to be automatically referred to another body without debate on account of their being “small petitions”;
- b) discounting item nos 1-3 and 9 (*on which reports back to Council have not yet been possible*), three of the ten items were debated by council upon receiving a report back;
- c) in only one case (*item no. 7 – NOM on designation of conservation area, Cliftonville*) did a debate by council occur on both occasions it was on the agenda; although the latter “debate” comprised only of comments by a few Members.
- d) in one instance (*item no. 6*), suggestions made by Members upon report back resulted in further action in relation to the decision being agreed to by the Portfolio Holder.

What is the position of our neighbouring councils?

2.5 Early in 2013, a telephone survey carried out by democratic services indicated that three of our neighbouring councils – Canterbury, Dover and Shepway – always facilitated debates on motions on notice at meetings of full Council. At that time, it had been difficult to determine Ashford’s position, as only one motion on notice had been received since 2007.

2.6 A further telephone survey, extended to include petitions, was conducted on 18 August 2014, the purpose of which was to establish: (1) whether there was always an opportunity for full council to debate a petition or motion on notice; and (1) whether full council refers petitions or motions to other decision-making bodies and, if so, whether reports are brought back to council.

The results of this more recent survey are summarised in Table 1:

Table 1

Council	Can a debate can place at full council on a petition or a motion on notice?	Comments
Canterbury	<p>Yes - potentially <u>twice</u>:</p> <p>On petitions, where these automatically trigger full council debates by virtue of the number of signatures and if referred to other decision-making bodies</p> <p>On motions on notice, where the Lord Mayor allows debate upon receipt of the motion by full council. However, motions are usually referred without debate.</p>	<p>Information on decisions of the decision-making body on petitions and motions on notice are included in the minutes that go before full council. Any items on the minutes can be debated.</p> <p>Additionally, in the case of motions on notice, there is a separate agenda item for reporting back to full council. There is specific provision within the constitution for reports back on motions on notice, CPR 13.06 (iii) (iv) stating, “Any motion which is referred to a committee or other body will be discussed by them and be the subject of a report back”. Reports back can be debated.</p>

Council	Can a debate can place at full council on a petition or a motion on notice?	Comments
Dover	<p>Yes :</p> <p>Potentially <u>twice</u> on motions on notice – generally, referred to Scrutiny; reports are brought back to full council and issues can be debated prior to referral and also upon receipt of reports back.</p> <p><u>Once</u> on “large petitions”, unless full council requests a report back.</p>	
Ashford	<p>Yes – <u>once</u> potentially on motions on notice</p> <p>No – petitions, which generally go direct to the relevant decision-making body and are not reported on to full council.</p>	<p>Only one motion on notice was received by full council in the past year - in October 2013. A decision on the motion was taken at that full council meeting.</p> <p>Petitions rarely received.</p>
Shepway	<p>Yes – <u>once</u> on motions on notice; if, <u>following debate</u> they are referred to another decision-making body there is no expectation that a report is brought back to full council.</p> <p>Yes, <u>once</u> on “large petitions”; no expectation upon referral that a report would be brought back to full council</p>	

2.7 It will be noted from Table 1:

- a) That, overall, only Canterbury has a similar practice to Thanet, in that it is possible for full council to debate motions on notice and “large petitions” on two occasions – once before and once following referral – and that, in the case of “smaller petitions” which are automatically referred to another body, the decision taken is reported back to, and debate can take place by, full council, although in the case of Canterbury, the “report back” is in the form of minutes.
- b) Dover also enables two debates on motions on notice; however, reporting back on petitions only takes place where full council has so requested.
- c) Ashford is not comparable as petitions and NOMs are received so rarely;
- d) There is no expectation in Shepway that reports are brought back at full council.

2.8 Possible arguments for and against reporting back/ enabling debates are listed below, although the Working Party may think of more compelling arguments.

2.9 Against

- a) There is potential for unnecessary repetitions of debates (*although Annex 1 does not indicate any repetition actually took place in the period from 18 April 2013*);

- b) There are other ways in which Members can express views on a motion / petition, apart from a debate on report back, for example:
 - i. any Member who does not sit on the decision-making body to which an item is referred can speak under Council Procedure Rule (CPR) 24.1 when the item is being considered;
 - ii. the Member who is proposing a motion on notice can make an introductory speech under CPR 16.3 prior to a motion “standing referred”;
 - iii. the proposer of a motion (or in their absence, the seconder) can, under CPR 24.2, speak to explain the motion and take part in the debate at the meeting of a “committee, sub-committee or working party at which the motion is considered”. (In practice, this Rule has been interpreted as excluding Cabinet meetings.)
- c) Reporting back could be construed as a mere formality on which a debate is inappropriate as full Council is unable to change the decision. For example, Council cannot “undo” a decision of Cabinet that is reported to it.
- d) Indeed, is it even necessary to inform council of decisions taken? (*As noted above, Shepway does not expect decisions to be reported back to council*)
- e) There is a “call-in” procedure in relation to Cabinet decisions.

2.10 For

- A. Reporting back to the body that originally receives the petition or motion on notice (*i.e. full council*) is a way of “squaring the circle”, or achieving “transparency”. Council is made aware of the outcome relating to something it may have discussed and has referred onward.
- B. Some Members may prefer to receive formal notification of decisions at council meetings.
- C. The constitution requires other decisions to be reported back on to full council, for example, “special urgency” decisions as described in Access to Information Procedure Rule 19.0 and “urgent decisions not subject to call-in”, as described in Overview and Scrutiny Procedure Rule 15 (L).
- D. Providing an opportunity for debate on reports back can encourage Member participation, particularly where a debate has not previously taken place at a full council meeting. Indeed, Table 1 above suggests that it would be unusual for Constitutions to allow a situation whereby Council might have no opportunity at all to debate something referred to it (for example, where it must first be referred elsewhere without debate).
- E. If debate is allowed on reports back, Members can seek reassurance on aspects of the decision made and make suggestions (which, as evidenced by item no. 6 on Annex 1, could result in further action being taken in relation to a decision).
- F. Although there are other ways in which Members can make their views known on an issue, as described at paragraph 2.11 (b) (i) to (iii) above, some might suggest that these are no substitute for a full debate at council.

3.0 Options

- 3.1 The Working Party may wish to consider whether or not to continue the practice of reporting back to council on decisions taken in relation to petitions and motions, and, if so, whether or not to allow a debate to take place.
- 3.2 The Working Party may wish to reconsider the constitutional provisions which in some cases mean that Council can receive a petition or a motion on notice and not be able to debate it at the point of receipt. It could be argued that members of the public struggle to understand why they can present something to Council and there be no debate on it at that point.
- 3.3 The Working Party may wish to consider whether, if the constitution were to be changed to ensure debate of items at the point of receipt, there remains a need to report back to Council upon the eventual outcome, though the “transparency” argument above needs to be considered.

4.0 Corporate Implications

4.1 Financial and VAT

- 4.1.1 None apparent.

4.2 Legal

- 4.2.1 The current practice in relation to reporting back on petitions and motions on notice, or any changes to this practice, should be set out clearly in the Council’s constitution.

4.3 Corporate

- 4.3.1 In so far as this report considers petitions, the way in which Council handles their receipt could be seen to have an impact on the reputational image of the Council – petitioners need to be assured they have been given a fair hearing and their points have been considered by Council. Could referral without debate or report back be seen to undermine petitioners’ rights in that respect?

4.4 Equity and Equalities

- 4.4.1 None apparent.

5.0 Recommendation(s)

- 5.1.1 THAT the Working Party considers whether or not to continue the practice of reporting back on decisions relating to petitions and motions on notice and, if so, whether or not to allow a debate to take place;
- 5.1.2 That the Working Party considers the constitutional provisions which in some cases mean that Council can receive a petition or a motion on notice and not be able to debate it at the point of receipt.
- 5.1.3 That the Working Party considers whether, if the constitution were to be changed to ensure debate of items at the point of receipt, there remains a need to report back to Council upon the eventual outcome.
- 5.1.4 THAT officers be instructed to draft amendments to the constitution to clarify the practice as recommended by the Working Party.

6.0 Decision Making Process

- 6.1 Recommendations by the Working Party will be referred to the Standards Committee who, in turn, makes recommendations to Council.

Future Meetings	Date:
Standards Committee	16 September 2014
Council	2 October 2014

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Reporting to:	Paul Cook, Interim Director of Corporate Resources and S.151 Officer, Ext. 7617

Annex List

Annex 1	Summary of details of petitions and motions on notice received by full council since 18 April 2013
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Background Papers

Title	Details of where to access copy
None	

Corporate Consultation Undertaken

Finance	N/A
Legal	Steve Boyle – Interim Legal Services Manager & Monitoring Officer