

COUNCIL

24 APRIL 2014

CHANGES TO THE CONSTITUTION

Portfolio Holder: Councillor Rodney Chambers, Leader
Report from: Perry Holmes, Monitoring Officer
Author: Julie Keith, Head of Democratic Services

Summary

This report seeks approval to proposed changes to the constitution to:

- (i) incorporate a new statutory council rule requiring a recorded vote to be taken in respect of a substantive motion, and any amendments proposed to it, at a budget decision meeting of the authority where the Council makes a calculation or issues a precept under the relevant provisions of the Local Government Finance Act 1992 and
- (ii) include the criteria for the Ward Improvement Fund as Part 12 to Chapter 5, as recommended by the Councillor Conduct Committee at its meeting on 31 March 2014.

1. Budget and Policy Framework

1.1 The Monitoring Officer has delegated authority to make minor changes to the constitution. All other changes to the constitution may only be approved by the Council after consideration of the proposal by the Monitoring Officer.

2. Recording votes for budget decision meetings

2.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 came into force on 25 February 2014. The regulations require that a vote is taken and recorded in the minutes at budget decision Council meetings in respect of the substantive budget motion and any amendments that are proposed to it.

2.2 A “budget decision meeting” is defined in the regulations as a meeting of the Council at which it makes a calculation relating to Council Tax or issues a precept under specified sections of the Local Government Finance Act 1992. References to “a vote” in the regulations are references to a vote on any decision related to the making of the calculation or the issuing of the precept.

- 2.3 The revisions required to the Constitution to give effect to this new requirement are set out at Appendix A for approval by the Council.

3. Ward Improvement Fund Guidelines

- 3.1 On 31 March 2014 the Councillor Conduct Committee considered a report from the Monitoring Officer, which provided an update to the Council's Ward Improvement Fund Guidance. The Committee agreed a recommendation that the Constitution should be amended to include the criteria for the Ward Improvement Fund in the interests of openness and transparency. The Ward Improvement Fund provides an allocation of £3000 for each member of the Council to spend on improvements in their wards. The Chief Finance Officer receives applications from Councillors and authorises the expenditure of this fund, after consideration by the relevant Director where appropriate,
- 3.2 The review undertaken by the Monitoring Officer was at the request of the Councillor Conduct Committee arising from consideration of a particular complaint relating to the use of Ward Improvement Funds. The Committee requested the Monitoring Officer to review the documentation and guidance and make any changes to clarify issues, in particular relating to Disclosable Pecuniary Interests (DPIs) and conflicts of interest, to ensure openness and transparency.
- 3.3 The Ward Improvement Fund guidance has been amended accordingly and the Councillor Conduct Committee has recommended that the criteria in the guidance (attached at Appendix B to this report) should be included as Part 12 of Chapter 5 of the Constitution (Codes and Protocols).
- 3.4 All Members of the Council will receive a copy of the updated guidance and the revised ward improvement fund application form after the Council meeting.

4. Financial, legal and risk management implications

- 4.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations came into effect on 25 February 2014 and require that the votes at key budget decision meetings by local authorities are recorded.
- 4.2 Proposals for Ward Improvement Funds must constitute lawful expenditure for the Council. The Local Government Act 1986 prohibits local authorities publishing any material which, in whole or in part appears to be designed to affect public support for a political party. The Council must also comply with the Code of Recommended Practice on Local Authority Publicity issued by the Secretary of State under the 1986 Act.
- 4.3 Article 4 of Chapter 2 of the Council's Constitution provides that the Monitoring Officer has delegated authority to make minor changes to the Constitution, with copies of such changes being supplied to all Group Leaders and Whips within 14 days. All other changes to the Constitution require the approval of Council. The changes proposed in this report require the approval of Council.
- 4.4 The work undertaken by the Monitoring Officer to update the Ward Improvement Fund guidance and application form mitigates the risk of any

perception of a lack of transparency, will ensure that any conflicts of interest are identified early in the process and that relevant considerations are taken into account by officers in determining the allocation of funds.

4.5 There are no financial implications arising from this report.

5. Recommendations

5.1 The Council is asked to agree a new council rule requiring a recorded vote to be taken in respect of a substantive motion, and any amendments proposed to it, at a budget decision meeting of the authority where the Council makes a calculation or issues a precept under the relevant provisions of the Local Government Finance Act 1992 as set out in Appendix A to this report.

5.2 Council is asked to add the criteria for the Ward Improvement Fund to Chapter 5 of the Constitution, as set out in Appendix B to this report.

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Background papers

Report to Councillor Conduct Committee 31 March 2014 - Item 5
<http://democracy.medway.gov.uk/ieListDocuments.aspx?CId=404&MId=2790&Ver=4>

RECORDED VOTES AT BUDGET DECISION MEETINGS – PROPOSED CHANGES TO THE CONSTITUTION

RULE 12 - VOTING

12.1 Majority

Unless this constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.

12.2 Mayor's casting vote

If there are equal numbers of votes for and against, the Mayor will have a second or casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.

12.3 Show of hands

The Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting unless a recorded vote is called for by at least six members.

12.4 Recorded vote

If six members present at the meeting stand and demand it, the names for and against the motion (or amendment or abstaining from voting) will be taken down in writing and entered into the record of the meeting.

12.5 Recorded voting at the budget decision meeting

- a) Immediately after any vote is taken at the Council's budget decision meeting on any decision relating to the making of a calculation or the issuing of a precept there will be recorded in the minutes of that meeting the names of those voting for or against the decision or who abstained from voting
- b) For the avoidance of doubt rule 12.5 (a) applies to proposed amendments as well as to a substantive motion

12.65- Right for individual vote to be recorded

Where any member requests it immediately after the vote is taken, his/her vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

12.76 Voting on appointments

If there are more than two people nominated for any position on a Committee or outside body to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

(Note: In Council rule 12.5 the Council's budget decision meeting is a meeting of full Council at which it makes a calculation in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992 or issues a precept under Chapter 4 of Part 1 of that Act, and includes a meeting where making the calculation or issuing the precept is included as an item of business on the agenda for the meeting).

PROPOSED CHANGES TO PART 5 OF THE CONSTITUTION

PART 12 - WARD IMPROVEMENT FUND GUIDELINES

The Personal Assistant to the Chief Finance Officer will be the central point of contact for members in relation to Ward Improvement Funding ("WIF"). WIF is a budget held and managed by the Chief Finance Officer in consultation with ward members.

The procedure for approving WIF proposals and releasing the funds is as follows:

1. The ward member(s) should complete and sign part 1 (page 1) of the Request for Release of Ward Improvement Funding Form, which includes information regarding members interests; and the form should then be sent to Corporate Finance. E-mail copies will be accepted.
2. Corporate Finance will confirm that there are adequate funds available for the WIF proposal and forward the form to the Chief Finance Officer for completion of Parts 2 and 3 (page 2). The Chief Finance Officer may either accept or reject the WIF proposal, giving due consideration to whether it meets the essential criteria, and notify the member(s) accordingly.
3. Where the request requires technical input, the Chief Finance Officer may refer it to a Director, who will then assign a lead officer to confirm that the WIF project is feasible and can be delivered within the proposed fund allocated. The lead officer must complete part 2 of the form.
4. The Director must then either accept or reject the WIF proposal, giving due consideration to whether it meets the essential criteria, and notify the member(s) and the Chief Finance Officer accordingly.

The essential criteria for WIF are as follows:

- The WIF proposal should command community support and strictly relate to an unmet need in the ward(s), or improve social, economic or environmental wellbeing in the ward(s). This can be demonstrated through constituency and surgery feedback, consultation exercises already undertaken e.g. residents opinion poll, consultation on the council's 5 year and other plans, complaints analysis and analysis of civic warden calls logged, or future involvement exercises conducted for this purpose.
- No budget should already exist to cover the WIF proposal. This is to reflect the principle that the funds should not be considered as an extension of existing budgets.
- Members may, at their discretion, agree to pool their WIF with another member to a fund a proposal that delivers a benefit across ward boundaries.

- The project can be completed within the financial year and have no ongoing revenue implications. This is to ensure that the investment has an impact on Medway in the short term and does not commit the council to long term expenditure such as on-going maintenance costs for bollards/lighting, or emptying costs of litter and dog bins and refilling of salt bins.
- The project should be fully costed. This must be carried out by members/officers before the director assesses the proposal. Officers must confirm that there are no on-going costs of the proposal.
- Any approvals required from other bodies must have been received before the WIF proposal is submitted. An example might be where permission is required from another agency or landowner to take forward a project or where planning permission is required
- The proposal for WIF funding must constitute lawful expenditure for the Council. For example, the Local Government Act 1986 prohibits local authorities publishing any material which, in whole or part, appears to be designed to affect public support for a political party. The Council must also comply with the Code of Recommended Practice on Local Authority Publicity issued by the Secretary of State under the 1986 Act.
- Any works or services required from other bodies must be procured in accordance with the Council's Contract Procedure Rules. Submissions must be made in sufficient time to ensure that schemes can be completed before the end of the financial year as there will be no automatic roll-forward of unspent amounts. In past years, where a project has been committed with director approval before the 31 March but circumstances such as workload or the time of year in the case of tree planting, for instance, have prevented expenditure occurring, then funds have been rolled over, but there is no guarantee that this will continue in future years.