

# DEMOCRACY COMMITTEE MEETING

Date: Wednesday 14 November 2018  
Time: 6.30 pm  
Venue: Town Hall, High Street, Maidstone

## Membership:

Councillors Mrs Blackmore, Boughton, Fissenden, Mrs Gooch (Vice-Chairman), Joy, Lewins, Perry, Mrs Ring and Mrs Wilson (Chairman)

*The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.*

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## AGENDA

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|---|---------|
| 1. Apologies for Absence  |         |
| 2. Notification of Substitute Members   |         |
| 3. Urgent Items   |         |
| 4. Notification of Visiting Members   |         |
| 5. Disclosures by Members and Officers  |         |
| 6. Disclosures of Lobbying  |         |
| 7. To consider whether any items should be taken in private because of the possible disclosure of exempt information. |         |
| 8. Minutes of the Meeting Held on 5 September 2018  | 1 - 7   |
| 9. Presentation of Petitions (if any)   |         |
| 10. Question and answer session for members of the public (if any)  |         |
| 11. Committee Work Programme  | 8       |
| 12. Reference from Heritage, Culture and Leisure Committee - Recording of Changes To Plans/Policies in Minutes        | 9       |
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| 14. Reference from Council - Outside Bodies   | 16 - 23 |

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**Issued on Tuesday 6 November 2018**

**Continued Over/:**

*Alison Broom*

**Alison Broom, Chief Executive**

### **PUBLIC SPEAKING AND ALTERNATIVE FORMATS**

If you require this information in an alternative format please contact us, call **01622 602899** or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk).

In order to speak at this meeting, please contact Democratic Services using the contact details above, by 5 p.m. one clear working day before the meeting (i.e. Monday 12<sup>th</sup> November). If asking a question, you will need to provide the full text in writing. If making a statement, you will need to tell us which agenda item you wish to speak on. Please note that slots will be allocated on a first come, first served basis.

To find out more about the work of the Committee, please visit [www.maidstone.gov.uk](http://www.maidstone.gov.uk).

## MAIDSTONE BOROUGH COUNCIL

### Democracy Committee

#### MINUTES OF THE MEETING HELD ON WEDNESDAY 5 SEPTEMBER 2018

**Present: Councillors Mrs Blackmore, Boughton, Fissenden, Mrs Gooch, Joy, Lewins, Perry, Mrs Ring and Mrs Wilson (Chairman)**

23. APOLOGIES FOR ABSENCE

There were no apologies for absence.

24. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

25. URGENT ITEMS

There were no urgent items.

26. NOTIFICATION OF VISITING MEMBERS

Cllr Malcolm McKay was present at the meeting, but did not register to speak.

27. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

28. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

29. TO CONSIDER WHETHER ANY ITEMS SHOULD BE TAKEN IN PRIVATE BECAUSE OF THE POSSIBLE DISCLOSURE OF EXEMPT INFORMATION.

**RESOLVED:** That the items on the agenda be taken in public as proposed.

30. MINUTES OF THE MEETING HELD ON 2 JULY 2018

**RESOLVED:** That the Minutes of the meeting held on 2 July 2018 be approved as a correct record and signed.

31. PRESENTATION OF PETITIONS (IF ANY)

There were no petitions.

32. QUESTION AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC (IF ANY)

There were no questions from members of the public.

33. COMMITTEE WORK PROGRAMME

The Chairman suggested that the Urgency Committee Item, which had been requested by Councillor Perry, could be incorporated into the Committee Structure Review Item due to the links between the subjects.

**RESOLVED:** That the Committee Work Programme is noted subject to the removal of Urgency Committee from the November meeting.

Voting: Unanimous

34. REPORTS OF OUTSIDE BODIES

The Committee considered the Reports of Outside Bodies and noted the feedback provided. There was, however, a need to ensure that the reports were concise, consistent and clear. To enhance the content of the reports and inform future decision making, it was suggested that the reports include the following:

- The activity of the Outside Body;
- Why it is important that the Borough Councillor retains his or her seat on the Outside Body; and
- The activity of the Outside Body representative, specifically in their role as Borough Councillor.

Whilst all committees had a responsibility for the relevant outside bodies and their reports, the Democracy Committee had an overall responsibility for Outside Bodies and the reporting process.

The Democratic Services Manager agreed to incorporate guidance from the Committee, outlined above, in the report templates.

**RESOLVED:** That the Reports of the Outside Bodies be noted.

35. REFERENCE FROM THE PLANNING COMMITTEE - CONSULTATION WITH THE REGULATORY COMMITTEES ON THE USE OF BUDGETARY UNDERSPENDS

It was explained by a member of the Committee that this reference arose from the identification of a project that required funding by the Planning Committee. Due to the timetabling of committees, it had not been possible to secure funding through the appropriate committees in time for the 2017/18 underspend. The Planning Committee therefore suggested that regulatory committees should be included in consultations about

budgetary underspends, rather than limiting consultations to service committees. This would ensure that timetabling issues were not experienced in the future and regulatory committees would be able to inform future decisions about budgetary underspends.

The Committee debated the reference and concluded that accommodating this suggestion would potentially require constitutional amendments. It was therefore necessary to understand any risks associated with this through a full report setting out all of the available options.

**RESOLVED**: That a report outlining the options for including regulatory committees in budgetary underspend consultations, and any risks associated with a change to the Constitution, is submitted to the Democracy Committee on 14 November 2018.

Voting: Unanimous

### 36. AMENDMENTS TO THE CONSTITUTION

Mr Sam Bailey, Democratic and Administration Services Manager, introduced the report which set out three main areas for amendments to the Constitution:

- Questions by Members of the Public – to improve upon the efficiency of minute taking at Council meetings;
- Health and Safety – following a review of the current Health and Safety arrangements; and
- Outside Bodies – following a request from the Strategic Planning, Sustainability and Transport Committee.

During discussion of the amendments to Questions by Members of the Public, it was noted that a contingency option was still required should webcasting not be available. A verbatim record of the meeting was difficult to produce if the webcast was not available, so a summary of the answer would be more appropriate in this circumstance. Therefore additional wording was suggested for insertion into section 13.10 reading:

“If the webcast has failed prior to the start of the meeting, a summary of the answer will be included in the minutes.”

Mr Bailey updated the Committee that after publication of the agenda, feedback on the report had been received. As a result of the feedback the following amendments were made to the Health and Safety section of the constitution cited in the report:

- Appendix 2, page 25, bullet point five, an additional bullet point inserted to read: “Act as Councillor Health & Safety at Work Champion and attend Corporate Health and Safety Committee meetings.”

In addition to these amendments the Committee stated that the provision of training was important to enable the Councillor Health and Safety at Work Champion to perform their role effectively. It was also crucial that the Leader attended the Corporate Health and Safety Committee meetings.

Mr Bailey informed the Committee that following feedback the amendments on the papers should be further changed to:

- Appendix 3, page 26, bullet point three to read: "To take the lead role in this Committee of fostering close links with key stakeholders including Parish Councils, the Developers Forum, English Heritage and transport interest groups."

Following a debate on the changes presented on outside bodies, the Committee concluded that the amendments relating to Outside Bodies were sensible in ensuring that the role of the Chairman was clear compared to the role of the Council's appointed representative on the Outside Body.

**RESOLVED:**

- 1) That Council is recommended to agree the amendments to the Constitution relating to Questions by Members of the Public (Appendix 1), with the following amendment:

An additional sentence at the end of paragraph 13.10 stating "If the webcast has failed prior to the start of the meeting, a summary of the answer will be included in the minutes."

Voting: Unanimous

- 2) That Council is recommended to agree the amendments to the Constitution relating to Health and Safety (Appendix 2), with the following amendment:

Specific reference to "Corporate Health and Safety Committee" in Appendix 2, page 25, bullet point six.

Voting: Unanimous

- 3) That Council is recommended to agree the amendments to the Constitution relating to Outside Bodies (Appendix 3).

Voting: Unanimous

37. MAIDSTONE BOROUGH COUNCIL LEARNING AND DEVELOPMENT CHARTER

Mr Bailey updated the Committee on work undertaken to develop a Maidstone Borough Council learning and development charter. A working group from the Democracy Committee met in August 2018 to consider

modifications to the LGA Member Development Charter and the output from the working group provided the basis of the report. Only the sections of the LGA Member Development Charter that the working group had considered appropriate had been incorporated into the Maidstone Borough Council Learning and Development Charter.

Following questions from Members, Mr Bailey clarified that:

- That the phrase "A statistical analysis of cultural and personal circumstances should take place." in Appendix 1, page 38, point 1.2, bullet point one referred to understanding the personal circumstances of Councillors, such as employment and childcare commitments, to ensure that there were equal opportunities for training.

As a result of the clarification it was suggested that "A statistical analysis of cultural and personal circumstances should take place." be amended to "Personal circumstances will be taken into account to assist with Councillor learning and development."

The Committee was of the opinion that a standing agenda item at the Leader's Forum was not required as this forum was supposed to be a forum for updating group leaders on Council issues and the appropriate place for Learning and Development needs to be considered was the Democracy Committee. Mrs Woodhouse, Head of Policy, Communications and Governance confirmed that the Leader's Forum was not a decision making body so any report would be for information.

**RESOLVED**: That the Maidstone Borough Council Member Learning and Development Charter is adopted, subject to the following amendments:

The deletion of "Clear commitment from the top political and managerial leadership through a recurring item at the Leader's Forum to identify learning and development needs of members" at Appendix 2, page 38, point 1.1, bullet point one.

Replacement of the phrase "A statistical analysis of cultural and personal circumstances should take place." with "Personal circumstances will be taken into account to assist with learning and development." at Appendix 1, page 38, point 1.2, bullet point one.

Voting: Unanimous

### 38. PROTOCOL FOR APPOINTMENT OF HONORARY ALDERMEN

Mr Bailey gave a presentation to the Committee setting out the draft protocol for the appointment of Honorary Aldermen following the work carried out at the working group of the Democracy Committee in August 2018 to consider the detail of a draft protocol.

Mr Bailey provided an update that following publication, an error was highlighted in the draft protocol. The report should therefore include the following amendment to Appendix 2, page 53:

That "And/or made a significant contribution to the Council during their time serviced as a Councillor" is inserted as a bullet point after "A Chairman or Vice-Chairman of a Committee" and before "Appointment of Honorary Alderman."

Members discussed whether it was appropriate to amend the criteria to confer the title of Honorary Alderman to any Councillor who has served for 12 years. It was stated that the inclusion of a criteria requiring a significant contribution to the Borough would be preferable.

The Committee debated the protocol and concluded that:

- The definition of a "significant contribution" was subjective, and that the use of "exemplary" would be preferable;
- The exemplary contribution should be to the Borough, rather than the Council;
- The term Alderman was a title and therefore should not be referred to as 'Alderwoman' for female Councillors within the protocol; and
- 12 years was too short to be considered as an Honorary Alderman, and that 16 years should be the appropriate length of service.

Councillor Perry requested that his dissent was noted regarding the inclusion of an increased term of office.

**RESOLVED:**

- 1) That the Protocol for the Appointment of Honorary Aldermen is agreed, effective from the date of adoption.
- 2) That only current and future members of the Council can be considered for appointment as Honorary Aldermen.
- 3) That Council is recommended to adopt the Protocol for the Appointment of Honorary Aldermen, subject to the following amendments:

The deletion of criteria stipulating the need for a Councillor to hold a specific position during their time at the Council.

That the minimum term of office is increased to 16 years.

That "An Honorary Alderman must have demonstrated an exemplary contribution to the Borough during their time served as Councillor." is included as a criteria for appointment.

Deletion of reference to Honorary Alderwoman

Voting: Unanimous

39. DURATION OF MEETING

6.30 p.m. to 7.47 p.m.

**2018/19 WORK PROGRAMME**

Agenda Item 11

	<b>Committee</b>	<b>Month</b>	<b>Lead</b>	<b>Report Author</b>
Learning and Development	Democracy	Jan-19	Angela Woodhouse	Sam Bailey
Review of Constitution	Democracy	Jan-19	Patricia Narebor	
Committee Structure Review	Democracy	Jan-19	Angela Woodhouse	Sam Bailey
Review of Constitution	Democracy	Mar-19	Patricia Narebor	

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**MAIDSTONE BOROUGH COUNCIL**

**DEMOCRACY COMMITTEE**

**14 NOVEMBER 2018**

**REFERENCE FROM HERITAGE, CULTURE AND LEISURE COMMITTEE**

**RECORDING OF CHANGES TO PLANS/POLICIES IN THE MINUTES**

At its meeting on 30 October 2018 the Heritage, Culture and Leisure Committee considered the Report of the Head of Planning and Development relating to Local Nature Reserves.

During the debate it was noted that a Member had attempted to check what changes had been made by the Committee to the Council's 10 Year Parks and Open Spaces Plan at its meeting on 4 July 2017. However the minutes did not document the alterations made to the plan by the Committee.

**RECOMMENDED:**

That the Democracy Committee consider that any changes to Council policies and plans moved and agreed by Committees be fully detailed in the minutes in future for clear transparency.

# Agenda Item 13

**Democracy Committee**

**14 November 2018**

## **Inclusion of Regulatory Committees in Budgetary Underspend Consultations**

<b>Final Decision-Maker</b>	Democracy Committee
<b>Lead Head of Service</b>	Angela Woodhouse – Head of Policy, Communications and Governance
<b>Lead Officer and Report Author</b>	Sam Bailey – Democratic and Administration Services Manager
<b>Classification</b>	Public
<b>Wards affected</b>	All

### **Executive Summary**

This report considers the request made by Planning Committee to consider how Regulatory Committees could be included in budgetary underspend consultations

### **This report makes the following recommendations to this Committee:**

That the current procedure rules remain unchanged.

### **Timetable**

<b>Meeting</b>	<b>Date</b>
Democracy Committee	14 November 2018

# Inclusion of Regulatory Committees in Budgetary Underspend Consultations

## 1. INTRODUCTION AND BACKGROUND

- 1.1 In 2017-18 the Council's overall financial performance meant that there was an underspend on its budget. Reports outlining this underspend, and requesting suggestions for projects to utilise the underspend, were taken to the Council's four budget holding Service Committees.
- 1.2 No other Committees were formally consulted with as these Committees were the only ones that hold their own budgets. Planning Committee members had identified a use for the underspend during a Planning Committee Political Spokespersons Meeting that wasn't considered by Strategic Planning, Sustainability and Transportation Committee (Planning Committee's corresponding budget holding Committee) when considering its item on utilising underspends.
- 1.3 Planning Committee made a reference to the Democracy Committee asking it to consider how Regulatory Committees could be consulted on underspends. Democracy Committee agreed that officers would submit a report outlining options for the Committee's consideration. The reference made by Planning Committee can be found below:

'That the Democracy Committee be asked to consider the issue of the Regulatory Committees being consulted on the use of budgetary underspends.'

### **Service Committees and Regulatory Committees**

- 1.4 The Planning Committee's purpose, as defined in the Constitution, is 'To determine town and country planning and development matters and associated issues'.
- 1.5 The Licensing Committee's purpose, as defined in the Constitution, is 'To exercise licensing and gambling functions on behalf of the Council'.
- 1.6 It is important to note that finance and budgetary matters are not included in either of the Regulatory Committees' terms of reference.
- 1.7 Both of the Regulatory Committees have a corresponding Service Committee which is responsible for budgetary matters in the services covered by the Regulatory Committee. For example, if the Planning Committee refuses a planning application and there are costs involved in the appeal, these costs are reported to the Strategic Planning, Sustainability and Transportation Committee and are counted as part of the financial performance of this Committee. Service Committees retain overall responsibility for all budgets within their terms of reference.

- 1.8 It would not be appropriate to formally consult with the Regulatory Committees as currently happens with the Service Committees on budgetary underspends as they do not have budget responsibilities. In terms of good governance, it is important that Committees do not act outside their terms of reference to prevent duplication and confusion in lines of accountability.
- 1.9 However it is recognised that both Licensing and Planning Committee are often on the 'front line' of decisions relating to policies, procedures and budgetary decisions that the Service Committees have decided.

### **Rights of Members**

- 1.10 Members of Regulatory Committees can lobby the members of the Service Committees and attend and speak in support of any suggestions for use of underspends when the relevant Service Committee considers this item. This should be the route in which members of Regulatory Committees ensure their suggestions are taken into account of when Service Committees are making decisions on budgets.
- 1.11 It is also important to recognise that the Committees do not work in isolation, and there is often crossover in their membership. This is the current case on the SPST and Planning Committee where there are two members that sit on both. This allows a strong voice of advocacy for the budget proposals made by the Regulatory Committee in the Service Committee when such items are considered.

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## **2. AVAILABLE OPTIONS**

- 2.1 The Committee could choose not to make any amendments to the current procedures or to the Constitution. Members of Regulatory Committees are able to lobby service Committee members, and speak in favour of their proposed use of underspends at Committee meetings if they attend as Visiting Members.
- 2.2 The Committee could choose to include Regulatory Committees in the formal process of consultations in a similar way to the process for Service Committees. This is not recommended as it would give Regulatory Committees decision making powers which are not in accordance with their purpose as set out in the Constitution.
- 2.3 An alternative to the two options above would be for the Committee to set out guidance for Chairmen of Service Committees recommending them to consult with Regulatory Committees when the use of budgetary underspends are considered. This option has a number of problems. Firstly, it may require a change to the Constitution as it would alter the role of the Chairman of a Service Committee. Secondly it still allows for some confusion over the purpose of service Committees and Regulatory Committees, and this is bad practice. Finally, as Chairmen can't have authority delegated to them to discuss these matters on behalf of a Committee there is a risk that items would still be needed on the agendas

of Regulatory Committees, which would mean that the process set out at 2.2 would still be required.

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### **3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

**3.1** The preferred option is as set out at 2.1. The proposal would provide a common sense way in which the views of the Regulatory committees can be taken into account, without infringing on their terms of reference or those of the service committees.

### **4. RISK**

4.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

### **5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

5.1 This report has been considered following a reference from Planning Committee and a report request by Democracy Committee. Discussions with the Chairman and Vice Chairman of the Committee, as well as Governance advice from Officers, have informed the recommendation made.

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### **6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

6.1 The decision of the Committee will be communicated to members by publication of the minutes, and sending the advice around via email.

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### **7. CROSS-CUTTING ISSUES AND IMPLICATIONS**

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	No impact	Democratic and Administration Services Manager
<b>Risk Management</b>	See paragraph 4.1	Democratic and Administration Services Manager
<b>Financial</b>	No impact	Democratic and Administration

		Services Manager
<b>Staffing</b>	We will deliver the recommendations with our current staffing.	Democratic and Administration Services Manager
<b>Legal</b>	As the Council operates under a committee system, in accordance with the Local Government Act 1972, the Council's Constitution makes clear that the four Service Committees are the policy decision making bodies: Part 2, paragraph 2.2 "Committees of the Council", states: "Each of the four main service Committees have responsibility for <b>strategic performance management</b> across the range of their functions". Additionally the Constitution places on each Service Committee responsibility for submitting to Policy and Resources Committee revenue estimates and capital programmes within its remit. It is therefore appropriate that any consultation with the Regulatory Committees, should be done through an informal process, to avoid confusing the roles of the service and Regulatory Committees.	Principal Solicitor Corporate Governance
<b>Privacy and Data Protection</b>	No impact	Democratic and Administration Services Manager
<b>Equalities</b>	No impact identified in consideration of this reference or recommendation	Equalities Officer
<b>Crime and Disorder</b>	No impact	Democratic and Administration Services

		Manager
<b>Procurement</b>	No impact	Democratic and Administration Services Manager

**8. REPORT APPENDICES**

None.

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**9. BACKGROUND PAPERS**

None.

# Agenda Item 14

**Democracy Committee**

**14 November 2018**

## Reference from Council – Outside Bodies

<b>Final Decision-Maker</b>	Council
<b>Lead Head of Service</b>	Angela Woodhouse – Head of Policy, Communications and Governance
<b>Lead Officer and Report Author</b>	Sam Bailey – Democratic and Administration Services Manager
<b>Classification</b>	Public
<b>Wards affected</b>	All

### Executive Summary

This report outlines the reference made to the Democracy Committee from Council, and highlights some suggested changes to the scheme of Outside Bodies.

### This report makes the following recommendations to this Committee:

That Council is recommended to agree the amended scheme of Outside Bodies.

### Timetable

<b>Meeting</b>	<b>Date</b>
Democracy Committee	14 November 2018
Council	12 December 2018

## Reference from Council – Outside Bodies

### 1. INTRODUCTION AND BACKGROUND

- 1.1 During the 2016-17 and 2017-18 municipal year, the Democracy Committee carried out a review of Outside Bodies, with a reviewed scheme agreed by Council on 7 March 2018. As a result of the review a number of Outside Bodies were deleted, and the remaining Outside Bodies were aligned to either a Service Committee or Democracy Committee and these Committees are now responsible for appointments to the Outside Body.
  - 1.2 At the Council meeting of 26 September 2018 a further amendment was made to the scheme of Outside Bodies – the deletion of the Quality Bus Partnership. Council also resolved to re-consider the scheme of Outside Bodies due to perceived inconsistencies in how Outside Bodies had been allocated to Committees. The example given was that parks, open spaces and nature reserves had been allocated to a variety of Committees and not just Heritage, Culture and Leisure Committee. The Council minute and resolution are included at Appendix 2.
  - 1.3 Attached at Appendix 1 is a new version of the Outside Bodies scheme which addresses the inconsistencies raised by Council. The proposed changes to the scheme have been tracked for transparency.
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### 2. AVAILABLE OPTIONS

- 2.1 Democracy Committee could agree to recommend the changes outlined in Appendix 1 to Council – this would improve the consistency in the scheme of Outside Bodies.
  - 2.2 Democracy Committee could amend the scheme in a different way, and recommend this scheme to Council. This would give the opportunity for the Committee to make changes to the scheme of Outside Bodies.
  - 2.3 Democracy Committee could choose to do nothing and leave the scheme of Outside Bodies as it is. However this will not address the inconsistencies highlighted by Council.
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### 3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 3.1 The preferred option is option 2.1. This option addresses the inconsistencies raised by Council in the allocation of Outside Bodies.
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### 4. RISK

4.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council’s Risk Management Framework. We are satisfied that the risks associated are within the Council’s risk appetite and will be managed as per the Policy.

**5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

5.1 As highlighted in paragraph 1.1 of this report, the issue of Outside Bodies has been the subject of extensive consultation with members over the last 2 and a half years through the Outside Bodies review.

**6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

6.1 If the Committee agrees changes to the scheme of Outside Bodies they will be recommended to Council for adoption at its meeting of 12 December 2018.

**7. CROSS-CUTTING ISSUES AND IMPLICATIONS**

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	No implications	Democratic and Administration Services Manager
<b>Risk Management</b>	No implications	Democratic and Administration Services Manager
<b>Financial</b>	No implications	Democratic and Administration Services Manager
<b>Staffing</b>	No implications	Democratic and Administration Services Manager
<b>Legal</b>	Under the paragraph 2.2.12 of the Constitution the Democracy Committee can review the Constitution in conjunction with the Monitoring Officer and may recommend proposed changes,	Team Leader (Corporate Governance), MKLS

	to the Council. As Schedule 2 List of Outside Bodies is within Part 5 of the Constitution it is within the Committee's remit to recommend the proposed changes set out in the report. The changes suggested have no impact on the Council exercising its functions, and are purely administrative changes.	
<b>Privacy and Data Protection</b>	The data will be held and processed in accordance with the data protection principles contained in the Data Protection Act 2018 and in line with the Data Quality Policy, which sets out the requirement for ensuring data quality. There is a program for undertaking data quality audits of performance indicators.	Team Leader (Corporate Governance), MKLS
<b>Equalities</b>	The Equalities implications were considered as part of the reviewed scheme. It is important the way in which the scheme operates is consistent and transparent to ensure its accessibility to all Members.	Equalities and Corporate Policy Officer
<b>Crime and Disorder</b>	No implications	Democratic and Administration Services Manager
<b>Procurement</b>	No implications	Democratic and Administration Services Manager

## 8. REPORT APPENDICES

Appendix 1: Amendments to the Scheme of Outside Bodies

Appendix 2: Minute and resolution from Council

## 9. BACKGROUND PAPERS

None

## Appendix 1: Amendments to the Scheme of Outside Bodies

### SCHEDULE 2

#### LIST OF OUTSIDE BODIES

Appointed by Policy and Resources Committee

1. Kent and Medway Civilian-Military Partnership Board – *Chairman automatically appointed or Chairman can delegate to another member*
2. Local Government Association General Assembly – *to appoint non-voting member (Leader automatically appointed as voting member)*
3. One Maidstone – *to appoint one Member*
4. Rochester Bridge Trust
5. Upper Medway Internal Drainage Board

Appointed by Strategic Planning Sustainability and Transportation Committee

6. Kent Downs AONB Joint Advisory Committee
7. Kent Community Railway Partnership
8. Maidstone Cycling Forum
9. Medway Valley Line Steering Group
10. Parking and Traffic Regulations Outside London Adjudication Joint Committee ("PATROLAJC")
11. South East Rail Passenger Group

Appointed by Communities Housing and Environment Committee

12. Action with Communities in Rural Kent
13. Age UK
14. Citizens Advice Bureau
15. Cutbush and Corrall Charity
16. KCC Health Overview & Scrutiny – *Chairman automatically appointed or Chairman can delegate to another member*
17. Maidstone Mediation Scheme
18. Relate West and Mid Kent
- ~~19. Vinters Valley Park Trust – *appoint a Ward Member*~~

Appointed by Heritage Culture and Leisure Committee

- ~~20.~~19. Brenchley Charity- *Chairman and Vice Chairman automatically appointed in addition to two nominative trustees*
- ~~21.~~20. Collis Millennium Green Trust – *one High Street Ward Member*
- ~~22.~~21. Maidstone Area Arts Partnership
- ~~23.~~22. Maidstone/Beauvais Twinning Association
23. Maidstone Sea Cadets
24. Vinters Valley Park Trust – *appoint a Ward Member*
25. Allington Millennium Green Trust – *Allington Ward Member*
26. Hayle Park Nature Reserve – *South Ward Member*

Appointed by Employment Committee

- ~~24.~~27. South East Employers

## Appendix 1: Amendments to the Scheme of Outside Bodies

Appointed by Democracy Committee

~~25. Allington Millennium Green Trust – Allington Ward Member~~

~~26-28. Headcorn Aerodrome Consultative Committee – Headcorn Ward Member~~

~~27-29. Howard de Walden Centre – East and North Ward Members~~

~~28. Hayle Park Nature Reserve – South Ward Member~~

~~29-30. Maidstone Street Pastors Management Committee – High Street Ward Member~~

~~30-31. Relief in Need Charities~~

~~31-32. Kent and Medway Police and Crime Panel – Leader automatically appointed or Leader to delegate to another member~~

~~32-33. Kent and Medway Economic Partnership – Leader automatically appointed or Leader to delegate to another member~~

~~33-34. West Kent Improvement Board – Leader automatically appointed or Leader to delegate to another member~~

## **Appendix 2: Minute and Resolution from Council**

### 71. REPORT OF THE DEMOCRACY COMMITTEE HELD ON 5 SEPTEMBER 2018 - AMENDMENTS TO THE CONSTITUTION

It was moved by Councillor Mrs Wilson, seconded by Councillor Mrs Gooch, that the recommendations of the Democracy Committee regarding amendments to the Constitution be approved.

With the agreement of the mover and the seconder of the motion, and the remainder of the Council, the following wording was incorporated into the motion as paragraph 4:

*That the Maidstone Quality Bus Partnership be deleted from the list of outside bodies set out in Schedule 2 to the Members' Allowance Scheme (Part 5 of the Constitution) and that the whole issue of appointments to outside bodies be referred back to the Democracy Committee to enable anomalies to be addressed.*

The motion, as amended, was then put to the vote and carried.

#### **RESOLVED:**

1. That the amendments to the Constitution relating to Questions by Members of the Public, as set out in Appendix 1 to the report of the Democracy Committee, be agreed.
2. That the amendments to the Constitution relating to Health and Safety, as set out in Appendix 2 to the report of the Democracy Committee, be agreed.
3. That the amendments to the Constitution relating to Outside Bodies, as set out in Appendix 3 to the report of the Democracy Committee, be agreed.
4. That the Maidstone Quality Bus Partnership be deleted from the list of outside bodies set out in Schedule 2 to the Members' Allowance Scheme (Part 5 of the Constitution) and that the whole issue of appointments to outside bodies be referred back to the Democracy Committee to enable anomalies to be addressed.

# Agenda Item 15

**Democracy Committee**

**14 November 2018**

## **Discussion Paper - Exemptions to Political Proportionality Rules: Urgency and Employment Committees**

<b>Final Decision-Maker</b>	Democracy Committee
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<b>Classification</b>	Public
<b>Wards affected</b>	All

### **Executive Summary**

This report outlines the effects on the allocation of seats if the exemptions to political proportionality rules were removed from the Constitution for the Employment and Urgency Committees. The report is not asking for a decision but is provided for information so this issue can be considered as part of the review of the Committee structure that the Democracy Committee is currently carrying out.

### **This report makes the following recommendations to this Committee:**

That the report is noted and the views of the Committee are taken into account as part of the review.

### **Timetable**

<b>Meeting</b>	<b>Date</b>
Democracy Committee	14 November 2018

# Discussion Paper - Exemptions to Political Proportionality Rules: Urgency and Employment Committees

## 1. INTRODUCTION AND BACKGROUND

- 1.1 The Local Government and Housing Act 1989 ("the 1989 Act") applies rules of political proportionality to the allocation of seats on Committees. The rules require that in an authority with more than one party, the political balance on individual Committees and across all Committees as a whole reflects the political balance of the Council. The rules allow for a departure from the political balance rule, provided no member votes against the proposed allocations.
- 1.2 Maidstone Borough Council's Constitution prescribes that two Committees of the Council should be treated as outside of the political proportionality rules – Employment Committee and Urgency Committee (in accordance with the power under section 17(1) of the 1989 Act).
- 1.3 Urgency Committee consists of the group leaders of the five largest groups. Employment Committee consists of the group leaders of the five largest groups, plus seven other members. The terms of reference for each of these Committees are attached as Appendix A to this report.
- 1.4 As it stands, each Political Group on the Council is entitled to two seats on Committees per member. For smaller Political Groups, the provision that their Group Leader must sit on Urgency and Employment Committees uses up two seats of their allocation on these Committees. This means that these parties have less unallocated seats that can be negotiated with other parties for representation on other, more influential, Committees on the Council.
- 1.5 If Employment and Urgency Committees were politically proportionate, the smaller Political Groups would have more opportunities to negotiate seats on all Committees and therefore more influence. For example, Independent Maidstone currently have an allocation of four seats, two of which must be taken by their Group Leader on Urgency and Employment Committees and two of which must be allocated to other Committees. The effect of removing the requirements for Group Leaders to be represented on Urgency and Employment Committees would give this group four seats to negotiate with in total instead of just the remaining two unallocated seats.
- 1.6 The Urgency Committee comprises the Group Leaders of the five largest parties. Its purpose is to take urgent decisions in between scheduled meetings of Policy and Resources Committee. However there is no Constitutional requirement for Policy and Resources Committee to also have the Group Leaders of the five largest Political Groups on the Council represented on this Committee. Therefore there is a possibility that, depending on election results and negotiations following elections, a Political Group could be represented on the Urgency Committee but not on Policy

and Resources Committee.

- 1.7 As membership of the Urgency Committee must include the leaders of the five largest Political Groups, the constitution does not give guidance on what to do if there are more or less than five Political Groups represented on the Council.
- 1.8 There is also no guidance on the possibility of one Group gaining overall control. The Council could be in a situation where one Party had a majority on every Council Committee other than Urgency Committee. The Council could then be in a situation where the wishes of the majority Party on a matter of urgent business are overruled by the Group Leaders of the minority parties.
- 1.9 To illustrate the effect of making Employment and Urgency Committees politically proportionate, Appendices B and C are attached. Appendix B shows the current, unadjusted, allocation before negotiations including the requirements for Group Leaders to be represented on Urgency and Employment Committees. Appendix C shows an unadjusted allocation with Urgency and Employment Committees allocated on a politically proportionate basis.
- 1.10 Appendix C shows that, compared to Appendix B, Independent Maidstone have two additional seats, and the Labour Group have one additional seat, to negotiate with. This is due to their Group Leaders not being required to be represented on Employment and Urgency Committees. The political composition of Employment Committee would be the same as Licensing Committee (5 Conservative, 5 Liberal Democrat, 1 Labour and 1 Independent) and the Urgency Committee would be the same as Cobtree Manor Estate Charity Committee and Queens Own Royal West Kent Regiment Museum Trust Committees (2 Conservative, 2 Liberal Democrat and 1 Independent).
- 1.11 It is important to note that Appendix B shows the allocation **pre-negotiation**, and in effect shows where adjustments to the allocation are required to ensure that every Committee is fully constituted with the correct number of members, every Committee reflects the balance of the Council overall as much as reasonably practicable and that every Group has the total number of seats required for its overall entitlement.
- 1.11 Whilst the exception arrangements to the political balance requirements that applies to the Urgency and Employment Committees have been adopted by full Council and reflected in the Constitution, these arrangements will cease to have effect, if following a review, a member votes against the arrangements – section 17(1) (b) of the 1989 Act. The implications outlined in this report, in particular under paragraphs 1.5 and 1.6 should be noted.
- 1.12 The Council has a duty to allocate the seats to achieve proportionality, so far as reasonably practicable, taking into account the principles outlined under section 15(5) of the 1989 Act:

- (a) That not all the seats on the body are allocated to the same political group;
- (b) That the majority of the seats on the committee is allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;
- (c) That political balance on individual Committees and across all Committees as a whole reflects the political balance of the Council.

1.12 Following allocation of seats to the various political groups, the Council is required to make the appointments to the Committees and give effect to the wishes of the various political groups – section 16(1) of the 1989 Act. This enables negotiations between the various political groups to take place as described in paragraph 1.5 of this report.

## **2. AVAILABLE OPTIONS**

- 2.1 The Democracy Committee will need to consider the following options in its review of the Committee Structure, even though no decision is required to be taken now.
- 2.2 Retention of the current rules, as outlined in the Constitution. If this option is considered then some further amendments to the guidance in the Constitution is required to correct anomalies outlined in this report – namely ensuring that Group Leaders are also represented on Policy and Resources Committee, and an additional rule stating that if one party has overall control on the Council then Urgency Committee must be politically balanced.
- 2.3 Removal of the rules stating that Group Leaders must be represented on Urgency and Employment Committees. This would ensure that all Committees on the Council are politically balanced, but would mean that negotiations following reviews of seats could be more protracted with more seats to negotiate for the smaller Political Groups.
- 2.4 As the quorum for Policy and Resources Committee is four members (out of a membership of 15), and the quorum of Urgency Committee is three members (out of a membership of 5), it is likely that if urgent decisions are needed it should be just as possible to hold a quorate urgent meeting of Policy and Resources Committee as holding a quorate meeting of Urgency Committee to consider urgent business. Therefore a further option would be to decommission Urgency Committee, regardless of whether Employment Committee is politically balanced or not.
- 2.5 The impact of options outlined in paragraphs 2.2, 2.3 and 2.4 is outlined in the table on the following page.

Option	Impacts
<p>Retention of current proportionality rules in relation to Urgency and Employment Committees and addition of procedure rules ensuring the five largest parties are represented on P&amp;R Committee and that if one party gains overall control that they will also have overall control of the Urgency &amp; Employment Committees</p>	<ul style="list-style-type: none"> <li>• Smaller groups have less 'unallocated' seats that they can negotiate with for seats on Committees</li> <li>• Seats taken up automatically for smaller groups would be on the Urgency Committee (which meets infrequently), Employment Committee (which is not a Service Committee) and Policy and Resources Committee.</li> <li>• The effect of the above would make negotiations simpler following elections or other seat reviews.</li> <li>• The additional rules ensure that if a party is to gain overall control they will have overall control of all Committees with no anomalies, and that Parties are represented on both Urgency and Policy and Resources Committees</li> </ul>
<p>Ensure all Committees are politically balanced by removing the provision for Group Leaders to be represented on Urgency and Employment Committees</p>	<ul style="list-style-type: none"> <li>• Smaller Groups would have more seats to negotiate with. In a situation of no overall control, this would mean they would have a greater opportunity to sit on influential, policy making Committees.</li> <li>• With more seats not automatically allocated negotiations following elections or reviews of seats could be more complicated and take longer.</li> <li>• This option would remove the 'one member veto' situation that is currently in place, due to provisions in the Local Government and Housing Act 1989</li> </ul>
<p>Abolition of Urgency Committee, alongside either of the provisions above</p>	<ul style="list-style-type: none"> <li>• For the reasons outlined in the report, it could be argued that Urgency Committee is not necessary anyway due to the quorum rules and the duplication in membership across P&amp;R and Urgency Committee.</li> <li>• Removing this Committee would mean that when calculating seat allocations for groups, each member would be entitled to 1.93 seats on Committees rather than 2.02. This would apply whether Employment Committee remained politically balanced or not.</li> </ul>

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### **3. REPORT APPENDICES**

The following documents are to be published with this report and form part of the report:

- Appendix A: Terms of Reference for Urgency and Employment Committees
- Appendix B: Current, unadjusted allocation including Group Leaders on Urgency and Employment Committees
- Appendix C: Unadjusted Allocation with Proportionality Rules Applied for all Committees including the Employment and Urgency Committee.

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### **4. BACKGROUND PAPERS**

None

## Appendix A: Terms of Reference for Urgency and Employment Committees

### URGENCY COMMITTEE

**Membership:** Leaders of the five largest Groups represented on the Council. Quorum 3.

**Purpose:** To take any urgent Policy and Resources Committee or Council decisions (that may be delegated by the Council, where above the level of delegation to Officers) in between scheduled meetings and where the decision needs to be taken before the next meeting in order to protect the Council's interests.

FUNCTIONS	DELEGATION OF FUNCTIONS
All decision-making where in the opinion of the Chief Executive (having consulted the Chief Finance Officer and the Monitoring Officer) the Council's interests require that Councillors take a decision urgently; including virement decisions and decisions to expend money from contingencies and balances that are not otherwise delegated.	Any decision that may be made by Council or the Policy and Resources Committee in between scheduled ordinary meetings may be further sub-delegated as considered appropriate.

### EMPLOYMENT COMMITTEE

**Membership: 12 Councillors** (to include the Group Leaders of the five largest groups)

**Purpose:** To deal with employment and staffing matters unless otherwise delegated

FUNCTIONS	DELEGATION OF FUNCTIONS
a) To consider the applications received for the posts of Chief Executive and Directors and to compile a short list for interview and subsequently to interview and make appointments (in the case of the Chief Executive any appointment is subject to confirmation by the full Council).	Panel, as required from time to time
b) To review annually the performance of the Chief Executive and Directors, to agree targets for the coming financial year, and agree any corrective action which may be required relating to the previous financial year.	Panel comprising 5 Councillors (to include the Group Leaders of the 5 largest parties)
c) Power to determine terms and conditions on which staff hold office (including procedures for re-organisations and for their severance and dismissal) and all	Head of Human Resources Shared Service

## Appendix A: Terms of Reference for Urgency and Employment Committees

<p>other matters concerning terms and conditions of service.</p>	
<p>d) To act as an investigatory Committee in disciplinary matters for protected officers</p>	<p>Panel comprising 3 Councillors.</p>
<p>e) To act as a hearings panel as appropriate except any decision to dismiss the Head of Paid Service, Chief Finance Officer or Monitoring Officer which must be approved by Council.</p>	<p>For the three statutory protected officers Panel of 3 plus up to two Independent Persons</p>
<p>f) To hear and determine appeals against decisions taken by the Chief Executive under the disciplinary or capability procedures or to hear grievances raised against the Chief Executive under the grievance procedure.</p>	<p>Sub Committee comprising 3 Councillors</p>
<p>g) Pensions and superannuation matters related to terms and conditions</p>	<p>Head of Human Resources Shared Service</p>
<p>h) To appoint Members to the outside bodies assigned to the Committee and listed at Part 5 Schedule 2 of the Constitution and to receive annual reports from the appointed outside body representative.</p>	<p>N/A</p>

**Appendix B: Current, unadjusted allocation including Group Leaders on Urgency and Employment Committees**

	Overall seats	Plan	JTB	Licensing	P&R	SPST	CHE	HCL	Dem	Emp	AGS	Urg	Total	Deviation (Over/under)
Con	51	6	4	5	7	4	4	4	4	5	4	1	48	3
IM	4	0	0	0	0	0	0	0	0	1	0	1	2	2
Lab	6	1	0	1	1	0	0	0	0	1	0	1	5	1
Lib Dem	42	5	3	5	6	3	3	3	3	4	3	1	39	3
Ind	8	1	1	1	1	1	1	1	1	1	1	1	11	-3
Total	111	13	8	12	15	8	8	8	8	12	8	5	105	6

**Appendix C: Unadjusted Allocation with Proportionality Rules Applied**

	Overall seats	Plan	JTB	Licensing	P&R	SPST	CHE	HCL	Dem	Emp	AGS	Urg	Total	Deviation (over/under)
Con	51	6	4	5	7	4	4	4	4	5	4	2	49	2
IM	4	0	0	0	0	0	0	0	0	0	0	0	0	4
Lab	6	1	0	1	1	0	0	0	0	1	0	0	4	2
Lib Dem	42	5	3	5	6	3	3	3	3	5	3	2	41	1
Ind	8	1	1	1	1	1	1	1	1	1	1	1	11	-3
Total	111	13	8	12	15	8	8	8	8	12	8	5	105	6