

## Agenda item 9

# Council Issues

### 1. Review of 'written questions' pilot

- 1.1 In December 2021 the Council agreed a trial period during which written questions answered at the Council meeting were replaced with an electronic form by which members could ask written questions at any time, with the written answer being sent promptly to the member by email. Questions and answers being published on the Council's website in batches. The pilot was launched in January 2022.
- 1.2 Council now needs to decide whether or not to make this system permanent and remove the rules about written questions from the constitution entirely. All group leaders have been consulted and the proposal to make the system permanent is supported by group leaders. Accordingly, it is proposed to amend the constitution to remove the written questions process at council permanent.

#### Recommendation

- (i) Delete paragraphs 16.12.1 – 16.12.4 of the constitution
- (ii) Renumber paragraphs 16.12.5 – 16.12.7 and any cross references accordingly.
- (iii) That Council notes that the reason for the above changes is that there is an effective procedure for members to ask formal written questions of the Leader and Cabinet Members which provides published answers.

### 2. Public Questions at Council

- 2.1 The ability for members of the public to ask questions was introduced approximately eight years ago. The process has been generally working well but we are now faced with an increasing number of submissions of 'questions' which may be more accurately characterised as lengthy speeches on a topic of controversy with a question at the end. Some of the submissions can be intemperate and contain statements which are damaging to the reputations of people who cannot answer back at full council. In many cases we have been able to negotiate and agree alternative submissions with people making these questions.
- 2.2 The process was designed to allow the public to ask questions including, of course, difficult questions, but it was not designed to allow public a platform to make speeches attacking other people and bodies. We would not expect our members to make speeches of this nature as they are required to direct their speech to make it relevant. Further, under the written question for members

process the Chairman has had the right to edit questions asked by members for brevity. The Chairman does not currently have the right to amend questions asked by the public.

- 2.3 These issues have been discussed with group leaders. As a result it is proposed to introduce the right for the Chairman to exercise stricter controls over public questions; not to limit difficult questions but to ensure that members of the public are subject to rules which are broadly equivalent to the expectations upon members of the council. It is important to note that the new rules will not prevent the substance of any question from being asked, but they will restrict the way in which it is asked to reflect the standards of behaviour which we expect at our meetings.

**Recommendation:**

That Paragraph 16.12.8 of the constitution be replaced with the following renumbered paragraph:

**16.12.4 Questions asked by Members of the Public**

- (i) At every meeting of the Full Council there shall be a period of up to 30 minutes to enable members of the public to ask questions. A petition may be handed to the Chairman; but no other written statement or document may be handed up or circulated to the meeting.
- (ii) A member of the public may ask a question under this Standing Order only if it has been sent to the Head of Democracy and Transparency by email at:  
[democratic.services@essex.gov.uk](mailto:democratic.services@essex.gov.uk)  
by no later than 10.30am seven days before the meeting. The Head of Democracy and Transparency may allow a question to be submitted in post by prior arrangement.
- (iii) No person may ask more than one question at any meeting and no more than one question may be submitted on behalf of any group or organisation.
- (iv) A question may be rejected if it:
  - (a) is not about a matter for which the Council has powers or duties;
  - (b) is defamatory, frivolous, vexatious or offensive;
  - (c) is substantially the same as a question put to a meeting in the previous six months;
  - (d) includes any confidential or exempt information or if the answer is likely to involve the disclosure of any confidential or exempt information; or
  - (e) is or is likely to be subject to separate appeal, adjudication, litigation, mediation or dispute resolution.

If a question is rejected under this Standing Order then the Council will provide a written explanation as to why it has been rejected.

- (v) The Chairman may edit any question submitted for brevity, to remove references to anybody or person which is not able to answer back at the meeting or to otherwise bring the question into order.
- (vi) Questions which have not been rejected will be set out in writing and circulated at the meeting.
- (vii) Questions shall normally be dealt with in the order in which notice was received. The Chairman may revise the order of questions if he considers it appropriate, for example to group together similar questions.
- (viii) At the appropriate time the Chairman will invite the person who gave notice of the question or, if the Chairman agrees otherwise, another person on their behalf, to ask the question. The person asking the question must be present at the meeting or the question will not be asked. A period of three minutes will be allowed for the question to be asked.
- (ix) There is no opportunity for a member of the public to make a statement or to ask a supplementary question. The question must be asked using the wording unless the question has been edited by the Chairman when the edited version must be used.
- (x) The relevant Member will respond to the question orally. Any answer may refer to published information.
- (xi) No other Member shall be permitted to speak.
- (xii) Any question of which proper notice has been given but which is not dealt with in the allotted time of 30 minutes will not be held over to the next meeting: after the meeting a written response will be given in the form in which the question was received.

### **3. ACCESS joint committee**

- 3.1 The ACCESS joint committee which is the joint decision making body for the ACCESS pension fund pool has reviewed its constitution. We have been asked to agree a number of very minor changes. Since these changes affect the terms of reference of the joint committee they must be approved by full council.
- 3.2 The changes will have no significant impact on ECC's rights under the agreement and ECC has raised no objection to the changes. In summary the changes are:
  - (a) A right for the joint committee to issue non-binding advice to the local authority members of the pool
  - (b) A requirement that the person we appoint to the joint committee is a county councillor

- (c) New rules about substitutes
- (d) New rules about 'observers' to meetings to include an enhanced right for observers from the pension advisory board to attend items from which the press and public are excluded.

3.3 Accordingly it is recommended that Council agrees the recommendations set out below:

**Recommendation:**

- (i) Agree that the Council enters into a deed of variation with the ACCESS member authorities to reflect the changes to the decision making arrangements of ACCESS set out in (2) and (3) below.
- (ii) That the following changes be made to the ACCESS joint committee terms of reference and constitution in appendix 5 of the ECC Constitution:
- (iii) A new paragraph 4 of part 1 of the *terms of reference* be inserted as follows:
 

‘4 In consultation with the Councils, the Joint Committee shall have the ability to produce advisory guidelines for the Pool which describe the collectively aligned guidelines or policies of the Councils for engagement with existing and potential Pool Assets and Pool Aligned Asset providers and communication with other interested parties. Such guidelines will be periodically reviewed and updated by the Joint Committee in consultation with the Councils. Before consulting with the Councils on the guidelines, the Joint Committee shall consult with and consider the advice of the Section 151 Officers Group and, where requested, the Monitoring Officers and from appropriate professional advisers. Any guidelines for the Pool must not go beyond the policies already in place by each Administering Authority and will not supersede or replace the Investment Strategy Statement or policies of each Administering Authority.’
- (iv) Paragraph 1 of part 1 of the *constitution* of the joint committee shall be deleted and replaced with the following wording:
 

‘1. The Joint Committee shall consist of one elected councillor appointed by each Council. The member so appointed must be an elected councillor of the appointing Council and be a serving member of the committee which discharges the functions of that Council as pension administering authority.’
- (v) Paragraph 2 of part 1 of the *constitution* of the joint committee shall be deleted and replaced with the following wording:

- ‘2. Each Council may appoint a substitute. Any such substitute must either meet the eligibility requirements in paragraph 1 or be an elected councillor of another council and serving as a member of the committee of a Council which discharges the functions of that Council as pension administering authority (established under Section 101 of the Local Government Act 1972). The substitute may attend any meeting of the Joint Committee or any of its sub-Committees in place of that Council's principal member appointed under paragraph 1 above if notice that the substitute will attend is given to the Secretary of the Joint Committee by the Council concerned.’
- (vi) The second sentence of paragraph 5 of part 1 of the *constitution* of the joint committee shall be replaced with the following:
- ‘Any member who ceases to meet the eligibility criteria in paragraph 1 or 2 (as appropriate) shall automatically cease to be a member of the Joint Committee.’
- (vii) Paragraph 22 of part 2 of the *constitution* of the Joint Committee shall be shall be deleted and replaced with the following text:
- ‘22 ACCESS FOR ELECTED MEMBERS OF THE COUNCILS; LOCAL PENSIONS BOARDS AND OTHER OBSERVERS ("OBSERVERS")
- ‘22.1 Any elected member of the Councils who is not a member of the Joint Committee may speak at a meeting of the Joint Committee if the Chairman of the Joint Committee invites him or her to do so but an elected member of the Councils who is not a member of the Joint Committee shall not be entitled to vote at a meeting of the Joint Committee.

#### Local Pensions Board Observers

- 22.2 The Joint Committee shall invite Observers from the local pensions boards appointed under section 5 of the Public Service Pensions Act 2013 from each of the Councils to attend meetings of the Joint Committee on such basis as it thinks fit, which shall be reviewed by the Joint Committee from time to time. Such persons shall not be subject to the provisions of paragraph 23.1 below (the power to exclude members of the public in accordance with Part V A of the Local Government Act 1972).
- ‘22.3 Notice of Joint Committee Meetings shall be given by the Secretary to such Observers who are nominated in accordance with paragraph 22.2 above under paragraph 17, including details of the business to be transacted and such reports as are available. Such Observers shall receive copies of the minutes provided to members of the Joint Committee in accordance with paragraph 21.1 and 21.2.

‘22.4 Observers who attend meetings of the Joint Committee shall not be entitled to vote, nor may they speak unless invited to do so by the Chairman.

#### Other Observers

‘22.6 Any other member of a Council's pensions committee established under Section 101 of the Local Government Act 1972 may attend a meeting of the Joint Committee at the discretion of the Chairman in the capacity of an Observer. Such persons shall not be entitled to vote, nor may they speak unless invited to do so by the Chairman. Such persons shall not be subject to the provisions of paragraph 23.1 below (the power to exclude members of the public in accordance with Part VA of the Local Government Act 1972). Notice of Joint Committee Meetings shall be given by the Secretary to such persons under paragraph 17. Such persons shall receive copies of the minutes provided to members of the Joint Committee in accordance with paragraph 21.1 and 21.2.’

- (viii) That the terms of reference of the Section 151 officers' group which supports the ACCESS joint committee (and which is not included in the ECC constitution) be amended by addition of a new paragraph 2.9 as follows:

‘2.9 Reviewing and advising on any proposed guidelines for the Pool.’