

## **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.....".

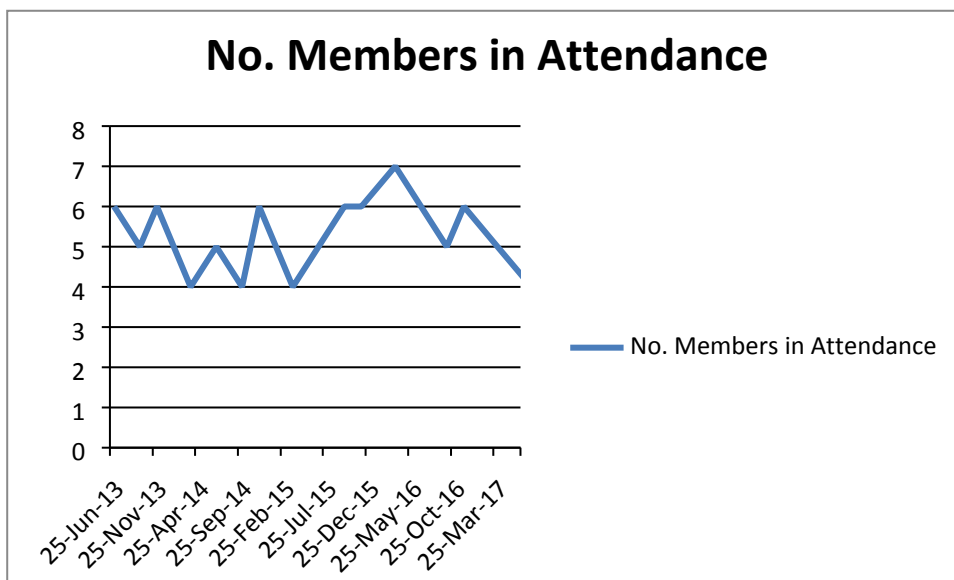
10. The Committees of the Council are appointed under Section 102(1)(a) of the Local Government Act 1972 and further, a local authority may arrange for the discharge of any of its functions to be dealt with by a Committee, a Sub-Committee or an officer. This includes quasi-judicial matters. It therefore 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.
-

## 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:**

**Name:** Emma McQuillan

**Telephone:** 01483 523351

**E-mail:** [emma.mcquillan@waverley.gov.uk](mailto:emma.mcquillan@waverley.gov.uk)