

**Amendments to the Constitution**

<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>	Ryan O'Connell, Democratic and Electoral Services Manager
<b>Classification</b>	Public
<b>Wards affected</b>	All

**Executive Summary**

This report sets out amendments to the Constitution including Planning and Licensing Training, Planning Referrals, and Seat Allocations.

**Purpose of Report**

Decision

**This report makes the following recommendations to Council:**

That the proposed changes to the Constitution set out in Appendix 1 be adopted.

**Timetable**

<b>Meeting</b>	<b>Date</b>
Democracy and General Purposes Committee (part)	2 September 2020
Licensing Committee (part)	17 September 2020
Council	30 September 2020

# Amendments to the Constitution

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	Having an up to date and fit for purpose Constitution ensures that decision making and operation of the Council functions effectively, underpinning all Corporate Priorities.	Democratic and Electoral Services Manager
<b>Cross Cutting Objectives</b>	Having an up to date and fit for purpose Constitution ensures that decision making and operation of the Council functions effectively, underpinning all cross-cutting objectives.	Democratic and Electoral Services Manager
<b>Risk Management</b>	See risk section below	Democratic and Electoral Services Manager
<b>Financial</b>	None directly. The amendment to the planning referrals process has been made balancing the financial risks of planning decisions being challenged.	Democratic and Electoral Services Manager
<b>Staffing</b>	None	Democratic and Electoral Services Manager
<b>Legal</b>	The proposed amendments have been agreed with the Monitoring Officer.	Democratic and Electoral Services Manager
<b>Privacy and Data Protection</b>	None	Policy and Information Team
<b>Equalities</b>	None	Democratic and Electoral Services Manager
<b>Public Health</b>	None	Democratic and Electoral Services Manager
<b>Crime and Disorder</b>	None	Democratic and Electoral Services Manager
<b>Procurement</b>	None	Democratic and Electoral Services Manager

## **2. INTRODUCTION AND BACKGROUND**

2.1 The Council adopted the updated Constitution on 15 July 2020. Since then the Licensing Committee and Planning Committee training requirements have been reviewed and the Democracy and General Purposes Committee considered the matter of planning referrals at its meeting on 2 September 2020. The changes to the Constitution should be viewed alongside the report that went to that Committee.

2.2 The resolution of Democracy and General Purposes Committee was as follows:

**RESOLVED:** *That*

*1. Policy and Resources Committee remain as the Planning Referral Body, with its Members also consulted on planning training together with Planning Committee Members, be agreed;*

*2. The Power of Planning Officers in Rule 31.3(d) to refer to a matter to Policy and Resources Committee acting as the Planning Referral Body be removed and replaced by a Member-led power, being that a matter where officers advise against significant cost implications may be so referred either upon:*

*a. An agreement between the Planning Committee Chairman and Vice-Chairman; OR*

*b. A resolution of the Planning Committee; be agreed; and*

*3. The Democratic and Electoral Services manager be given delegated authority to propose written amendments to the Constitution to provide definitions of significant costs, the status of Planning Committee 'decisions' at each stage, the nature of the considerations of the Planning Referral Body and determining an application, be agreed.*

2.3 The planning training wording was consulted on and circulated to Policy and Resources Committee Members and Planning Committee Members in accordance with that resolution and is set out in Appendix 1.

2.4 The Licensing Committee considered a report on its code of conduct training requirements at its meeting on 17 September 2020. The Committee resolved the following:

*That the new wording set out paragraph 4.2 be recommended to Council for the Code of Conduct for Councillors and Officers dealing with Licensing matters*

*4.2 (c) The Council has agreed that no Councillor will be able to serve on this Committee without having agreed to undertake a minimum period of training on the policies, procedures, legislation and guidance relevant to this Committee as specified by the Committee. This training must be completed to an agreed programme set by the Committee annually with a*

*due date for completion. New members must receive training, but the programme may include no training provision for experienced members if there have been no relevant changes to legislation, policies or guidance.*

*If a Councillor has not completed the specified training by the due date, the Councillor will cease to be a member/substitute member of this Committee until the training has been completed. The Head of Housing and Community Services will keep a record of the training requirements of this Committee and of Councillors' compliance with the requirements*

- 2.5 Other constitutional matters have also arisen since that adoption, including consideration of adopting a clear process in the constitution to allow Group Leaders to amend committee memberships during the year. This matter arose following a Conservative Group Member moving to the Liberal Democrat Group.
- 2.6 Officers have sought legal advice on the steps to take for committee seat review due to the longstanding vacancies occurring on the Council as elections and by-elections have been pushed back to May 2021. As part of that advice the legal basis for making changes outside of Council meetings on the wishes of Group Leaders was also provided. Under section 16 of the Local Government and Housing Act 1989 a group leader may secure a change in their group's membership of a committee without resort to Council.
- 2.7 In order to provide clarity and an unambiguous process it is recommended that the constitution be amended as set out in Appendix 1 to give appropriate delegation to enact Group Leaders wishes. This will give a transparent constitutional process that everyone is aware of and is consistent with other council's constitutions.
- 2.8 This does represent a significant change to how Group Leaders wishes on committee nominations have been carried out at Maidstone where historically they have always been made at Council. As such sample wording has been viewed from Swale and Tunbridge Wells Borough Councils where delegations to enact the wishes of Group Leaders already exist.
- 2.9 Some other matters within the Constitution are also recommended for change, including a correction to the Licensing delegations for responsible authority matters, and ensuring that the Constitution is updated for consistency with the proposed changes to training which are mentioned throughout the document. In some cases the additional references to planning and other training requirements will be removed as it is not the case that repeating something in the constitution gives it more weight. A delegation is sought for this.

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### **3. AVAILABLE OPTIONS**

- 3.1 Agree the changes set out in Appendix 1

- 3.2 Make additional changes, remove changes or alter those proposed as Council sees fit, within the bounds of the law.
- 3.3 Not make any changes
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#### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 For the reasons set out section 2 the changes set out in Appendix 1 are recommended.

#### **5. RISK**

- 5.1 The changes proposed are aimed at managing risks in general around decision making and governance, but specifically on the training of regulatory committees and for managing the planning referrals process which tends to involve high risk applications in terms of cost, reputation and potential planning outcomes.

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

- 6.1 Democracy and General Purposes Committee considered the planning referrals and planning training matter and wording based on their resolution is proposed.
- 6.2 Licensing Committee considered a report on training and agreed the recommended wording.
- 6.3 Short consultations were carried out on the wording proposed with D&GP, Planning, and Policy and Resources and the relevant wording has been amended to reflect their feedback.
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#### **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 The changes will come in with immediate effect and the constitution will be updated and republished.
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#### **8. REPORT APPENDICES**

Appendix 1: Proposed Amendments to the Constitution

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#### **9. BACKGROUND PAPERS**

[Democracy and General Purposes Committee – 2 September 2020 – Planning Decisions with Significant Cost Implications – Options for Managing the Risks](#)

[Licensing Committee – 17 September 2020 – Code of Conduct Training Requirements](#)