

Council

23 January 2025

Review of the Constitution

Portfolio Holder: Councillor Vince Maple, Leader of the Council

Report from: Bhupinder Gill, Assistant Director Legal and Governance

Author: Wayne Hemingway, Head of Democratic Services
Phil Watts, Chief Operating Officer

Summary

This report sets out a review of the changes as to how full Council meetings are conducted and proposes to make some permanent changes. It is also proposed to trial some further changes with regards to public and Member questions at Council meetings.

This report also recommends the following changes to the Constitution:

- Inclusion of an overview and scrutiny task group protocol;
- A revised Ward Improvement Fund criteria and;
- Employee Scheme of Delegation (minor change).

1. Recommendation

- 1.1. The Council is asked to approve the changes to the Council Rules as set out in Appendix A to the report in respect of changes to the arrangements for conducting full Council meetings. (**Note:** Once proposed and seconded this recommendation will be taken forward without discussion for debate at the next ordinary meeting of the Council as set out in paragraph 3.4 of the report).
- 1.2. The Council is asked to note the further changes for trialing how public and Member questions are dealt with as set out in paragraphs 3.5-3.10 of the report.
- 1.3. The Council is asked to approve the inclusion of the Overview and Scrutiny Task Group Protocol in the Constitution, as set out in Appendix B to the report.
- 1.4. The Council is asked to approve the revised Ward Improvement Fund Criteria, as set out in Appendix C to the report.

1.5. The Council is asked to note the Monitoring Officer's use of his delegated authority to make minor changes to the Constitution as set out in paragraph 3.17 of the report.

2. Budget and policy framework

2.1. The proposed changes to the Constitution set out in the report are a matter for decision by the Council.

2.2. Paragraph 16.2 of the Council Rules states that "Any motion to add to, change or withdraw these Council rules will, when proposed and seconded, be taken forward without discussion to the next ordinary meeting of the Council." This will apply to the proposed changes to the arrangements for conducting full Council meetings.

2.3. Article 14 of the Constitution states that the Monitoring Officer has delegated authority to make minor changes to the Constitution, with a copy of such changes being supplied to all Group Leaders and Whips within 14 days. All other changes to the Constitution will only be approved by the Council after consideration of the proposal by the Monitoring Officer

3. Background

3.1. The Constitution is reviewed and updated on an on-going basis to ensure it remains fit for purpose including compliance with legislation, in accordance with Article 14 of the Council's Constitution.

3.2. **Arrangements for conducting full Council meetings:** Members will be aware of the following changes which have been trialled at full Council meetings since January 2024:

3.2.1. Bringing forward the deadline for the submission of Member questions and Motions to Midday, eight working days before the meeting.

3.2.2. Public questions being extended from 30 minutes to 40 minutes with a reduction in the time allocations for the Leader's Report from 35 minutes to 30 minutes and the Overview and Scrutiny activity report from 25 to 20 minutes.

3.2.3. Public questioners having the option to send a representative to read out their question at the meeting or the Mayor will put the question on their behalf if they are unable to attend, noting that only public questioners attending in person will be able to ask supplementary questions.

3.2.4. Changes to the order of business on the agenda, namely the item on motions has been moved so it is taken after public questions. Any information reports or reports for noting have been the last agenda items.

3.2.5. Limiting the number of speakers per motion to the proposer and seconder, plus up to 10% of each group (rounded up) with the same number of speakers allowed for each amendment to a motion.

- 3.3. Discussions have taken place at the Leader's Cross Party Governance meetings, to which Group Leaders, Deputy Leaders and Group Whips are invited to attend, and they have agreed that these changes be now made permanent, noting the impact that some of the proposed further changes below, may have, should it also be proposed in the future that they be made permanent, this would also include the deadline for submission of public questions being the same as Member questions in the interests of consistency and administrative efficiency.
- 3.4. These changes are set out in Appendix A as tracked changes for ease of reference. As referenced in paragraph 2.2 of the report, paragraph 16.2 of the Council Rules states that "Any motion to add to, change or withdraw these Council rules will, when proposed and seconded, be taken forward without discussion to the next ordinary meeting of the Council." Subject to approval, these changes will be referred back to full Council on 24 April 2025 for final consideration and approval, noting that the February 2025 Council meeting is limited to dealing with budget related items only.
- 3.5. **Further proposed changes to the arrangements for dealing with public and Member questions:** at the most recent Cross Party Governance meeting (22 November 2024) and Group Leaders' meeting (10 January 2025), it was agreed that further proposed changes to the arrangements for dealing with public and Member questions be trialled for six months starting from the beginning of the new municipal year.
- 3.6. Given that most questions relate to Cabinet (executive) functions, any public or Member questions which are submitted will be reviewed by the Head of Democratic Services and Assistant Director, Legal and Governance and any questions relation to Cabinet functions, will be referred to the next Cabinet meeting, any other questions will be referred to the next full Council meeting in accordance with the submission deadlines which are in place at the time.
- 3.7. For any questions dealt with by the Cabinet, the same rules will apply as set out in the Council Rules, e.g. public questioners will be able to ask a short supplementary question.
- 3.8. With regards to inclusion of questions on the forthcoming Cabinet agenda, such questions received no later than Midday, three working days before the meeting (e.g. noon on the Thursday prior to a meeting held on a Tuesday) will be included, otherwise they will be included on the following Cabinet meeting agenda. A period of 20 minutes will be set aside for questions at Cabinet meetings and first-time questioners and questions relating to items on the Cabinet Agenda will be prioritised. Questions not dealt with at the meeting will receive written responses.
- 3.9. Key benefits of this will be the increased frequency and timeliness to hold the executive to account, greater time set aside for accountability (up to an additional 260 minutes cf 240 minutes when annualised), and the ability for the public and Members to put questions to Cabinet Members on matters on

the Cabinet Agenda. Both members of the public and Members have access to the Cabinet's Forward Plan which is published on the website. The Forward Plan sets out the reports proposed to be considered by the Cabinet on a four month rolling basis, and this will aid those who wish to submit questions to the Cabinet.

- 3.10. As part of this and during the trial period, views of public questioners will be sought to help inform any proposals to make these changes permanent.
- 3.11. **Overview and Scrutiny Task Group Protocol:** A Task Group Protocol is recommended for approval as part of the Overview and Scrutiny Rules in the Constitution.
- 3.12. The Protocol will provide guidance on the function and operation of scrutiny task groups at Medway Council. It is not intended as an exhaustive list of instructions but offers general principles on how task groups can be most effective.
- 3.13. The Protocol was initially considered at the informal meeting of O&S Chairpersons, Vice-Chairpersons and Opposition Spokespersons on 3 April 2024 and an updated version, taking account of Members' comments, particularly on the issue of substitutions, was presented at the next informal meeting on 12 November 2024, where it was agreed that the protocol be referred to the Business Support and Digital Overview and Scrutiny Committee on 28 November 2024. At this meeting, the Committee recommended approval of the Protocol to full Council for approval in the Council's Constitution.
- 3.14. **Ward Improvement Fund criteria:** A Ward Improvement Fund (WIF) Review Working Party was established last year consisting of Councillors Bowen, Kemp, Murray, Peake, Pearce, Perfect and Van Dyke. The purpose of the Working Party was to review the existing WIF scheme and criteria and develop an updated scheme and criteria to facilitate more efficient and objective decision making.
- 3.15. The group met initially in July 2024 and reviewed the scheme criteria and process and discussed options to improve oversight and consistency. Officers prepared a revised set of criteria and proposals for improvements to the process and the group met again in October 2024 to discuss these. The comments of the group at that meeting have been incorporated into the revised Ward Improvement Fund Criteria, which forms part of the Council's Constitution, attached at Appendix C for approval. The existing criteria is attached at Appendix D for comparative purposes.
- 3.16. Subject to Council approval, the revised criteria will take effect from 1 April 2025, i.e. in relation to applications made in the new financial year.
- 3.17. **Employee Delegation Scheme:** To clarify the extent of officers' delegated authority with regards to contracts, the Monitoring Officer will be using his

delegated authority to make a minor change to paragraph 2.2 of the Employee Delegation Scheme in relation to contracts.

4. Advice and analysis

- 4.1. Members are asked to consider the proposed changes and note that a number of them must be taken forward to the next ordinary meeting (24 April 2025) without debate, as required by paragraph 16.2 of the Council Rules which states “Any motion to add to, change or withdraw these Council rules will, when proposed and seconded, be taken forward without discussion to the next ordinary meeting of the Council.” This applies to the proposals in respect of the arrangements for conducting full Council meetings.
- 4.2. Members are asked to consider and determine the other matters set out in the report.

5. Consultation

- 5.1. Members have been consulted on the proposed changes as detailed in the report.

6. Financial, legal and risk management implications

- 6.1. There are no financial implications arising from this report.
- 6.2. Section 9P of the Local Government Act 2000 (“the 2000 Act”) requires a local authority to prepare and keep up to date a Constitution which contains a copy of the Council’s standing orders, a copy of the Council’s Code of Conduct, such information as the Secretary of State may direct and such other information as the Council considers appropriate. The Constitution must also include certain mandatory standing orders with respect to staff and the regulation of specified aspects of the proceedings and business of the Council.
- 6.3. The revised Ward Improvement Fund (WIF) rules make particular reference to the Members’ Code of Conduct, in particular disclosable pecuniary interests (DPI) and other significant interests (OSI). The revised rules state that a Member must declare any interests when submitting a WIF request.
- 6.4. The Monitoring Officer has delegated authority to grant dispensations to Members in the following circumstances:
 - (a) that so many members of the decision-making body have disclosable pecuniary interests or OSIs in a matter that it would impede the transaction of the business;
 - (b) that, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;

- (a) that the dispensation is in the interests of persons living in Medway;
 - (d) that without a dispensation, no member of the Cabinet would be able to participate in this matter, or
 - (e) that it is otherwise appropriate to grant a dispensation.
- 6.5. Given the relatively small sums involved (each Member is allocated £2,000 per financial year) and that all approved ward improvement fund requests, which would include details of any interests declared, will be published on the Council's website in the interests of openness and transparency, the Monitoring Officer has indicated that he will grant a dispensation to all Members under part (e) for the remainder of the electoral cycle in relation to WIF requests.
- 6.6. Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community. Article 14 of the Council's Constitution places an obligation on the Monitoring Officer to monitor and review the operation of the Constitution to ensure that its aims and principles are given full effect. It is important that this is done on an ongoing and regular basis to minimise the risk of the Council failing to operate its governance arrangements in line with current legislation and best practice.

Lead officer contact

Wayne Hemingway, Head of Democratic Services, T: 01634 332509

E: wayne.hemingway@medway.gov.uk

Phil Watts, Chief Operating Officer, T: 01634 332220, E: phil.watts@medway.gov.uk

Appendices

Appendix A – Tracked changes to the Council Rules (chapter 4, part 1)

Appendix B – Tracked changes to the Overview and Scrutiny Rules (chapter 4, part 5)

Appendix C – Revised Ward Improvement Fund Rules (chapter 5, part 12)

Appendix D – Existing Ward Improvement Fund Rules (chapter 5, part 12)

Appendix E – Employee Scheme of Delegation (extract) (chapter 3, part 4)

Background papers

None