

You are hereby summoned to attend a meeting of the

MAIDSTONE BOROUGH COUNCIL



Date: Wednesday 22 September 2010

Time: 6.30 p.m.

Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Hotson (Mayor), Ash, Barned,
Beerling, Mrs Blackmore, Bradshaw,
Brindle, Burton, Butler, Chittenden,
Daley, English, Field, FitzGerald,
Garland, Mrs Gibson, Mrs Gooch,
Greer, Harwood, Hinder, Mrs Hinder,
Horne, Mrs Joy, Miss Langley, Lusty,
Marchant, B Mortimer, D Mortimer,
Naghi, Mrs Naghi, Nelson-Gracie,
Paine, Parr, Mrs Parvin, Parvin,
Paterson, Pickett, Mrs Ring,
Mrs Robertson, Robertson, Ross,
Sams, Sellar, Sharp, Sherreard,
Mrs Smith, Mrs Stockell, Thick, Verrall,
Vizzard, Warner, Mrs Wilson,
J A Wilson, J E Wilson and Yates

Continued Over/:

Issued on 14 September 2010

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEBBIE SNOOK on 01622 602030**. To find out more about the work of the Council, please visit www.maidstone.gov.uk

Alison Broom

**Alison Broom, Chief Executive, Maidstone Borough Council,
Maidstone House, King Street, Maidstone, Kent ME15 6JQ**

AGENDA

Page No.

1. Apologies for Absence
2. Disclosures by Members and Officers
3. Disclosures of Lobbying
4. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
5. Minutes of the extraordinary meeting of the Borough Council to be held on 16 September 2010 - to follow
6. Mayor's Announcements
7. Petitions
8. Question and Answer Session for Members of the Public
9. Questions from Members of the Council to the
 - (a) Leader of the Council
 - (b) Cabinet Members
 - (c) Chairmen of Overview and Scrutiny Committees
 - (d) Chairmen of other Committees
10. Current Issues - Report of the Leader of the Council and Response of the Group Leaders
11. Record of Recommendation of the Cabinet - Executive Arrangements 1 - 3
12. Report of the General Purposes Group held on 25 August 2010 - Substitute Members 4 - 6
13. Report of the General Purposes Group held on 25 August 2010 - Petitions at Council Meetings 7 - 8
14. Report of the Standards Committee held on 1 September 2010 - Annual Review of Complaints 2009/10 9 - 27
15. Report of the Standards Committee held on 1 September 2010 - Joint Independent Remuneration Panel 28 - 29
16. Oral Report of the Cabinet to be held on 15 September 2010 (if any)
17. Oral Report of the Audit Committee to be held on 20 September 2010 (if any)

18. Notice of the following motion has been given by Councillor Horne

That consideration of any past, present, or future **Honours, Recognition or Titles** within the jurisdiction of the Council shall in the first instance be by the General Purposes Group who may subsequently make a recommendation to the Council for further action.

FURTHER the Council will be guided by current legislation.

19. Report of the Head of Democratic Services - Standards Committee - Parish Representatives 30
20. Report of the Head of Democratic Services - Committee Membership 31 - 32

Agenda Item 11

MAIDSTONE BOROUGH COUNCIL

RECORD OF RECOMMENDATION OF THE CABINET TO COUNCIL

Recommendation Made: 11 August 2010

EXECUTIVE ARRANGEMENTS

Issue for Decision

To consider a requirement under the Local Government and Public Involvement in Health Act 2007 ('the Act') that each authority should consider its executive arrangements in light of the changes to the Leader and Cabinet Executive model set out within 'the Act'.

Recommendation Made

1. That the new Leader and Cabinet Executive model as set out in the Local Government and Public Involvement in Health Act 2007 be adopted as the Council's preference when undertaking the consultation of local government electors and other interested persons in their area.
2. That the consultation with local government electors and other interested persons in the area be undertaken by a press release on the Council's website.

Reasons for Recommendation

On 11 August 2010, the Cabinet considered the report of the Head of Democratic Services regarding a requirement under the Local Government and Public Involvement in Health Act 2007 ("the Act") that each authority should consider its executive arrangements in light of the changes to the Leader and Cabinet Executive model set out within the Act.

The Local Government and Public Involvement in Health Act 2007 requires every authority which operates a Leader and Cabinet model of Executive to change its executive arrangements in accordance with a statutory timetable. This change is popularly known as transition to a 'Strong Leader' model, but in fact it differs critically from a 'strong leader' as permitted by the Local Government Act 2000.

The Local Government Act 2000 required all principal local authorities to adopt "executive arrangements" in one of three forms, namely:-

- Mayor and Cabinet Executive
- Leader and Cabinet Executive
- Mayor and Council Manager (this was abolished by 'the Act').

Within the Leader and Cabinet Executive model there was a considerable degree of local choice as to the relative strengths of Council and of the Leader. There was the 'weak Leader' option in which Council appointed both the Leader and the members of the Cabinet, with no delegations to individual Cabinet members so that the Cabinet was the sole member-level executive decision-maker. The 'strong Leader' option was where the Council elected the Leader and then the Leader appointed the Cabinet, and the Leader determined the degree of delegation of powers to individual Cabinet members. This Council adopted the 'strong Leader' option.

The new Leader and Cabinet Executive model within the Act is a different legal form of executive to the old-style Leader and Cabinet Executive model, with the result that the transition to the new Leader and Cabinet Executive model, as required by the Act, is a 'change to the form of executive', even where the authority is currently operating a 'strong Leader' model under the Local Government Act 2000.

The new Leader and Cabinet Executive model is very similar to the old 'Strong Leader' model, but is different in three key respects, which cannot be achieved under the old legislation. Therefore for Maidstone whatever option is chosen is a change to the executive arrangements.

So in the new model like Maidstone, the Council elects the Leader for four years and the Leader is then responsible for:-

- Determining the size of the Cabinet
- Appointing the members of the Cabinet
- Allocating portfolios or areas of responsibility to the various Cabinet Members
- Allocating decision-making powers to the Cabinet and to individual Cabinet Members, and
- Removing and replacing Cabinet Members

However, the three key differences which are required in the new Leader and Cabinet Executive model but is not in the old model are :-

- The Leader's term of office is extended beyond the 4th day after the local elections to run up to the day of the first annual meeting after the Leader's normal day of retirement as a Councillor.
- During his/her term of office, the Leader will automatically cease to be Leader upon death or disqualification, but may only be removed from office by a resolution of Council.
- There is a requirement for the leader to appoint a Deputy Leader

Whatever option is chosen is a change and legislation states that the authority must 'take reasonable steps to consult the local government

electors and other interested persons in the area' and in doing so it is suggested that the Council could give its preferred option. However, recent advice from the new government which will be proposing a number of changes in this area states that Councils must comply with the requirements of the Act but that consultation can be minimal and has indicated that a small newspaper article / advert or Press release on the website would be appropriate consultation

Alternatives considered and why not recommended

The Act requires the Council to adopt new executive arrangements and to undertake the consultation regarding the change.

Background Papers

Local Government and Public Involvement in Health Act 2007
Advice note from Bevan Brittan on Changing Executive Arrangements

MAIDSTONE BOROUGH COUNCIL

COUNCIL

22 SEPTEMBER 2010

REPORT OF THE GENERAL PURPOSES GROUP **HELD ON 25 AUGUST 2010**

SUBSTITUTE MEMBERS

At the Council meeting on 21 April 2010, a recommendation from the Corporate Services Overview and Scrutiny Committee sought the agreement of the Council that any Non-executive member should be allowed to substitute on any committee not requiring prior training, rather than having nominated substitutes.

During the meeting it was also suggested that the recommendation could be reworded so that any Non-executive member could be allowed to be a substitute on a committee when they had received the appropriate training rather than having nominated substitutes.

The Council agreed that any Non-executive member could act as a substitute on the Scrutiny Committees on the proviso that the Officers would report back to members on its possible extension to all other committees and groups. This group is now considering the need for changes to the substitute arrangements

In considering the recommendation of the overview and scrutiny committee one has to break it down into two parts namely the issue of whether it should be a non executive member and secondly the relevance of the required training for the Audit, Planning and both Licensing Committees. Additionally Standards Committee would not be affected by the change in substitute rule as it has its own specific substitute rules.

In terms of substitutes being limited to Non-executive members it is not appropriate because whilst it is understood that Non-executive members cannot serve on Overview and Scrutiny Committees, this is not a case with the other committees where in some instances it is a pre-requisite that a member of the Executive serves on these committees. Therefore, it is suggested that if this matter is progressed any further in terms of the removal of nominated substitutes and opening up the substitution rules it should in fact be open to all members rather than just Non-executive members.

In the Constitution four committees specifically require that their members must have received training. These are the Audit Committee, Planning Committee and both Licensing Committees. I set out below the wording used to express this requirement in the constitution-

Audit Committee

All Audit Committee members must receive appropriate training.

Planning Committee

The Council has also decided that no Member will be appointed to be a member or substitute member of the Planning Committee without having agreed to undertake a period of training in planning policies and procedures. This training should be commenced within 3 months of becoming a member/substitute member of the Planning Committee, and Members should be updated regularly on changes to legislation, policy and procedures. All Members of Planning Committee must receive refresher training annually.

Licensing and Licensing 2003 Act Committee

No Member will be appointed to the Licensing Committee without having agreed to undertake a period of training in licensing procedures as specified by the Council. This training should be undertaken before the member takes up their place on the Licensing Committee, and Members should be updated regularly on changes to legislation and procedures. All Members of Licensing Committee should receive refresher training annually.

You will see from the above that each committee is different though all seem to be attempting to achieve the same outcome. What is required is consistency in approach to training particularly if there is an opening of the substitution rules to allow all Councillors to act as substitutes. It is important that the agreed wording ensures that all members of these committees are trained or committed to being trained within an agreed timescale and in accordance with the training programme agreed by each committee. The wording set out below puts in place the process for ensuring all members are trained including substitute members:-

“The Council has agreed that no member will be able to serve on the Committee without having agreed to undertake a period of training on the policies and procedures of this Committee as specified by the Council. This training should be completed to an agreed level within an agreed time period set by the committee for newly appointed members and substitute members of the committee. If the specified training has not been completed by the due date, the member will cease to be a member/substitute member of the Committee in question until the training has been completed. The Head of Democratic Services will keep a record of the training requirements of each committee and of members’ compliance with the requirements. Existing members of the Committee should be updated regularly on changes of legislation and procedures and receive refresher training on an annual basis.”

It is important that the wording regarding training is consistent and members are therefore asked to agree the proposed amendment. In respect of the change to substitution rules members will need to consider the implications firstly for those committees who in the constitution do not require training, and those which do require training. Also in considering any change consideration will need to be given to the Council's rules on membership of certain committees which prevents them from sitting on other committees such as exists with Planning and Licensing.

Recommendation

1. That the current rules for substitution be changed from nominated substitutes to any member of the Council acting as a substitute for any committee, other than Overview and Scrutiny Committees and the Standards Committee, as long as they have received the appropriate training (if appropriate) to enable them to sit on that committee.
2. That the Constitution be amended in Article 6A and in the Local Codes of Conduct for Councillors and Officers dealing with Planning and Licensing matters to delete the relevant paragraphs for training and replace them with the following:-

"The Council has agreed that no member will be able to serve on the Committee without having agreed to undertake a minimum period of training on the policies and procedures of this Committee as specified by the Committee. This training should be completed to an agreed level according to an agreed programme within an agreed time period set by the committees for newly appointed members and substitute members of the committee. If the specified training has not been completed by the due date, the member will cease to be a member/substitute member of the Committee in question until the training has been completed. The Head of Democratic Services will keep a record of the training requirements of each committee and of members' compliance with the requirements. Existing members of the Committee should be updated regularly on changes of legislation and procedures and receive refresher training on an annual basis."

Evaluation of the Standards Committee held on 1 September 2010

That in accordance with Article 15.02 (a) of the Constitution, the Standards Committee has evaluated the above proposed amendment of the Constitution and believes that their implementation will help to ensure that the aims and principles of the Constitution are given full effect by providing more capacity and flexibility in terms of the use of Substitutes and clarifying and strengthening the requirement for training on the policies and procedures of certain Committees.

Agenda Item 13

MAIDSTONE BOROUGH COUNCIL

COUNCIL

22 SEPTEMBER 2010

REPORT OF THE GENERAL PURPOSES GROUP HELD ON 25 AUGUST 2010

PETITIONS AT COUNCIL MEETINGS

On 25 August 2010, the General Purposes Group considered the report of the Head of Democratic Services concerning any amendments which are required to the Council's Petition scheme, which is within the Constitution, arising from the Local Democracy and Economic Development and Construction Act 2009.

The Local Democracy and Economic Development and Construction Act 2009 ("the Act") requires every principal Council to introduce a Petition Scheme. However this Council has had a Petition Scheme within its Constitution for at least 20 years and that scheme is currently sufficient to meet the requirements of the above Act. However in considering the principles within the Act it is felt that there was an opportunity to review the Scheme with the view to seeing whether it could be changed to allow more debate at the Council meeting.

Currently the existing Petition Scheme allows the opportunity for any petition to be debated at the Council meeting subject to certain rules such as a factual briefing note being provided. The petitioner will have an opportunity to speak for 5 minutes. The petition would then be debated for 20 minutes by Members and at the conclusion of that the debate the petitioner would have a further 3 minutes to comment on the issues raised during the debate. This meets the requirements set within the Act but in considering this matter it was wondered whether Members wished to consider the opportunity for opening up debate at the Council meeting by allowing an unrestricted debate at a Council meeting where the petition has 1,500 signatures which would be more significant than the current 20 minute debate.

Additionally, the new Act also has a requirement that senior officers should be held to account by an Overview and Scrutiny Committee when a petition has been received requesting that they attend an Overview and Scrutiny Committee. This Council already undertakes this practice in that senior officers of the Council will always attend meetings of the Overview and Scrutiny Committee when requested by that Committee but equally if a petition was received by an Overview and Scrutiny Committee and required attendance of an officer that officer would always attend that meeting. However, in order to meet the requirements of the Act it is

suggested that an amendment is made to the Scheme to add a provision that a senior officer will attend a meeting of an Overview and Scrutiny Committee when requested by a Petitioner. It is suggested that a senior officer is defined as Chief Executive, Director or Head of Service.

Within the existing Petition Scheme there is no power to reject a petition where it is considered to be vexatious, abusive or otherwise inappropriate such as within the requirements for Questions at the Council meeting. It is therefore suggested that the Scheme is amended to add this requirement. It is suggested that the delegated officer for this purpose could be myself, the Head of Democratic Services but undertaken in consultation with the Monitoring Officer.

The Act also indicates that by the end of the Calendar year the Council must have in place an E Petition Scheme by which members of the public can submit petitions to the Council. Having this facility should hopefully encourage a greater use of petitions and their eventual discussion at Council. The Council is able to do this using its Committee Administration package modern.gov and this should be in place in the autumn.

Recommendation

1. That an amendment is made to the Council's Petition Scheme to allow a debate, without time limit, by the Council of a petition with 1,500 signatures.
2. That the council's Petition Scheme be amended to include a provision whereby if a petition has been received with 100 signatures and requests that a senior officer of the council should attend a meeting of an Overview and Scrutiny Committee that officer will attend with such senior officer being defined as Chief Executive, Director or Head of Service.
3. That the Council's Petition Scheme be amended so that there is no age limit on who can sign the Petition or present the Petition to Council.
4. That the Councils Petition Scheme be amended to include an E-Petition facility.

Evaluation of the Standards Committee held on 1 September 2010

That in accordance with Article 15.02 (a) of the Constitution, the Standards Committee has evaluated the proposed amendments to the Council's Petition Scheme within the Constitution and believes that, subject to the provision to allow, without time limit, a debate by the Council on any petition with 1,500 signatures being reviewed in two years, their implementation will help to ensure that the aims and principles of the Constitution are given full effect by ensuring compliance with new legislation and providing opportunities for more debate at Council meetings.

Agenda Item 14

MAIDSTONE BOROUGH COUNCIL

STANDARDS COMMITTEE

REPORT OF THE MEETING HELD ON 1 SEPTEMBER 2010

1. **ANNUAL REVIEW OF COMPLAINTS 2009/10**

The Committee considered the report of the Head of Change and Scrutiny and the Head of Legal Services reviewing the Council's performance in dealing with complaints during the period 1 April 2009 to 31 March 2010. A copy of the report is attached as an Appendix to this report. It was noted that the report had been delayed in order to incorporate the Local Government Ombudsman's annual review of the complaints his office had dealt with about the Council during the year ended 31 March 2010.

The Committee felt that the Council should be congratulated on its performance in dealing with complaints over this period.

RECOMMENDED: That the issues outlined in the Annual Review of Complaints 2009/10 be noted and endorsed.

MAIDSTONE BOROUGH COUNCIL

STANDARDS COMMITTEE

1ST SEPTEMBER 2010

**REPORT OF THE HEAD OF CHANGE AND SCRUTINY AND THE
HEAD OF CORPORATE LAW AND LEGAL SERVICES**

Report prepared by Head of Change & Scrutiny

1. ANNUAL REVIEW OF COMPLAINTS 2009 – 2010

1.1 Issue for Decision

1.1.1 To consider the Council's performance in dealing with complaints for the period 1st April 2009 to 31st March 2010.

1.1.2 It should be noted that this report to Standards Committee is designed to examine the Council's performance against agreed standards, not to investigate individual service issues.

1.1.3 The annual report will now be published in August annually in order to incorporate the results of the Ombudsman's report.

1.2 Recommendation of the Assistant Director of Customer Services and Partnerships and the Head of Corporate Law and Legal Services

1.2.1 That the issues outlined in the report be noted and endorsed.

1.3 Reasons for recommendation

1.3.1 On June 1 2005, the Council's Management Team introduced a new corporate complaints' system. Standards Committee have since received quarterly reports detailing the Council's performance in relation to the agreed Complaints' Policy, and this report sets out the Council's performance in handling complaints for the year 1st April 2009 to 31st March 2010.

1.3.2 Since the introduction of the Corporate Complaints' policy and management system the Council has been able to monitor its response to complaints in order to achieve significant improvements in both response times to complaints and the quality of response. Prior to introducing the new system the Council responded to approximately 60% of all complaints within 10 working days. Performance now is

regularly over 90%, and as well as monitoring the performance of complaints, the Council carries out quarterly satisfaction surveys.

1.3.3 During the year, the Council received 284 complaints. Performance in terms of responsiveness to Stage 1 complaints overall during the year was very good with 96% answered within 10 working days.

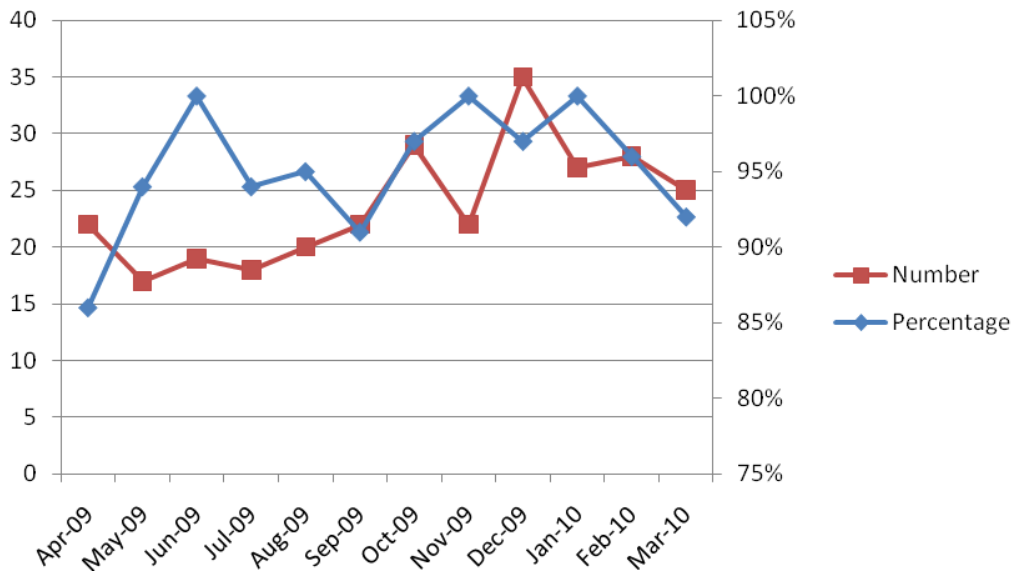


Fig 1: Monthly breakdown of number of complaints and % answered within 10 days – a more detailed analysis compared to previous years is attached at Appendix 2.

1.3.4 A further more detailed analysis identified the following headline issues:

- The number of complaints per month remained reasonably consistent between 17 and 35.
- Performance in responding to complaints within this period was consistently high, only falling below 90% in April.
- The services with the highest numbers of complaints received were:

Service	Number of complaints	% answered on time
Waste Collection	34	100%
Development Control	34	97%

Revenues/NNDR	33	93%
Parking Enforcement	28	96%
Planning Enforcement	27	100%

- The services with the worst response rate within 10 working days were:

Service	Number of complaints	% answered on time
Economic Development & Tourism	1	0%
Housing	18	77%
Housing & Council Tax Benefits	24	87%

1.3.5 In October 2009 The Council (along with all Local Authorities) carried out the annual 'Place Survey' in which 44% of those that responded stated that they were satisfied with the way the Council operates.

1.3.6 The annual Ombudsman's report identified 26 enquiries, of which 22 were treated as complaints, of which none were deemed to be as a result of maladministration.

1.3.7 In terms of comparison with complaints' data for the previous years:

- In 2009/10 the number of complaints increased by 16% compared to 2008/09.
- The following sections received no complaints during the year 2009/10 – Arts Development, Audit, Change & Improvement, Secretariats, Communications, Community Safety, Food & Safety, HR, Legal Conveyancing or Litigation, Market, Museum, Overview & Scrutiny, Property & Procurement, Registration Services and Social Inclusion.
- During 2006/07, 34 Stage 2 complaints were raised; 10 (29.4%) were dealt with within SLA and 24 outside of the service agreement.
- During 2007/08, 48 Stage 2 complaints were raised, 42 (87.5%) were dealt with within the service agreement and only 6 outside.
- During 2008/9, 38 stage 2 complaints were raised, 36 (95%) were dealt with within the service agreement and only 2 outside.
- During 2009/10, 33 stage 2 complaints were raised, 30 (91%) were dealt with within the service agreement and only 3 outside.

1.3.8 A more detailed breakdown of complaints received is attached at Appendix A and a chart of complaints statistics since 2006 is attached at Appendix B.

1.3 Alternative Action and why not Recommended

1.4.1 The Council's complaints' policies and management systems underpin its commitment to excellent customer care and therefore a robust system needs to be in place.

1.4 Impact on Corporate Objectives

1.5.1 Customer Services is a key priority, and the nature of complaints from our Customers and the manner in which the Council responds to those complaints touches upon every priority theme in the Council's strategic plan.

1.6 Risk Management

1.6.1 Failure to manage complaints represents both a financial risk to the Council and a risk to its reputation. Regular reports are produced for Management and individual Heads of Service are reminded of their responsibilities.

1.7 Other Implications

- 1. Financial
- 2. Staffing
- 3. Legal
- 4. Social Inclusion
- 5. Environmental/Sustainable Development
- 6. Community Safety
- 7. Human Rights Act
- 8. Procurement

X

1.8 Financial

1.8.1 The Council made payments of £475 in relation to 5 complaints as set out below:

- £50 awarded for a complaint relating to communications issues over a planning enforcement matter;
- £300 awarded for a complaint relating to administrative errors made during a Development Control report;
- £50 awarded for a complaint relating to consultation issues in development control;
- £25 to a customer following a misaddressed letter from planning; and
- £50 to a customer following a misplaced council tax payment

1.9 Relevant documents

1.9.1 Appendices

Appendix A Breakdown of complaints by service 2009/10

Appendix B Complaints statistical comparison 2006/10

Appendix C

1.9.2

NO REPORT WILL BE ACCEPTED WITHOUT THIS BOX BEING COMPLETED

Is this a Key Decision? Yes No

If yes, when did it appear in the Forward Plan?

Is this an Urgent Key Decision? Yes No

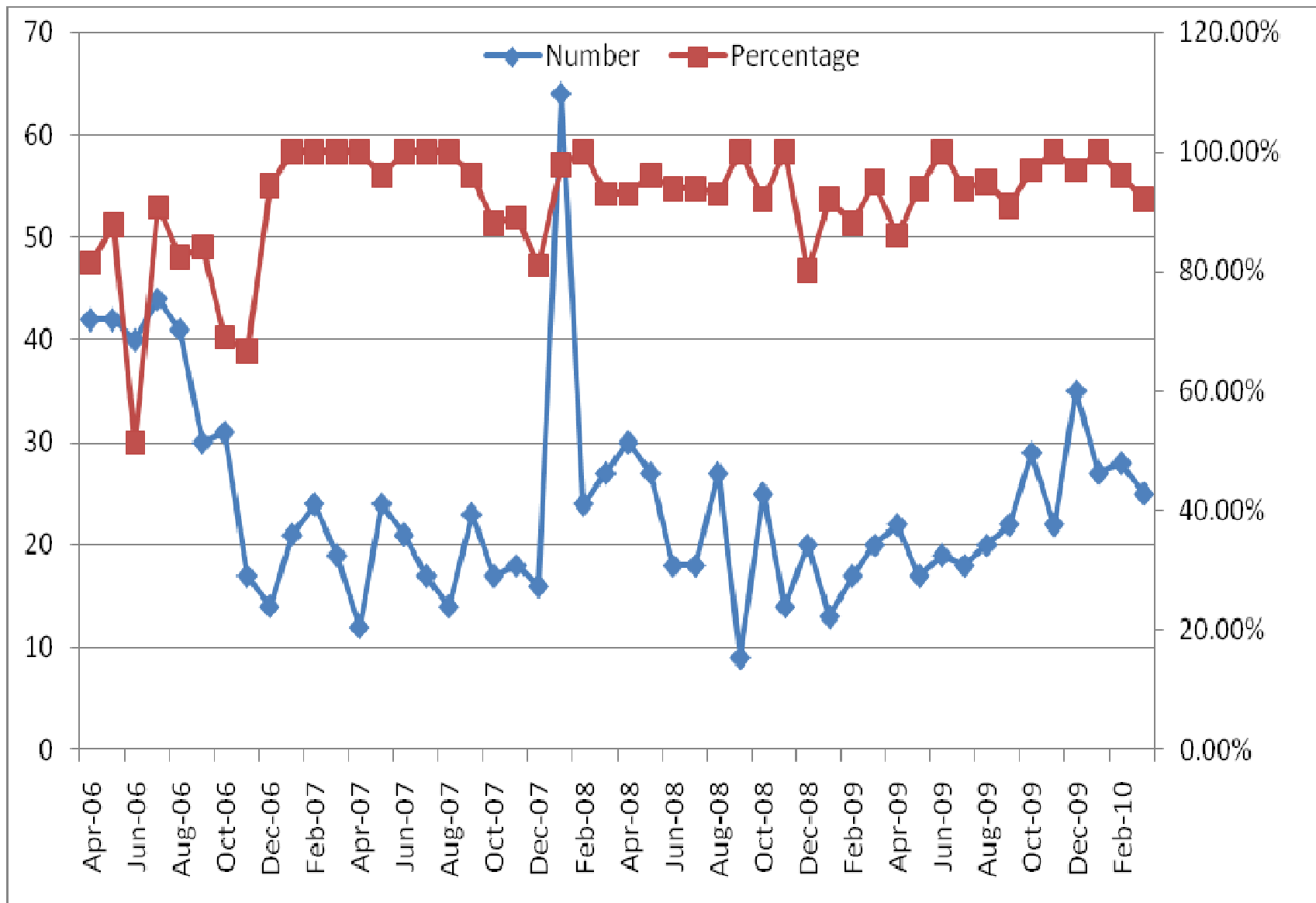
Reason for Urgency

Appendix A Breakdown of complaints by service 2009/10

Service	Total	On time	Late	Success
Development control	34	33	1	97%
Waste collection	34	34	0	100%
Council tax or Business rates	33	31	2	93%
Parking enforcement	28	27	1	96%
Planning enforcement	27	27	0	100%
Housing and Council Tax-benefits issues only	24	23	1	87%
Housing options, private sector housing or housing policy	18	14	4	77%
Contact centre	11	11	0	100%
Pollution	10	10	0	100%
Concessionary fares	7	7	0	100%
Planning policy	7	7	0	100%
Bereavement services	6	6	0	100%
Grounds maintenance	5	5	0	100%
Building surveying	4	4	0	100%
Conservation and landscape	3	3	0	100%
Democracy and democratic support	3	3	0	100%
IT support	3	3	0	100%
Sports and play	3	3	0	100%
Leisure	2	2	0	100%
Licensing	2	2	0	100%
Street sweeping	2	2	0	100%
Accountancy	1	1	0	100%
Complaints	1	1	0	100%
Economic development and tourism	1	0	1	100%
Hazlitt Theatre	1	1	0	100%
Public toilets	1	1	0	100%
Other	13	12	1	92%
Total	284	273	11	96%

Appendix B: Complaints statistical comparison 2006 – 2010

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**The Local Government Ombudsman's
Annual Review
Maidstone Borough Council
for the year ended
31 March 2010**

Local Government Ombudsmen (LGOs) provide a free, independent and impartial service. We consider complaints about the administrative actions of councils and some other authorities. We cannot question what a council has done simply because someone does not agree with it. If we find something has gone wrong, such as poor service, service failure, delay or bad advice, and that a person has suffered as a result, we aim to get it put right by recommending a suitable remedy. We also use the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual reviews.

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Section 1: Complaints about Maidstone Borough Council 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about Maidstone Borough Council. We have included comments on the authority's performance and complaint-handling arrangements, where possible, so they can assist with your service improvement.

I hope that the review will be a useful addition to other information your authority holds on how people experience or perceive your services.

Two appendices form an integral part of this review: statistical data for 2009/10 and a note to help the interpretation of the statistics.

Enquiries and complaints received

In 2009/10 our Advice Team handled 26 enquiries about your Council. This included three enquiries where we considered a complaint to the Ombudsman was premature and so we referred them to your Council for investigation. Advice was given to the caller in one other case. The remaining 22 complaints were passed to the investigative team. As in 2008/09, planning and building control accounted for the largest number of enquiries and this was reflected in the 14 complaints in this category that were forwarded to the investigative team.

Complaint outcomes

This year we made decisions on 22 complaints against your Council. In four cases, there was no, or insufficient, evidence of fault by the Council to warrant further investigation. In seven cases we exercised discretion not to investigate the complaints because the injustice to the complainant was not significant or the Council had already provided an adequate remedy. Five complaints were outside my jurisdiction.

Local settlements

A 'local settlement' is a complaint where, during the course of our investigation, a council takes or agrees to take some action that we consider to be a satisfactory response to the complaint. In 2009/10, 26.9% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the 17 complaints we decided against your authority, which were within my jurisdiction, six (35%) were local settlements, rather higher than the average. The Council paid £425 compensation in total to settle three of these complaints; in the other three cases, the Council agreed to take action which provided a satisfactory remedy to the complaints.

Planning and Building Control

Planning applications

We found some faults in the way the Council considered applications for planning permission to convert stables to use for residential and holiday purposes. In particular, we criticised the failure to take notes of a meeting between a planning officer and the applicant's agent. We also considered the planning officer's report did not take proper account of concerns raised by the complainant about the potential impact of the proposed development on privacy, security and noise levels.

However, we could not conclude that the decision to grant planning permission would have been different but for these faults, so recommended a payment of £300 to recognise the complainant's time and trouble in pursuing the complaint and her concerns about the process.

In another complaint about the Council's handling of a planning application to extend a neighbouring property, we found no fault in the way the Council decided to grant planning permission. However we did criticise the Council for incorrectly addressing a letter notifying the complainant of the application, which delayed its delivery and reduced the time available to the complainant to respond and to lobby Parish Councillors. The Council apologised for this fault and paid £75 compensation.

Planning enforcement

We settled four complaints about planning enforcement matters. These complaints were made in the context of a backlog of undecided enforcement cases but the Council has since put in place procedures to reduce the backlog and to manage and prioritise cases.

Two of these complaints were made by residents who lived close to the same site – an equestrian centre. The complainants had complained about the way in which the Council had addressed various apparent breaches of planning control at the riding school. The complaints included the erection of temporary buildings, the use of mobile homes on the site, the erection of a stable block and a coffee shop and the number of equestrian events held at the centre. My investigator arranged a meeting with planning officers to discuss the way forward. It was agreed that the Council would encourage the proprietors to submit a planning application for the non-conforming uses and consider whether to take enforcement action for some unauthorised uses if no planning application were submitted. My investigator monitored the action taken by the Council three months after he issued the final decision letters. The Council provided a summary of its investigations about each alleged breach of control and the action it proposed to take. A further complaint was subsequently made by one of the complainants, but a decision had not been made by the close of the 2009/10 year.

The third complaint was about changes in the use of a horticultural nursery. The complainant was concerned about increased noise and nuisance, and road safety issues, arising from the changing use of the site. Officers were initially slow to admit any fault, taking the view that the proprietor had permitted development rights to sell items other than horticultural products. But after meeting my investigator to discuss the complaint and to agree a way forward, they decided to invite the proprietor to apply for planning permission for a garden centre which would enable conditions to be imposed to control the use and hours of operation of the site. The Council also apologised to the complainant for its failure to keep her informed of developments.

In the fourth complaint, we found some fault in the way the Council communicated with the complainant about its decision not to take enforcement action in relation to the replacement of windows in a listed building. The complainant was put to some time and trouble in contacting the Council to clarify the status of a letter and the Council agreed to pay £50 in recognition of its faults.

Liaison with the Local Government Ombudsman

On average, the Council took 20.2 days to reply to our initial written enquiries on complaints. That is well within the target timescale of 28 days we have set for all councils. It is also an improvement on last year's performance of 25.6 days, although I note there was a slight reduction in the number of complaints on which we needed to make written enquiries this year.

One of my investigators attended a meeting with your officers to discuss two planning enforcement complaints. He commented that the meeting was constructive, helped him understand the key issues and led to a satisfactory local settlement of these complaints.

Training in complaint handling

I would like to take this opportunity to remind the Council that part of our role is to provide advice and guidance about good administrative practice. We offer training courses for all levels of local authority staff in complaints handling and investigation. All courses are presented by experienced investigators. They give participants the opportunity to practise the skills needed to deal with complaints positively and efficiently. We can also provide customised courses to help authorities to deal with particular issues and occasional open courses for individuals from different authorities.

I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

Conclusions

I welcome this opportunity to give you my reflections about the complaints my office has dealt with over the past year. I hope that you find the information and assessment provided useful when seeking improvements to your authority's services.

**Tony Redmond
Local Government Ombudsman
10th Floor
Millbank Tower
Millbank
London
SW1P 4QP**

June 2010

Section 2: LGO developments

Introduction

This annual review also provides an opportunity to bring councils up to date on developments in the LGO and to seek feedback.

New schools complaints service launched

In April 2010 we launched the first pilot phase of a complaints service extending our jurisdiction to consider parent and pupil complaints about state schools in four local authority areas. This power was introduced by the Apprenticeships, Skills, Children and Learning Act 2009.

The first phase involves schools in **Barking and Dagenham, Cambridgeshire, Medway and Sefton**. The Secretary of State no longer considers complaints about schools in these areas. In September the schools in a further 10 local authority areas are set to join the pilot phase.

We are working closely with colleagues in the pilot areas and their schools, including providing training and information sessions, to shape the design and delivery of the new service. It is intended that by September 2011 our jurisdiction will cover all state schools in England.

A new team in each office now deals with all complaints about children's services and education on behalf of the Ombudsman. Arrangements for cooperation with Ofsted on related work areas have been agreed.

For further information see the new schools pages on our website at www.lgo.org.uk/schools/

Adult social care: new powers from October

The Health Act 2009 extended the Ombudsmen's powers to investigate complaints about privately arranged and funded adult social care. These powers come into effect from 1 October 2010 (or when the Care Quality Commission has re-registered all adult care providers undertaking regulated activity). Provision of care that is arranged by an individual and funded from direct payments comes within this new jurisdiction.

Each Ombudsman has set up a team to deal with all adult social care complaints on their behalf. We expect that many complaints from people who have arranged and funded their care will involve the actions of both the local authority and the care provider. We are developing information-sharing agreements with the Care Quality Commission and with councils in their roles as adult safeguarding leads and service commissioners.

Council first

We introduced our Council first procedure in April last year. With some exceptions, we require complainants to go through all stages of a council's own complaints procedure before we will consider the complaint. It aims to build on the improved handling of complaints by councils.

We are going to research the views of people whose complaints have been referred to councils as premature. We are also still keen to hear from councils about how the procedure is working, particularly on the exception categories. Details of the categories of complaint that are normally treated as exceptions are on our website at www.lgo.org.uk/guide-for-advisers/council-response

Training in complaint handling

Demand for our training in complaint handling has remained high, with 118 courses delivered over the year to 53 different authorities. Our core Effective Complaint Handling course is still the most popular – we ran some of these as open courses for groups of staff from different authorities. These are designed to assist those authorities that wish to train small numbers of staff and give them an opportunity to share ideas and experience with other authorities.

The new Effective Complaint Handling in Adult Social Care course, driven by the introduction of the new statutory complaints arrangements in health and adult social care in April 2009, was also popular. It accounted for just over a third of bookings.

Over the next year we intend to carry out a thorough review of local authority training needs to ensure that the programme continues to deliver learning outcomes that improve complaint handling by councils.

Statements of reasons

Last year we consulted councils on our broad proposals for introducing statements of reasons on the individual decisions of an Ombudsman following the investigation of a complaint. We received very supportive and constructive feedback on the proposals, which aim to provide greater transparency and increase understanding of our work. Since then we have been carrying out more detailed work, including our new powers. We intend to introduce the new arrangements in the near future.

Delivering public value

We hope this information gives you an insight into the major changes happening within the LGO, many of which will have a direct impact on your authority. We will keep you up to date through LGO Link as each development progresses, but if there is anything you wish to discuss in the meantime please let me know.

Mindful of the current economic climate, financial stringencies and our public accountability, we are determined to continue to increase the efficiency, cost-effectiveness and public value of our work.

Tony Redmond
Local Government Ombudsman
10th Floor
Millbank Tower
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June 2010

Appendix 1: Notes to assist interpretation of the statistics 2009/10

Table 1. LGO Advice Team: Enquiries and complaints received

This information shows the number of enquiries and complaints received by the LGO, broken down by service area and in total. It also shows how these were dealt with, as follows.

Premature complaints: The LGO does not normally consider a complaint unless a council has first had an opportunity to deal with that complaint itself. So if someone complains to the LGO without having taken the matter up with a council, the LGO will either refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter, or give advice to the enquirer that their complaint is premature.

Advice given: These are enquiries where the LGO Advice Team has given advice on why the LGO would not be able to consider the complaint, other than the complaint is premature. For example, the complaint may clearly be outside the LGO's jurisdiction.

Forwarded to the investigative team (resubmitted premature and new): These are new cases forwarded to the Investigative Team for further consideration and cases where the complainant has resubmitted their complaint to the LGO after it has been put to the council.

Table 2. Investigative Team: Decisions

This information records the number of decisions made by the LGO Investigative Team, broken down by outcome, within the period given. **This number will not be the same as the number of complaints forwarded from the LGO Advice Team** because some complaints decided in 2009/10 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2009/10 will still be in hand at the end of the year. Below we set out a key explaining the outcome categories.

MI reps: where the LGO has concluded an investigation and issued a formal report finding maladministration causing injustice.

LS (local settlements): decisions by letter discontinuing our investigation because action has been agreed by the authority and accepted by the LGO as a satisfactory outcome for the complainant.

M reps: where the LGO has concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

NM reps: where the LGO has concluded an investigation and issued a formal report finding no maladministration by the council.

No mal: decisions by letter discontinuing an investigation because we have found no, or insufficient, evidence of maladministration.

Omb disc: decisions by letter discontinuing an investigation in which we have exercised the LGO's general discretion not to pursue the complaint. This can be for a variety of reasons, but the most common is that we have found no or insufficient injustice to warrant pursuing the matter further.

Outside jurisdiction: these are cases which were outside the LGO's jurisdiction.

Table 3. Response times

These figures record the average time the council takes to respond to our first enquiries on a complaint. We measure this in calendar days from the date we send our letter/fax/email to the date that we receive a substantive response from the council. The council's figures may differ somewhat, since they are likely to be recorded from the date the council receives our letter until the despatch of its response.

Table 4. Average local authority response times 2009/10

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

LGO Advice Team

Enquiries and complaints received	Benefits	Public Finance inc. Local Taxation	Planning and building control	Other	Total
Formal/informal premature complaints	1	1	0	1	3
Advice given	0	0	1	0	1
Forwarded to investigative team (resubmitted prematures)	0	1	1	0	2
Forwarded to investigative team (new)	3	1	13	3	20
Total	4	3	15	4	26

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	0	6	0	0	4	7	5	22

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	17	20.2
2008 / 2009	20	25.6
2007 / 2008	14	23.5

Average local authority resp times 01/04/2009 to 31/03/2010

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	61	22	17
Unitary Authorities	68	26	6
Metropolitan Authorities	70	22	8
County Councils	58	32	10
London Boroughs	52	36	12
National Parks Authorities	60	20	20

MAIDSTONE BOROUGH COUNCIL

STANDARDS COMMITTEE

REPORT OF THE MEETING HELD ON 1 SEPTEMBER 2010

1. **JOINT INDEPENDENT REMUNERATION PANEL**

The Committee considered a report by the Head of Democratic Services outlining a proposal to establish a Joint Independent Remuneration Panel with Swale Borough Council. It was noted that:-

- The Local Authorities (Members' Allowances) (England) Regulations 2003 required the Council to establish an Independent Remuneration Panel ("IRP"). The Council's IRP comprised a representative of South East Employers, a representative of the Maidstone Chamber of Commerce and an Independent Member. The term of office of the Independent Member (Mrs Valerie Page) expired on 31 December 2009.
- Discussions had taken place with Swale Borough Council regarding the possible establishment of a Joint IRP.
- It was proposed that the Joint IRP would comprise a representative of South East Employers, an Independent Member from the Maidstone area, an Independent Member from the Swale area and a representative of the Chamber of Commerce in the Maidstone area. The terms of office would be staggered in the first instance to maintain a degree of continuity and expertise. Subsequent terms of office would be three years.
- It was proposed that the Panel would meet to consider the level of allowances for both Maidstone and Swale Borough Councils on the same day(s) and it would produce a separate report for each Council. Administration of the Panel would alternate between the two Councils.

In response to questions, the Head of Democratic Services explained that the arrangements for the appointment of the Independent Members of the IRP were the same as those for the appointment of Independent Members of the Standards Committee, i.e. advertisement followed by interviews by a Selection Panel which then made recommendations to the Council.

The Committee endorsed the proposed establishment of a Joint IRP with Swale Borough Council noting that the arrangement would provide an opportunity to increase capacity and expertise whilst at the same time achieving a saving of approximately £500 per annum.

RECOMMENDED:

1. That agreement be given to the establishment of a Joint Independent Remuneration Panel with Swale Borough Council.

2. That the membership of the Panel should comprise a representative of South East Employers, an Independent Member from the Maidstone area, an Independent Member from the Swale area and a representative of the Chamber of Commerce in the Maidstone area with the following initial terms of office (thereafter three years):-

South East Employers – until 31 October 2010 (current expiry term)

Maidstone local Independent Member – for the remainder of the 2010/11 Municipal Year

Swale local Independent Member – two years

Chamber of Commerce representative – until 30 April 2012 (current expiry term)

3. That the arrangements for the Joint Independent Remuneration Panel should be reviewed in two years.
4. That Mrs Valerie Page be reappointed as the Maidstone Independent Member on the Joint Independent Remuneration Panel for the remainder of the 2010/11 Municipal Year.

MAIDSTONE BOROUGH COUNCIL

COUNCIL

22 SEPTEMBER 2010

REPORT OF THE HEAD OF DEMOCRATIC SERVICES

Report prepared by Debbie Snook

1. STANDARDS COMMITTEE – PARISH REPRESENTATIVES

- 1.1 The Standards Committee consists of six Borough Councillors, four Independent Members and four Parish representatives (currently Councillor Bill Stead of Boxley Parish Council and Councillor Ian Younger of Lenham Parish Council). There are two vacancies for Parish representatives.
- 1.2 The Kent Association of Local Councils has been consulted and recommends that Councillor Paul Butcher of Staplehurst Parish Council and Councillor Eileen Riden of Sutton Valence Parish Council be appointed to serve on the Committee.

2. RECOMMENDED:

- 2.1 That Councillors Paul Butcher and Eileen Riden be appointed as Parish representatives on the Standards Committee until the Annual Meeting of the Council in 2013.

Background Documents:

Correspondence with the Secretary of the Maidstone Area Committee of the Kent Association of Local Councils – Democratic Services Section

Agenda Item 20

MAIDSTONE BOROUGH COUNCIL

COUNCIL

22 SEPTEMBER 2010

REPORT OF THE HEAD OF DEMOCRATIC SERVICES

Report prepared by Debbie Snook

1. COMMITTEE MEMBERSHIP

- 1.1** Notification has been received of proposed changes to the membership of various Committees/Groups.

2. RECOMMENDED:

- 2.1 That the following changes be approved to reflect the wishes of the Leader of the Conservative Group:-

Planning Committee

Members

Delete Councillor Ross. Insert Councillor J A Wilson
Delete Councillor Thick. Insert Councillor Barned.

Substitute Members

Delete Councillor Yates. Insert Councillor Thick.

Leisure and Prosperity Overview and Scrutiny Committee

Members

Delete Councillor Thick. Insert Councillor Mrs Gibson.

- 2.2 That the following changes be approved to reflect the wishes of the Leader of the Liberal Democrat Group:-

Local Development Document Advisory Group

Members

Delete Councillor Field. Insert Councillor Mrs Wilson.

Substitute Members

Delete Councillor Mrs Wilson. Insert Councillor Field

Standards Committee

Members

Delete Councillor Naghi. Insert Councillor Mrs Robertson.

Substitute Members

Delete Councillor Mrs Robertson. Insert Councillor Naghi.

2.2 Background Documents

None.