

**AMENDMENTS TO THE CONSTITUTION – 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>	Mike Nash, Democratic Services Officer
<b>Classification</b>	Public
<b>Wards affected</b>	All

**Executive Summary**

This report begins by summarising the work that has been undertaken by Democratic Services to consolidate the records held for each Outside Body listed in the Constitution. As a result of the work, a number of amendments are required to ensure clarity regarding outside bodies.

The suggested changes fall into two key categories:

- Updating the Constitution to reflect the current administration of Outside Body appointments.
- Improvements to the future administration of Outside Body appointments.

**Purpose of Report**

Decision

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

That:

1. Council be recommended to agree the changes to Schedule 2 of the Constitution, attached as Appendix 1.
2. Council be recommended to agree the changes to committee Terms of

Reference, attached as Appendix 2.

3. The amended terms of office for Council Representative positions on the Collis Millennium Green Trust and Kent Downs AONB Joint Advisory Committee be noted.

<b>Timetable</b>	
<b><i>Meeting</i></b>	<b><i>Date</i></b>
Democracy and General Purposes Committee	4 September 2019
Council	25 September 2019

# AMENDMENTS TO THE CONSTITUTION – OUTSIDE BODIES

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	Amending the Constitution to reflect the current state of Outside Bodies means that Council Representatives are suitably appointed and can champion the Council’s corporate objectives with appropriate organisations.	Democratic Services Officer
<b>Cross Cutting Objectives</b>	Each organisation has a different remit and will contribute to the cross-cutting objectives in various ways.	Democratic Services Officer
<b>Risk Management</b>	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.	Democratic Services Officer
<b>Financial</b>	No implications.	Paul Holland, Senior Finance Manager (Client)
<b>Staffing</b>	No implications.	Democratic Services Officer
<b>Legal</b>	Under Section 3 of the Local Government Act 1999 the Council has a statutory duty to secure continuous improvement in the way in which its functions are exercised having regard to a combination of economy, efficiency and effectiveness. Accepting the recommendations will assist in demonstrating compliance with the statutory duty and ensure that the information relating to Outside Bodies in the Constitution is accurate and up to date.	Team Leader (Corporate Governance), MKLS
<b>Privacy and Data Protection</b>	Data will be held and processed in accordance with the data protection principles contained in the Data Protection Act 2018.	Team Leader (Corporate Governance), MKLS
<b>Equalities</b>	The proposed amendment would create a greater level of equality for all Council Members when applying to be Members of Outside Bodies.	Clare Harvey, Data Intelligence Officer

<b>Public Health</b>	No implications.	Democratic Services Officer
<b>Crime and Disorder</b>	No implications.	Democratic Services Officer
<b>Procurement</b>	No implications.	Democratic Services Officer

## 2. INTRODUCTION AND BACKGROUND

2.1 Between June 2019 and August 2019, Democratic Services reviewed information that the Council held relating to Outside Bodies. The key elements of this work were:

- Outside Bodies were asked to provide updated contact information and Job Descriptions.
- Vacant Outside Body positions were advertised to all Councillors.
- Reports were submitted to each appropriate committee. These reports outlined current appointments, nominations received and outstanding vacancies for each Outside Body.

<b>Committee</b>	<b>Date</b>
Economic Regeneration and Leisure (ERL) Committee	2 July 2019
Democracy and General Purposes (D&GP) Committee	3 July 2019
Strategic Planning and Infrastructure (SPI) Committee	9 July 2019
Communities, Housing and Environment (CHE) Committee	16 July 2019
Policy and Resources (P&R) Committee	23 July 2019

- A database was introduced, which allows Democratic Services to effectively monitor the status of Council Representative positions and proactively seek nominations when required.

2.2 There are 63 Council Representative positions, of which approximately 43 (68%) were filled in 2018/19. 49 positions (78%) have been filled in 2019/20. Following the re-advertisement of vacancies, three further nominations, and two re-appointments, are to be considered by committees in September 2019.

2.3 As a result of the work, opportunities to update the Constitution were identified. The changes are designed to achieve the following:

- Establishment of a "base position" to enable consistent administration of Outside Body appointments.
- Alignment of the information in the Constitution with the accepted administrative practices regarding appointments to Outside Bodies.

- Promotion of Councillor participation on Outside Bodies through the removal of appointment restrictions.
- Alignment of Outside Bodies with committees, when considering appointment arrangements and/or the remit of the organisations.
- Correction of anomalies in the Constitution.

2.4 The proposed changes are summarised in the below table (Table 1. Summary of Outside Body Amendments).

Table 1. Summary of Outside Body Amendments

<b>Ref</b>	<b>Outside Body</b>	<b>Issue</b>	<b>Suggested Action</b>	<b>Report Document</b>
#1	South East Rail Passenger Group	<p>Democratic Services were recently notified that the South East Rail Passenger Group has been decommissioned. This has been superseded by the South Eastern Railway Stakeholder Forum, which does not require a specific Council Representative.</p> <p>Any Councillor who attends the South Eastern Railway Stakeholder Forum will do so in an unofficial capacity and will not represent Maidstone Borough Council (MBC) at these meetings. Councillors will not be able to claim travel expenses for these meetings.</p>	<p>Remove from Schedule 2</p> <p>The South East Rail Passenger Group was previously attributable to SPI. Therefore, Democratic Services have arranged for South Eastern Railway to invite SPI Members to all future meetings of the South Eastern Railway Stakeholder Forum. Any Councillor can request to be included on the distribution list, either by contacting South Eastern Railway directly or by liaising with Democratic Services.</p>	<p>Appendix 1</p> <p>N/A</p>

Ref	Outside Body	Issue	Suggested Action	Report Document
#2	Kent Health and Wellbeing Board	<p>The Kent County Council Constitution states that the membership on this board includes three elected Members representing the Kent district councils (nominated through the Kent Council Leaders). These positions are rotated annually, but this is not recognised in the MBC Constitution.</p> <p>The Chairman of P&amp;R, as Leader of the Council, is the MBC Councillor who attends the Kent Leaders Forum. Consequently, the Chairman of P&amp;R is assigned this role, but only when MBC are required to provide a representative.</p>	<p>Include a note in the "Role of the Chairman of Policy and Resources" regarding the rotating membership on this organisation amongst the Kent district councils, explaining that the representative of P&amp;R will attend only when MBC are required to provide a representative</p>	Appendix 2
#3	Kent and Medway Joint Health and Wellbeing Board	<p>The constitution does not currently refer to this external board. The Membership includes two non-voting District Council Representatives, determined by the Kent Council Leaders. These positions are rotated annually.</p> <p>The Chairman of P&amp;R, as Leader of the Council, is the MBC Councillor who attends the Kent Leaders Forum. Consequently, the Chairman of P&amp;R is assigned this role, but only when MBC are required to provide a representative.</p>	<p>Include this board under the "Role of the Chairman of Policy and Resources"</p> <p>Include a note regarding the rotating membership on this organisation amongst the Kent district councils, explaining that the representative of P&amp;R will attend only when MBC are required to provide a representative</p>	<p>Appendix 2</p> <p>Appendix 2</p>

<b>Ref</b>	<b>Outside Body</b>	<b>Issue</b>	<b>Suggested Action</b>	<b>Report Document</b>
#4	KCC Health Overview and Scrutiny Committee	The rotating membership for this board is comparable to the Kent Health and Wellbeing Board (#2) and Kent and Medway Joint Health and Wellbeing Board (#3). Consequently, MBC are not required to provide a representative every year. Boards with a rotating membership are listed under committee Terms of Reference, rather than Schedule 2.	Remove from Schedule 2  Include a note in "Role of the Chairman of Communities, Housing and Environment Committee", explaining that the representative of P&R will attend only when MBC are required to provide a representative	Appendix 1  Appendix 2
#5	Allington Millennium Green Trust	At its meeting on 3 July 2019, the D&GP Committee stated that following a boundary review, conducted between May 2000 and May 2001, the Allington Millennium Green is now located in Bridge Ward.  Discussions were held with the Outside Body and the Council Representative on this organisation. <sup>1</sup> It was established that there are no requirements in the Trust's Deeds for the Council Representative to be an Allington Ward Member.  It is also recommended that the Allington Millennium Green Trust is moved to fall under the CHE Committee, as the Outside Body is best aligned with the remit of this Committee. This would also enhance the consistency with the Collis Millennium Green Trust.	Remove the requirement for an Allington Ward Member to hold this position  Relocate this Outside Body from the D&GP Committee to the CHE Committee	Appendix 1  Appendix 1

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<sup>1</sup> Councillor Daley was the Council Representative on the Allington Millennium Green Trust at the time of writing the report, 18 July 2019.



Ref	Outside Body	Issue	Suggested Action	Report Document
#6	Vinters Valley Park Trust	<p>Imposing appointment restrictions creates inflexibility, as it significantly reduces the number of potential nominees for a position. It is therefore proposed that the requirement for a Boxley Ward Member to be appointed to the Vinters Valley Park Trust is removed to promote opportunities for Councillor participation.</p> <p>If an Outside Body position was to receive multiple nominations, then it would be for the appropriate committee to decide on the most suitable appointment. The committee could consider whether a nominee representing a specific ward was beneficial when debating the appointment. Nominees may wish to consider this information as part of their nomination form.</p>	Remove the requirement for a Boxley Ward Member to hold this position	Appendix 1
#7	Headcorn Aerodrome Consultative Committee	<p>It is proposed that the requirement for a Headcorn Ward Member to be appointed to the Headcorn Aerodrome Consultative Committee is removed. (See #6 for rationale.)</p> <p>It is further suggested that the Headcorn Aerodrome Consultative Committee be relocated to the SPI Committee, as it aligns best with the committee remit.</p>	<p>Remove the requirement for Headcorn Ward Members to hold these positions</p> <p>Relocate this Outside Body from the D&amp;GP Committee to the SPI Committee</p>	<p>Appendix 1</p> <p>Appendix 1</p>

<b>Ref</b>	<b>Outside Body</b>	<b>Issue</b>	<b>Suggested Action</b>	<b>Report Document</b>
#8	Howard de Walden Centre	<p>It is proposed that the requirement for an East and North Ward Member to be appointed to the Howard de Walden Centre is removed. (See #6 for rationale.)</p> <p>It is further suggested that the Howard de Walden Centre be relocated to the CHE Committee, as it aligns best with the committee remit.</p>	<p>Remove the requirement for an East and North Ward Member to hold these positions</p> <p>Relocate this Outside Body from the D&amp;GP Committee to the CHE Committee</p>	<p>Appendix 1</p> <p>Appendix 1</p>
#9	Hayle Park Nature Reserve	<p>It is proposed that the requirement for South Ward Members to be appointed to the Hayle Park Nature Reserve is removed. (See #6 for rationale.)</p> <p>It is further suggested that the Hayle Park Nature Reserve be relocated to the CHE Committee, as it aligns best with the committee remit.</p>	<p>Remove the requirement for South Ward Members to hold these positions</p> <p>Relocate this Outside Body from the D&amp;GP Committee to the CHE Committee</p>	<p>Appendix 1</p> <p>Appendix 1</p>
#10	Maidstone Street Pastors Management Committee	<p>It is proposed that the requirement for a High Street Ward Member to be appointed to the Maidstone Street Pastors Management Committee is removed. (See #6 for rationale.)</p>	<p>Remove the requirement for a High Street Ward Member to hold this position</p>	<p>Appendix 1</p>
#11	Collis Millennium Green Trust	<p>It is proposed that the requirement for a High Street Ward Member to be appointed to the Collis Millennium Green Trust is removed. (See #6 for rationale.)</p> <p>In order to fully align the Collis and Allington Millennium Green Trusts, the term of office for the Council Representative on the Collis Millennium Green Trust is to be extended. The next time this position is appointed to, the term of office will be for a period of four years.</p>	<p>Remove the requirement for a High Street Ward Member to hold this position</p> <p>Extend the term of office to four years when a vacancy is next advertised</p>	<p>Appendix 1</p> <p>N/A</p>

<b>Ref</b>	<b>Outside Body</b>	<b>Issue</b>	<b>Suggested Action</b>	<b>Report Document</b>
#12	Kent and Medway Economic Partnership	Due to the appointment criteria for this role, Appendix 1 includes the Outside Body under the P&R Committee, rather than D&GP.	Relocate this Outside Body from the D&GP Committee to the P&R Committee	Appendix 1
#13	Kent and Medway Police and Crime Panel	Due to the appointment criteria for this role, Appendix 1 includes the Outside Body under the P&R Committee, rather than D&GP.	Relocate this Outside Body from the D&GP Committee to the P&R Committee	Appendix 1
#14	West Kent Improvement Board Elected Members Forum	<p>This Committee is already included in Schedule 2 of the Constitution, however the current name, "West Kent Improvement Board", is out of date.</p> <p>Due to the appointment criteria for this role, Appendix 1 includes the Outside Body under the P&amp;R Committee, rather than D&amp;GP.</p>	<p>Update the name of the organisation</p> <p>Include a note regarding the automatic appointment of the P&amp;R Chairman, with the option for the committee to delegate this position</p> <p>Relocate this Outside Body from the D&amp;GP Committee to the P&amp;R Committee</p>	<p>Appendix 1</p> <p>Appendix 1</p> <p>Appendix 1</p>
#15	Brenchley Charity	In line with the current arrangements for this organisation, Appendix 1 includes an explanatory note to state that the Chairman and Vice-Chairman of the ERL Committee are automatically appointed as Council Representatives on this Outside Body.	Include a note regarding the automatic appointment of the ERL Chairman and Vice-Chairman	Appendix 1

<b>Ref</b>	<b>Outside Body</b>	<b>Issue</b>	<b>Suggested Action</b>	<b>Report Document</b>
#16	Quality Bus Partnership	To align the appointment information for this Outside Body with the SPI Committee Terms of Reference, Appendix 1 specifies that the Chairman of the SPI Committee is automatically appointed as the Council Representative on this Outside Body. This does not alter current practice, but simply enhances the consistency and clarity of information in the Constitution.	Include a note regarding the automatic appointment of the SPI Chairman	Appendix 1
#17	Local Government Association General Assembly	Confirmation has been received from the Local Government Association General Assembly that a non-voting member, currently appointed by the P&R Committee, is not required.  The Chairman of P&R is currently automatically appointed as a voting member, and no changes are proposed for this position.  The Draft Schedule 2 consequently removes reference to the appointment of a non-voting member but retains the information regarding the automatic appointment of the voting member.	Remove the requirement to appoint a non-voting member	Appendix 1
#18	Maidstone Area Arts Partnership	In line with the current arrangements for this organisation, Appendix 1 includes an explanatory note to state that the Chairman of the ERL Committee is automatically appointed as Council Representatives on this Outside Body.	Include a note regarding the automatic appointment of the ERL Chairman	Appendix 1
#19	Relief in Need Charities	In line with the current arrangements for this organisation, Appendix 1 includes an explanatory note to state that the Mayor is appointed as Council Representatives on this Outside Body as "ex officio".	Include a note regarding the automatic appointment of the Mayor	Appendix 1

Ref	Outside Body	Issue	Suggested Action	Report Document
#20	Kent Downs AONB Joint Advisory Committee	Following discussions with the Kent Downs AONB Joint Advisory Committee, it was confirmed that there are no restrictions on the term of office that a Council Representative can be appointed for. Currently, MBC appoints a representative annually. When this position is next advertised, it will be for a two-year term of office. This will help to promote continuity while simultaneously streamlining the administrative processes associated with appointing Council Representatives.	Extend the term of office to two years when a vacancy is next advertised	N/A

## **Recommendations from the CHE Committee – 16 July 2019**

2.5 At its meeting on 16 July 2019, the CHE Committee made the following resolution:

*"That the Democracy and General Purposes Committee be recommended to consider as part of their ongoing review of outside bodies the following:-*

*1) That there should be more automatic appointments of the Chairman or Vice-Chairman to outside bodies from the Service Committees*

*2) That it be suggested to organisations where any positions are not filled by Members within a year that the position be opened up to other persons whilst still maintaining contact with their local Councillors."*

2.6 In terms of recommendation one, many of the changes suggested in this report are designed to clarify the appointment criteria for Outside Bodies, which includes specifying when Chairmen and Vice-Chairmen are automatically appointed. This, however, does not prevent other positions from being automatically appointed to if committees deemed this appropriate. Committees will be considering an annual Outside Body report between February and March 2020, which will contain updates from Council Representatives. This presents an opportunity for committees to consider whether the appointment criteria for specific Outside Bodies could be adjusted.

2.7 If a Committee considers it appropriate to adjust the appointment criteria for a specific Outside Body, this could be recommended to the D&GP Committee for consideration in March 2020. If the proposed changes conform with the governance arrangements of the relevant Outside Bodies, then D&GP could recommend these amendments to Council for adoption at the Annual Meeting in May 2020. This would ensure that the responsibilities of Chairmen and Vice-Chairmen are clearly understood and agreed ahead of the Snap Committees for the 2020/21 municipal year.

2.8 With regards to recommendation two, at its meeting on 3 July 2019, the D&GP Committee agreed principles for reviewing vacant Outside Body positions. The principles specifically included a period of two years for a vacancy, as this allows (in most circumstances) for two Borough Council Elections to take place. This means that there would be sufficient opportunity for a new Councillor to be elected who may be interested in holding a position on an Outside Body. Opening positions to persons other than Councillors would be possible if the organisations governance arrangements permit this, and it could therefore be identified as the possible course of action to fill the vacancy, as outlined in the principles agreed by this committee in July.

## **Minor Amendments to the Constitution**

- 2.9 Further to the above changes, a number of formatting changes have been made to improve the clarity of information, while grammatical inconsistencies have also been rectified.
- 2.10 Additionally, following the implementation of recommendations in the Committee Structure Review for the 2019/20 municipal year, the Strategic Planning, Sustainability and Transportation Committee has been amended to "Strategic Planning and Infrastructure Committee".
- 2.11 The specification that the P&R Committee appoints one Member on One Maidstone has also been removed, as this information is not included for other Outside Bodies. The name of this Outside Body has also been updated to "One Maidstone BID Advisory Board".
- 2.12 The current Constitution states that the Leader may delegate specific roles on outside bodies, however, under the committee system an individual Member cannot delegate responsibility to another Member. The draft Schedule 2 has therefore been amended to state that the appropriate committee can delegate specific roles, where appropriate.
- 2.13 Following queries from Councillors, a sentence has been included in Schedule 2 that specifically states that a Council Representative does not have to be a Member of the Committee that the Outside Body is listed under.
- 2.14 These are minor changes that can be implemented using the Monitoring Officer's delegated authority, therefore this Committee is not required to make a decision on the adjustments outlined in paragraphs 2.9 to 2.13.
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## **3. AVAILABLE OPTIONS**

- 3.1 The Committee could choose to do nothing. This is not recommended as this means that Schedule 2 of the Constitution would not reflect the present state of Outside Bodies that the Council appoints representatives to.
- 3.2 The Committee could choose to recommend the constitutional changes outlined in Appendices 1 and 2 to Council. This will ensure that Schedule 2 of the Constitution reflects the current state of Outside Bodies.
- 3.3 The Committee could request that Officers explore further potential changes to Schedule 2. The changes proposed in this report have been suggested following research and engagement with relevant Outside Bodies, and therefore, any further additions or changes would need to be researched in a comparable manner before being considered by Council. Due to the timescales, these would be recommended directly to Council.
- 3.4 The Committee could request a formal review of Outside Bodies. This is not recommended, as significant resource has been dedicated to creating uniformity and consistency across the current Outside Body arrangements. Furthermore, the D&GP Committee recently agreed principles for reviewing

Outside Bodies that will allow incremental changes to the administrative arrangements when required. A full review is likely to require additional resource and the expected benefits of a review are not anticipated to represent an effective use of resource.

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

- 4.1 Option 3.2 is recommended as this will ensure that Schedule 2 of the Constitution accurately reflects the latest information relating to Outside Bodies, in line with the research undertaken by Democratic Services.
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#### **5. RISK**

- 5.1 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.
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#### **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 All consultation with Outside Bodies and MBC Councillors has been summarised in Section 2.
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#### **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 If the amendments to the Constitution are recommended by this Committee, the changes will be considered by Council at its meeting on 25 September 2019.
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#### **8. REPORT APPENDICES**

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

- Appendix 1: Draft Schedule 2 of the Constitution
  - Appendix 2: Draft Committee Terms of Reference
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#### **9. BACKGROUND PAPERS**

None.