

Full Council Questions From Members Of The Public And Councillors With Supplementaries

Standards Committee - 9 March 2021

Previously Considered by Constitutional Review Working Party - 23 February 2021

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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 and provides the views of the CRWP on the additional issues raised by Council.

Recommendation(s):

The panel is to consider the issue and views of the CRWP and is asked to make recommendations regarding supplementary questions for members of the public to the Full Council.

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. The Constitutional Review Working Party considered this report at its meeting on the 23 February and a summary of their recommendations are included later 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 Committee 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 Committee 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 Councilors, 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 Review by Constitutional Review Working Party

5.1 The Constitutional Review Working Party discussed this report at their meeting on the 23 February. After an extensive discussion on the matter they agreed the following recommendations:

1. It was decided not to recommend to the Standards Committee the introduction of an appeals process for rejected questions.
2. That the Standards Committee discuss further whether to allow Members of the public to ask supplementary questions.
3. That when the Chief Executive considers rejecting a question, they should consult with the Chairman of the Council first.
4. That information on the process for submitting questions and the support available is shared at full council and on social media.

6.0 Options

6.1 The Standards Committee makes recommendations to the Full Council.

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Annex List

Annex 1: Original Report to Council re: extending the question word limit.
Annex 2: Constitutional Review Working Party Minutes 23 February 2021

Background Papers

None

Corporate Consultation

Finance: Matthew Sanham, Financial Services Manager

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