

To: All Members of the Standards Panel
(Other Members for Information)

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Calls may be recorded for training or monitoring
Date: 25 September 2017

Membership of the Standards Panel

Cllr Mike Band
Cllr Carole Cockburn
Cllr Kevin Deanus
Cllr David Else
Cllr Pat Frost

Cllr Michael Goodridge (Chairman)
Cllr Stephen Hill
Cllr David Hunter
Cllr John Williamson

Dear Councillor

A meeting of the STANDARDS PANEL will be held as follows:

DATE: TUESDAY, 3 OCTOBER 2017
TIME: 4.00 PM
PLACE: COMMITTEE ROOM 1, COUNCIL OFFICES, THE BURYS,
GODALMING

Yours sincerely

ROBIN TAYLOR
Head of Policy and Governance

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NOTES FOR MEMBERS

Members are reminded that contact officers are shown at the end of each report and members are welcome to raise questions etc in advance of the meeting with the appropriate officer.

AGENDA

1. MINUTES

To confirm the minutes of the meeting which took place on 6 June 2017.

2. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

3. DISCLOSURES OF INTEREST

To receive any disclosures of interest.

4. CONSTITUTIONAL REVISIONS (Pages 5 - 12)

The purpose of this report is to seek the Standard Panel's views on some further revisions to the Constitution based on areas where further work was requested at its last meeting which relate to a number of issues around the appointment of substitute members. Since the last meeting, the Standards Panel is also requested to consider the size of the Audit Committee.

Recommendation

It is recommended that the Standards Panel

1. **agrees an appropriate deadline for the appointment of substitute members to a Committee or Sub-Committee;**
2. **considers the revised wording of the Substitution Rules set out in Annexe 1;**
3. **determines the best option for the way forward for the membership of the Audit Committee, as set out in paragraph 13 of the report; and**
4. **makes the appropriate recommendations to the Council for amending the constitution.**

**For further information or assistance, please telephone
Ema Dearsley, Democratic Services Officer, on 01483 523224 or by
email at ema.dearsley@waverley.gov.uk**

WAVERLEY BOROUGH COUNCIL

STANDARDS PANEL – 3 OCTOBER 2017

Title:

CONSTITUTIONAL REVISIONS

**[Portfolio Holder: N/A]
[Wards Affected: All]**

Summary and purpose:

The purpose of this report is to seek the Standard Panel's views on some further revisions to the Constitution based on areas where further work was requested at its last meeting which relate to a number of issues around the appointment of substitute members. Since the last meeting, the Standards Panel is also requested to consider the size of the Audit Committee.

How this report relates to the Council's Corporate Priorities:

The Council's Constitution relates to the full spectrum of the Council's activities so changes to it are likely to relate to all of the Council's Corporate Priorities. However, the aim of streamlining and simplifying decision-making processes by reviewing the documents aims to progress the Council's objectives of providing excellent customer service and achieving value for money.

Financial Implications:

There are no financial implications arising from this report.

Legal Implications:

The legal advice is set out in the body of this report.

Background

1. At the last meeting of the Standards Panel on 6 June 2017, which considered a review of the Scheme of Delegation and revisions to the constitution, it was requested that further work be undertaken on the following areas:-
 - i. the deadlines for giving apologies for meetings and calling substitutes
 - ii. the application of political proportionality rules for committee members and substitutes at quasi-judicial meetings; and
 - iii. the formatting/numbering of substitution rules in the Constitution.

These will be addressed in turn within this report.

Apologies for Absence and Deadlines for calling Substitutes

2. Members are required to notify the Democratic Services team with apologies for absence when they are unable to attend a meeting, giving as much notice as possible. For those meetings which operate a substitute scheme, the section regarding substitutions in the Council's Constitution currently states

"PR4.4 (a) The member unable to attend a Committee or Sub-Committee meeting will submit their apologies to the Head of Policy and Governance by noon at the latest on the day of the meeting and ask that a substitute be appointed".
3. With regard to quasi-judicial meetings in particular, concerns have been expressed about the amount of time available to a substitute to read and understand the agenda papers before the meeting if they can be called as late at noon on the day of the meeting. This is particularly relevant when there are lengthy and complicated reports setting out a major planning application or consideration of a review of a licensed taxi-driver, for example.
4. Whilst it is possible that late apologies can be given because of illness or urgent matters that arise, ***the Standards Panel's view is sought on a reasonable deadline for calling a substitute to a meeting once apologies have been given.***
5. There are some proposed amendments to the section in the Constitution regarding substitutions later in this report, and so it is suggested that any amendments to the procedure will be further reflected in the changes.

The Application of Proportionality Rules and Substitutions

6. At the last meeting, the Panel asked officers to investigate whether it was appropriate for quasi-judicial meetings to be appointed on the basis of political proportionality given that they were taking apolitical decisions, and whether subsequently substitutes also had to be called on a political basis when apologies were given.
7. The Constitution currently states that

"PR 4.2 For each Committee, the Council will appoint the agreed number of substitutes in respect of each political group in proportion to the number of ordinary seats as that group holds on that Committee, Sub-Committee or Panel".
8. Legal advice confirms that this interpretation is consistent with legislation under which the Committees are appointed, namely Section 15 of the Local Government and Housing Act 1989 which specifies "The Duty to Allocate Seats to Political Groups" and Section 16 "Duty to give Effect to Allocations".
9. Schedule 1 to the 1989 Act also applies and sets out which Committees these two duties apply to. They are essentially Any "Ordinary Committee"; OR Any "Ordinary Sub-Committee". The Act defines an 'Ordinary' Committee or Sub-Committee as "any Committee of the authority appointed under Section 102(1)(a) of the Local Government Act 1972.....".

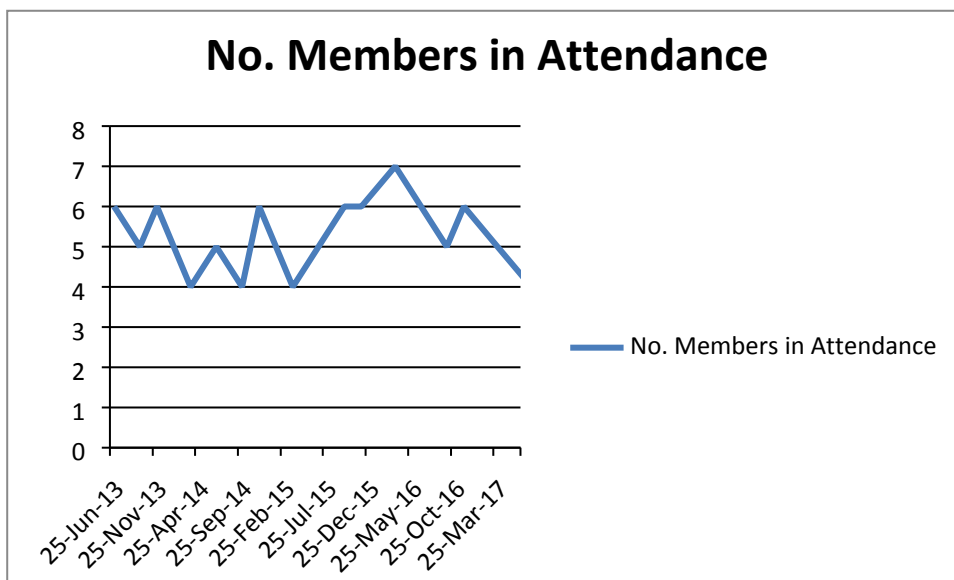
10. The Committees of the Council are appointed under Section 102(1)(a) of the Local Government Act 1972 and further, a local authority may arrange for the discharge of any of its functions to be dealt with by a Committee, a Sub-Committee or an officer. This includes quasi-judicial matters. It therefore follows that these Committees are 'Ordinary' Committees and the duties to allocate seats to political groups and give effect to such allocations apply. It follows that this must also apply to the appointment of substitutes, as it currently set out in the Constitution. It is not proposed that any changes are required.

Substitution Rules in the Constitution

11. At the last meeting of the Standards Panel which recommended changes to the constitution to reflect the appointment of substitutes to the Joint Planning Committee, it was suggested that the two separate elements within the section would be better affiliated as one so that the rules were consistent to all Committees operating a substitute scheme. The proposed changes to the section are attached as Annexe 1, with amendments shown as tracked changes.

Audit Committee Membership

12. The Audit Committee membership consists of seven councillors, with no ability currently to appoint substitutes. In recent months, attendance at the Committee has fluctuated and due to the small size of the Committee, apologies for absence have been received which can sometimes leave the Committee close to being inquorate. Details of attendance levels are set out in the table below, noting that a full complement of members has only occurred once in the last four years:-



Date of Meeting	No. Members in Attendance
24 July 2017	4
21 March 2017	5
15 November 2016	6
13 September 2016	5
21 June 2016	6
15 March 2016	7
17 November 2015	6
15 September 2015	6
23 June 2015	5
23 March 2015	4
19 November 2014	6
17 September 2014	4
25 June 2014	5
18 March 2014	4
19 November 2013	6
17 September 2013	5
25 June 2013	6

13. In order to address the fact that this is a small Committee but attendance levels need to be sustained at an appropriate level to ensure comprehensive debate and discussions, the Standards Panel is asked to give its view on the following options as a way forward:-
- i. increase the membership of the Committee by 1 place; or
 - ii. introduce substitute members.
14. As per other Committees which operate with a substitution scheme, every effort is made to ensure consistent knowledge and substitutes are included in all training and development events associated with the Committee, and can also access all Committee papers in advance of meetings so that they can be well briefed on the subject matters under consideration.

Recommendation

It is recommended that the Standards Panel

1. agrees an appropriate deadline for the appointment of substitute members to a Committee or Sub-Committee;
 2. considers the revised wording of the Substitution Rules set out in Annexe 1;
 3. determines the best option for the way forward for the membership of the Audit Committee, as set out in paragraph 13 of the report; and
 4. makes the appropriate recommendations to the Council for amending the constitution.
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Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

CONTACT OFFICER:

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4. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES

4.1 Allocation

As well as allocating seats on committees, the Council will allocate seats in the same manner for substitute members.

4.2 Number

For each Committee, the Council will appoint the agreed number of substitutes in respect of each political group in proportion to the number of ordinary seats as that group holds on that Committee, Sub-Committee or Panel.

4.3 Powers and duties

Substitute members will have all the powers and duties of any ordinary member of the Committee but will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting.

4.4 Substitution

The following procedure will apply to the appointment of substitutes when members are not able to attend a meeting of a Committee or Sub-Committee, including in the case of a vacancy:

(a) The member unable to attend a Committee or Sub-Committee meeting will submit their apologies to the Head of Policy and Governance by **[noon at the latest on the day of the meeting]** and ask that a substitute be appointed.

(b) The Head of Policy and Governance will then approach substitutes from the appropriate political group in the order agreed by the Council or the parent Committee.

~~(c) Substitute members must be from the same political group as the member giving the apology, and in the event that no substitute is available, no substitute will be made for that member.~~

~~(de) The Head of Policy and Governance will notify the Committee or Sub-Committee of any substitutions at the start of the meeting.~~

~~(ed) Substitutes shall exercise the full voting rights of a member of a Committee or Sub-Committee when attending a Committee or Sub-Committee meeting.~~

~~(e) Substitute members shall be eligible for payment of travelling and subsistence allowances.~~

~~(f) Members on substitute lists will be sent the full agenda for meetings.~~

(g) For the Joint Planning Committee, all members of the Area Planning Committees who are not already members will be listed as substitutes and a substitute will be called from the same Area Planning Committee as the member giving their apology from the Joint Planning Committee.

~~(e) Substitute members shall be eligible for payment of travelling and subsistence allowances.~~

~~(f) Members on substitute lists will be sent the full agenda for meetings.~~

There are no substitute members appointed to the Audit Committee, Executive and Area Planning Committees.

~~For the Joint Planning Committee, the following procedure will apply to the appointment of substitutes when members are not able to attend a meeting:-~~

- ~~1. all members of the Area Planning Committees who are not already members will be listed as substitutes of the Joint Planning Committee;~~
- ~~2. upon receipt of any apology from a member of the Joint Planning Committee by 12 noon on the day of the meeting, substitute members will continue to be arranged by the Democratic Services Team;~~
- ~~3. a substitute will be called from the same Area Planning Committee as the member giving their apology from the Joint Planning Committee;~~
- ~~4. the substitute member must be from the same political group as the member giving the apology, and in the event that no substitute is available, no substitute will be made for that member.~~

[NB the notes highlighted may be amended dependent on the discussions at the meeting of the Standards Panel]