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## APPOINTMENT OF SUBSTITUTES – PLANNING COMMITTEE

To: **Standards Committee – 21 November 2013**

Main Portfolio Area: **Business, Corporate & Regulatory Services**

By: **Democratic Services & Scrutiny Manager**

Classification: **Unrestricted**

Ward: **N/A**

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**Summary:** **To consider whether the size of the Pool of Planning Committee Substitutes should be adjusted and, if so, whether political balance should be preserved.**

### **For Decision**

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#### **1.0 Introduction and Background**

- 1.1 It has been suggested that Members of the Labour Group who have received the requisite training for membership of the planning committee, yet are not represented on either the planning committee or its pool of substitutes, could be added to the pool of substitute members.
- 1.2 Members should note that any adjustments in relation to the pool of substitutes will affect the size and political balance of the planning committee itself.

#### **2.0 The Current Situation**

- 2.1 The composition of, and nominations to, the planning committee pool of substitute members are agreed by Council, normally at its annual meeting. As stated in Clause 9.1 of the “Protocol for the Guidance of Planning Committee Members and Officers” within the Council’s constitution:

*“Substitutions at a Planning Committee shall only be permitted from a designated pool of substitute Members to be agreed at the Annual Meeting of Council each year (and updated as required at subsequent meetings of Council)”.*

- 2.2 Currently, there are 15 Members represented on the pool of planning committee substitutes, made up:

Labour Group Members	7
Conservative Group Members	6
Independent Group Members	1
Thanet Independent Group Members	1

The size and political composition of this pool exactly mirrors those of the Planning Committee itself.

- 2.3 This is in keeping with suggested rules for substitution in the modular constitution which was published by the Office of the Deputy Prime Minister (ODPM) (*now known*

as the Department for Communities and Local Government), as a guide to councils on how to prepare constitutions under the Local Government Act 2000:

- 2.3.1 The suggested modular council procedural rule 1.2 “Selection of Councillors on Committees and Outside Bodies” stated that

*“At the annual meeting, the council ... will ...*

*(iii) decide the allocation of seats [and substitutes] to political groups in accordance with the political balance rules”; and*

- 2.3.2 The suggested modular council procedure rule 4.2 stated that,

*“For each committee or sub-committee, the Council will appoint the same number of substitutes in respect of each political group as that group holds ordinary seats on that committee or sub-committee, up to a maximum of [m]”.*

- 2.4 A quick online research was carried out to determine what rules specifically on substitution on the planning committee are in force in other local authorities in East Kent, particularly on whether they had pools of substitute members. A summary of the key findings are summarised at Annex 1.

- 2.5 It will be noted that Thanet council is the only local council in East Kent to have a pool of substitutes for its planning committee (*or its equivalent*); other councils having a system whereby a Member or a spokesperson on behalf of the political group they represent notifies an officer (usually in Democratic Services) up until the time of the commencement of a meeting that another Member will be attending the meeting as a substitute. The key advantage of such a system is flexibility.

- 2.6 However, having a designated pool of substitutes has the benefit of certainty, in that substitute membership is well publicised in advance and enables substitutes to attend training sessions, which, in Thanet’s case, are mandatory.

- 2.7 In the course of doing the online research confined to East Kent, it was found that some councils in West Kent, namely Sevenoaks and Tonbridge & Malling, reportedly do not provide for substitutes at planning committee meetings. Upon telephone checks being made, it was confirmed that Sevenoaks do not allow substitutions for any of its committee meetings, with the exception of Scrutiny and that the membership of each of Tonbridge & Malling’s three area planning committees comprise of the relevant ward Members only, without a system of substitution being in place.

- 2.8 To get an idea of how many other councils within England have pools of named substitutes for planning committees (*or their equivalent*), a further quick online search was carried out. A range of such councils was found, including:

**Council**

Gravesham	Politically balanced ( <i>confirmed by telephone</i> )
East Cambridgeshire	Not politically balanced - up to 2 named substitutes for each political group. ( <i>Confirmed by telephone</i> )
Islington	Politically balanced ( <i>Confirmed by telephone</i> )

Guildford	11 named substitutes ( <i>from website</i> )
South Norfolk	Named substitutes referred to in terms of reference of planning committee ( <i>from website</i> )
City of York	Substitutes appointed at annual meeting of council, May 2013 – do not appear to be politically balanced ( <i>from website</i> )

### **3.0 Consideration by the Constitutional Review Working Party**

3.1 At its meeting on 30 October 2013, the Constitutional Review Working Party took the following points into consideration:

3.1.2 It was important that all Members attending a meeting of the planning committee had sufficient knowledge and understanding of planning law and procedures.

3.1.3 The planning committee was a decision-making body whose decisions could be challenged legally. It was important, therefore, that the Council exercised its power to appoint suitably trained substitutes to a pool, albeit in accordance with the wishes of the respective political groups.

3.1.4 Basing the pool of substitutes upon the proportionality of the planning committee itself seemed reasonable and reflected the guidance contained within the model constitution issued by the former Office of the Deputy Prime Minister at the time the Local Government Act 2000 was implemented.

3.2 The Working Party agreed to recommend to Standards Committee:

“That the option as set out at paragraph 4.1.1 of the report be adopted, namely:

‘Retain the status quo in relation to the size and political composition of the pool of the planning committee substitutes’.”

### **4.0 Options**

4.1 There appear to be five options available to the Council.

4.1.1 Retain the status quo in relation to the size and political composition of the pool of planning committee substitutes;

4.1.2 Increase the size of the pool, whilst preserving proportionality;

4.1.3 Increase the size of the pool, without preserving proportionality;

4.1.4 Dispense with a pool of named substitutes and adopt the practice used by the other councils within East Kent, as referred to at paragraph 2.5 above

4.1.5 Do not allow substitutes on the planning committee

4.2 The implications of increasing the size whilst preserving proportionality can be illustrated in the following example:

If the Labour Group were to increase its number of seats on the pool from **7 to 9**, the total number of seats on the pool would have to increase from 15 to 19, with a

resultant proportionality – based on the current composition of the Council – as follows:

Labour Group ( <i>as in this example</i> )	9
Conservative Group: $9 \times 23 / 26 = 7.9615384$ - to nearest whole number	8
Independent Group: $9 \times 3 / 26 = 1.0384615$ – to nearest whole number	1
Thanet Independent Group: $9 \times 2 / 26 = 0.6923$ - to nearest whole number	<u>1</u>
	19
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4.3 The corresponding effects of increasing the membership of the Labour Group on the pool to 8, 10 and 11 respectively are illustrated at Annex 2.

4.6 It should be noted that any additional nominations by political group(s) would need to be accepted at a future Council meeting.

## 5.0 Corporate Implications

### 5.1 Financial and VAT

5.1.1 Any adjustment to the current system of appointing substitutes to the planning committee might have implications in terms of training costs.

### 5.2 Legal

5.2.1 There is no clear statutory or case law on appointment of substitutes. The important thing is to reflect agreed arrangements in the constitution and comply with those rules.

### 5.3 Corporate

5.3.1 The availability of trained Members on a pool of planning committee substitutes can ensure full representation of political groups at all Planning Committee meetings.

### 5.4 Equity and Equalities

5.4.1 None apparent

## 6.0 Recommendation

6.1 Standards Committee is asked to decide which option, as outlined at paragraph 4.1 above, to recommend to Council.

## 7.0 Decision Making Process

7.1 Recommendations by Standards Committee will be referred to Council for final decision.

Future Meeting if applicable:	Date:
Council	5 December 2013

Contact Officer:	<i>Glenn Back, Democratic Services &amp; Scrutiny Manager, ext 7187</i>
Reporting to:	<i>Harvey Patterson, Corporate &amp; Regulatory Services Manager and Monitoring Officer, ext 7005</i>

### **Annex List**

Annex 1	Provisions which neighbouring councils have in relation to appointment of substitutes at planning committee meetings
Annex 2	Effects of applying option 2 – increasing the size of the pool of substitutes whilst preserving political balance

### **Background Papers**

<b>Title</b>	<b>Details of where to access copy</b>
None	

### **Corporate Consultation Undertaken**

Finance	n/a
Legal	<i>Harvey Patterson, Corporate &amp; Regulatory Services Manager and Monitoring Officer, ext 7005</i>