

## CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 9 November 2023 at 7.00 pm in Council Chamber, Cecil Street, Margate, Kent.

**Present:** Mr Peter Tucker (Chair); Councillors Austin, Britcher, Everitt and W Scobie

**In Attendance:** Mr Peter Lorenzo (Independent Member of the Standards Committee)

### 6. APOLOGIES FOR ABSENCE

There were no apologies made at the meeting.

### 7. DECLARATIONS OF INTEREST

There were no declarations of interest.

### 8. MINUTES OF PREVIOUS MEETING

The Chair proposed, Councillor Austin seconded and the Working Party agreed that the minutes of the meeting held on 28 February 2023 were a correct record.

### 9. KEY DECISION DEFINITION

Nick Hughes, Committee Services Manager and Deputy Monitoring Officer introduced the report and made the following comments:

- Officers had reviewed key decision thresholds in response to the recommendations from the Independent Monitoring Officer's report;
- The review took into consideration the need to get Members involved more in strategic decision making;
- The proposed changes included increasing level at which previously agreed purchases of property became new key decisions from £750k to £1 million;
- An example given was that if Cabinet approved a decision for the purchase of property worth £5 million; that would be considered as a key decision. When spending the money, no further decision was required, unless the price of the property was over £1 million;
- It was important to note that at TDC officers cannot take key decisions as the Council has decided that only Cabinet and individual Cabinet Members can make such decisions;
- Officers were proposing that the new key decision thresholds be recommended for approval by Full Council.

Members made comments and asked questions as follows:

- Benchmarking against other district councils in Kent showed that TDC was in the right place with regards to proposals being put forward as the key decision definitions and thresholds were largely similar;
- What materiality was considered in financial terms in relation to triviality?
- Who determined whether a decision was key or non-key?

Nick Hughes and Chris Blundell, Director of Corporate Resources and S151 Officer responded to Member questions as follows:

- The decision maker determined whether the decision they wanted to make was key or not using the thresholds as defined in the Council Constitution. They make such a determination with help from the service director or head of service;
- Financial materiality was £2.7 million and financial triviality was £135k;
- If the decision maker was unsure of the category of the decision, they would need to refer the matter to the Monitoring Officer for further help.

Councillor Everitt proposed, Councillor Will Scobie seconded and the Constitutional Review Working Party members unanimously agreed to recommend the revised definition of a key decision as per paragraph 2.3 of the working party report.

## 10. **REVIEW OF THE COUNCIL'S POLICY FRAMEWORK**

Nick Hughes introduced the report and made the following comments:

- The Independent Monitoring Officer's report also recommended a review of the Council's policy framework;
- This was to ensure that Members were involved in strategic decision making;
- Policy framework was a list of plans and policies a Council deemed so important that only Full Council could make decisions on those plans and policies;
- The list had been refreshed to remove some items like the Local Transport Plan as it was a KCC function;
- These proposals were reviewed by Cabinet. The Housing Investment Programme was removed and replaced by the Housing Assistance Policy, Housing, Homelessness & Rough Sleeping Strategy and HRA Business Plan;
- This was not an exhaustive list of policies and plans that went to Full Council;
- Some plans and policies were by law required to be issued and only Full Council was permitted to approve them.

Members made comments and asked questions as follows:

- One Member said that the Council should consider including climate change policy on the policy framework list;
- Another Member said that this was better dealt with by Cabinet;
- One Member asked why the Food Policy was removed from the list.

Nick Hughes and Chris Blundell responded to Member questions as follows:

- Adding the Climate Change Policy to the Policy Framework would effectively change the service area from being Cabinet function to a Council function;
- The Food Policy was ordinarily considered in a private session and was therefore better dealt with by the Overview and Scrutiny Panel and Cabinet rather than by Full Council.

Councillor Everitt proposed, Councillor Austin seconded and the Constitutional Review Working Party members unanimously agreed to recommend the proposed changes as they are to the Standards Committee.

## 11. **AMENDMENTS COUNCIL PROCEDURE RULES REGARDING FREQUENCY OF QUESTIONS**

Nick Hughes introduced the report and made the following comments:

- The Council constitution required reviewing and updating regarding the some of the conditions for asking a question at Full Council;

- If a Councillor asked a question, that same question cannot be asked by any other councillor within six months. However, a member of the public could still ask that same question within that same six months' period;
- The wording should be that if a question is asked by either a member of the public or a Councillor, that question cannot be asked within a period of six months of that question being asked;
- There was also a need to review the definition of what a validly received question meant and what is meant to happen to a similar question that was subsequently also validly submitted for the same meeting. Currently both questions would be accepted and could be asked at Full Council;
- This needed reviewing so that once a question was validly submitted and received, then no similar question could be validly submitted and received.

Members made comments and asked questions as follows:

- What dialogue should there be for appealing a decision to disallow a question for being similar to the one asked in the last six months?
- Did Officers communicate to the councillor whose question would have been rejected for being similar to a previously asked question?
- How were these changes being proposed brought to the Constitutional Review Working Party?
- One Member said that they had brought some observations regarding constitutional provisions but these had not been progressed further to the point of being brought before the Working Party for consideration;
- The Petitions Scheme did not allow for residents to bring issues to the Council more expeditiously;
- The Member further asked how the above issues could be brought to the Working Party.

Nick Hughes responded to Member questions as follows:

- Democratic Services did the basic check to ensure the question was in compliance to set rules before forwarding it to the Monitoring Officer for final sign-off;
- If even during basic checks Democratic Services were not too sure, they would forward the question to the Monitoring Officer and if still unsure the question would then be referred to the CEx;
- If inclined to reject the question the CEx would then ask the Council Chair for a second opinion;
- Democratic Services did not give the wording of the previous question to the councillor whose question would have been rejected;
- Democratic Services usually faced the challenge of receiving Member questions right towards the deadline;
- Democratic Services picked up issues in the constitution that require reviewing;
- Members could also suggest issues for review and although there was no written down protocol for submitting such issues, Members could flag up these issues to the Monitoring Officer.

Councillor Everitt proposed, Councillor Will Scobie seconded and the Constitutional Review Working Party members unanimously agreed to forward recommendations to the Standards Committee as per the recommendations section of the working party report which are detailed below:

1. 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;**

2. 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."**

Meeting concluded: 7.30 pm