

## **SUBSTITUTE MEMBERS ON PLANNING AND OTHER COMMITTEES**

**Meeting and Date: Members Code of Conduct Committee 30 January 2020**

**Report of: Head of Corporate Governance**

**Purpose of the report:** To consider and review the rules governing the arrangements for appointing substitute members on Committees of the Council.

**Recommendation:** To recommend to Council (via Cabinet) to introduce new arrangements introducing substitutes for committee meetings.

### **1. Introduction and Background**

1.1 The Leader of the Council has requested that a process introducing substitutes for committee meetings be explored.

1.2 Why should the Council have substitutes?

1.2.1 The primary purpose of appointing substitute members is to ensure at a basic level that a committee can achieve a functioning quorum of members in order to transact its business. However, it also serves to preserve the political proportionality of an individual committee which in turn is a reflection of the political proportionality of the authority as a whole.

1.2 What is the constitutional and legal basis for substitutes?

1.2.1. The rules governing the use of substitute members are set out in the Local Government Act 2000.

1.2.2 Members substitution is a process which has been adopted nationally and in some Surrey authorities as it allows members more flexibility in relation to attending meetings and helps underpin the statutory requirement of political proportionality in meetings.

1.3 The Council Procedure Rules could be amended to permit substitutes on all committees other than Cabinet and Council.

1.4 For clarity, this report will refer to members appointed to a committee in the usual way as primary members and refer to members appointed to act as substitute members.

1.5 The process appears to operate best in the following way:

- When primary members are appointed to committees (usually at the annual meeting of the council), a small number of additional councillors are appointed in addition as substitute members.
- If a primary member finds that they are unable to attend a meeting of a committee to which they have been appointed, they can contact any of the substitute members for that committee who are from the same party, and ask them to attend in their place.
- The primary member will then apologise to Committee Services in the usual way and state that he/she has asked a named substitute councillor to attend in their place.

- The named substitute member will then attend the meeting.
- If the primary member then arrives at the meeting after it has started and their substitute member is in attendance as planned, they (the primary member) cannot take part. This ensures that whoever is present (either the primary or substitute member) is party to the consideration of the entire meeting to ensure they have the whole picture when coming to make decisions.

1.6 The idea underpinning the process relates to political representation at meetings and is deemed to be part of the political process rather than part of the administrative process (i.e. it is for members or party whips to ensure that their party is fully represented at meetings of committees rather than officers). As such the responsibility for arranging substitutions and alerting officers in advance of the meeting lies with members and not officers.

1.7 There are several additional aspects of the member substitution arrangements to be considered;

- The law does not permit the use of a formal substitution process for the Licensing Committee or its panels (although the licensing panels are drawn on a case by case basis from the membership of the Licensing Committee so substitutions are not likely to ever be necessary).
- Substitute members are also not permitted on the Members Code of Conduct Committee.
- There is no prohibition on substitutions on other bodies although if there is a requirement for primary members to be trained (e.g. members of the Planning Committee), the substitute members will also need to be appropriately trained to the same level.
- Substitute members have all the powers and duties of any primary ordinary member of the committee but cannot exercise any special powers or duties exercisable by the person they are substituting (e.g. they cannot act as Chairman of a committee if they are substituting for a member who is the Chairman). This precludes any benefit from substitutes being appointed to the Cabinet and those bodies where Cabinet Members are appointed in that capacity as primary members)
- A substitute must be identified by name as replacing a primary member before a meeting.
- A substitute member may only substitute for one member at a meeting (i.e. a councillor may not take the place of two members).
- All substitute members must be elected councillors.
- Some changes to the constitution would be needed to adopt a substitute system as follows:
  - To allow the Council to appoint substitutes;
  - To allow committees to appoint substitutes for sub-committees/panels.
  - Explaining how the substitution system operates.

1.8 There is rarely a need to appoint more than two substitute members per party, although in some councils the same number of substitute members are appointed as there are members of the committee and in the same proportion. This however can be unwieldy and also present problems for parties when making appointments. It also allows for the unsatisfactory possibility of all members of a committee attending a meeting being substitute members.

1.8.1 In practical terms the Planning Committee could have the same number of substitutes as primary members to stop meetings being compromised by members being unable to sit due to conflicts of interests. This would also extend the knowledge of planning matters (as substitute members would need to be trained).

1.9 There is no need for political proportionality in relation to substitution as designated substitute members have no function except when called on to act in place of one of the primary members of a committee which will have primary members allocated to it in accordance with the proportionality rules. It should however be noted that substitutes cannot have a Special Responsibility allowance.

1.10 Members may consider that a substitute system may be useful for some bodies but not for others.

1.11 Some of the advantages of a substitute system are as follows:

- It allows for greater flexibility for member representation.
- It helps ensure that political proportionality is maintained.

1.12 Some of the disadvantages are:

- Members are appointed to a greater number of bodies.
- The existence of a substitution system can weaken a members' connection to the work of a body by making non-attendance easier. This could be a problem for scrutiny panels.

1.13 Members are asked to consider the benefits of introducing a substitute system and to propose a scheme of substitutions to Council (via Cabinet) to agree to introduce the arrangements from the start of the municipal year.

1.12 If Members are inclined to progress the idea, they are asked to express a view the following:

- Whether all formal bodies (except those forbidden by law or for which it would impractical) should be allowed substitutes, or only some (and if so, which)
- Whether a small number of substitutes should be permitted or whether the number of substitutes should equal the number of primary members on the committee.

## **2. Key Implications**

2.1 The proposed change may be useful in giving members greater flexibility in relation to member representation at meetings.

### **3. Financial Details**

3.1 The proposals have no cost implications.

### **4. Legal Details**

4.1 These are incorporated into the body of the report.

### **5. Risk Management**

There is no risk attached to these proposals except as identified in the body of the report.

### **6. Links to Council Priorities**

6.1 The proposals may add to the efficient running of the Council and may support the Council's priorities.

### **7. Equalities, Human Rights considerations**

7.1 There are no implications in relation to equalities and human rights.

### **8. Staffing implications:**

8.1 There are no implications in relation to staffing.

### **9 Any Other Implications**

9.1 There are no further implications.

### **10. Timetable for Implementation**

10.1 If the Council agrees the proposals, they would be most suitably implemented from the start of the new municipal year.

### **11. Identification of Options**

11.1 In reviewing the rules governing the limit on the number of substitute members that can be appointed to any given Committee, Sub-Committee or Working Group it is clear that any change to the existing arrangement must achieve a sensible, legal, transparent and workable arrangement. To that end it is suggested that any change to the rules governing the use of substitute members could be subject to review by the Members Code of Conduct Committee after a period of 12 months.

11.2 In addition, nothing in this report would change the requirement for Members to provide notice (either oral or in writing) to the Committee Services Officer named on the agenda of a substitution prior to the start of the meeting or allow such notice to be revoked in respect of a meeting.

### **12 Evaluation of Options**

12.1 There are 3 options open to Members in respect of the arrangements governing the substitutes for Committees.

12.2 **Option 1** – To make no change to the existing arrangements governing the appointment of substitute members. This is not the recommended option as it does not increase flexibility.

12.3 **Option 2** – To make no limitation in the number of substitutes to allow the same number of substitutes in respect of each political group as that group holds ordinary a Committee (i.e. excluding Cabinet), while still keeping the requirement that to be eligible to substitute a member must have undergone training for those committees and that this should be a constitutional that requirement.

12.4 **Option 3** – To determine a different limit for all committees or for individual committees. It should be noted that if different limits were to be favoured for each type of committee it is likely to make them administratively cumbersome to support and potentially confusing to Members.

## **11. Background Information**

11.1 There is no background information and no background papers in relation to this report.

## **APPENDIX**

### **DRAFT APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES, SUB-COMMITTEES AND PANELS/GROUPS**

(1) A full member of a Committee or Sub-Committee or Panel/Group who is unable to attend a meeting and wishes a substitute member to attend the meeting in his/her place, shall make the necessary arrangements with any other member of his/her political group and shall either give, or arrange for the nominated substitute member or any other member of his/her political group, to give notice of the substitution before the time when the meeting is to commence, either in written or oral form to the Committee Officer named on the agenda.

(2) Neither the Chairman or Vice-Chairman of the Council nor any member of the Cabinet shall act as Substitutes for any member of any Scrutiny Committee.

(3) In no case shall the number of Substitute Members appointed by a political group to a Committee or Sub-Committee or Panel/Group exceed one third of the number of seats allocated to the political group calculated to the nearest whole number save that each political group shall have the right to appoint at least one Substitute Member in all cases.

(4) The effect of a valid notice of substitution (whether written or oral) shall be that the full member shall cease to be a member of the Committee or Sub-Committee or Panel/Group (as the case may be) for the duration of that meeting (and for the duration of any adjournment of that meeting) and that the substitute member shall be a full member of the Committee or Sub-Committee or Panel/Group (as the case may be) for the same period; and that the full member shall resume membership of that Committee or Sub-Committee or Panel/Group after the conclusion of that meeting (including any adjournment thereof).

(5) A valid notice of substitution (whether written or oral) once given in respect of a meeting of a Committee or Sub-Committee or Panel/Group may not be revoked in respect of such meeting or any adjournment of it.

(6) The Committee Officer (or his/her representative) shall announce the appointment of any substitute members made in accordance with this Standing Order at the commencement of the meeting.

(7) In the event of the Chairman of a Committee or Sub-Committee or Panel/Group being absent and appointing a substitute member to attend in his/her place, the substitute member may only act as an ordinary member and will not assume any rights of the full member to act as Chairman (and in such event the normal rules as to the Vice-Chairman taking the chair will apply). In the absence of both the Chairman and Vice-Chairman from a meeting (and the appointment of substitute members to attend in their place) the meeting shall appoint a Chairman for the meeting who may be drawn from any members (including any substitute member) present and with voting rights.

(8) Only members who have received the appropriate recent training may be appointed to act as substitutes on the Planning Committee.