

**Agenda Item No:**

**Report To:** Selection & Constitutional Review Committee



**Date:** 8<sup>th</sup> July 2010

**Report Title:** Constitution - Amendments

**Report Author:** Head of Legal & Democratic Services

**Summary:**

This report sets out proposed amendments to three areas of the Constitution:-

1. The Terms of Reference for several Task Groups, Forums and Panels include within them various forms of words which exclude the rights of Members, who are not Members of the respective Groups etc to attend them. This is inconsistent with an existing Procedure Rule and the report therefore suggests the deletion of the relevant notes as they relate to the various meetings.
2. The Leader has requested that the Constitution be amended to provide for the establishment of Participative Groups to enable Members and Officers to work more closely together on issues referred to them. This report explains the rationale behind the proposal and sets out how the arrangements will work in practice.
3. In view of the current economic circumstances it is proposed that the section within the Constitution which allows for Members and Officers to travel first class in certain circumstances be deleted.

**Key Decision:** NO

**Affected Wards:** All

**Recommendations:** The Head of Legal and Democratic Services be authorised to amend the Constitution in respect of the three areas set out in (a) (b) and (c) below:-

- (a) the deletion of the footnotes set out within the Terms of Reference of the various meetings detailed within the report as they relate to the attendance of non committee members.
- (b) the incorporation of a mechanism which will provide for the establishment of 'Participative Groups' and their broad operational guidelines as described in Paragraphs 8 –15 of the report.
- (c) The deletion of Section 1(d) of Schedule 3 of Part 6 of the Constitution regarding first class travel.

**Policy Overview:** N/A

**Financial Implications:** None at this stage

**Risk Assessment** N/A

**Other Material Implications:** None at this stage

**Background Papers:**

**Contacts:** Keith Fearon, Member Services and Scrutiny Manager 01233 330564 keith.fearon@ashford.gov.uk

**Report Title: Constitution – Amendments**

**Issue to be Decided**

1. The Selection and Constitutional Review Committee is asked to consider the suggested changes to the Constitution outlined within this report and recommend to Council that they be adopted.

**Right of Member's to attend meetings and to speak**

2. The Rules of Procedure – General Procedure Rules – Appendix 3 - Procedural Decisions Relating to Committees etc, Section F, as contained within the Constitution provides for the following:-
  - (a) 'A Member may attend any meeting but, unless appointed to the Committee, Sub-Committee, Group or Forum or as a substitute member shall not vote and save as provided in (b) below, may only speak with the permission of the Chairman'.
3. The (b) referred to sets out the exception for the Executive Leader or Portfolio Holder to attend and speak at meetings of the Overview and Scrutiny Committee when they are considering matters within their portfolios.
4. However this Procedural Rule is inconsistent with the Notes to the Terms of Reference for the meetings of the Joint Consultative Committee, the Nature Conservation Forum, the LDF Task Group, the Parish Forum, and the Transport Forum which restrict the ability of members to attend and speak at such meetings if they have not been appointed to them. It is suggested that such footnotes be deleted so that the Rule set out in paragraph 2 above applies to all committee's group's etc subject only to the exception referred to in paragraph 6 below.
5. The practice in terms of Members attendance and speaking at any meetings of which they are not members has never been an issue at Ashford subject to the member having the courtesy to inform the Chairman beforehand. Generally the Chairman's consent has not been withheld except in circumstances where it is necessary for the efficient discharge of the committee's business or is necessary to maintain order at the meeting.
6. The exceptions to this would be where the committee is acting in a quasi-legal nature such as meetings of the Standards Panels or Licensing Sub - Committee (not including the Planning Committee) and the Appeals and the Appointments Committee. A further exception would be groups formed and operated by Officers under their delegated powers, for example the Asset and Project Management Group and in such cases Member involvement should be restricted to the Portfolio Holder and invited Members only.
7. It is considered that this amendment will provide clarity and make clear the position of Members in terms of their attendance at committee's of which they are not members.

## **The establishment of 'Participative Groups'**

8. The Leader of the Council has indicated that it his wish to encourage improved teamwork amongst Members and between Members and Officers and with those outside the Council. One direct consequence of this more participative style is that Members, Officers and others will come together far more than in the past. This may be in the form of new working groups, task groups, forums, discussion groups, think tanks, sounding boards, advisory panels, etc, but obviously excludes any existing or new formal committees established under the Constitution which will continue to be appointed via this Committee and Council.
9. Under the current arrangements if the Executive wishes to ask a PAG to look into a new issue a report is produced for the Executive who will then refer the matter to the Policy Advisory Group. The PAG can decide to consider the matter itself or set up a dedicated Task Group drawn from its own membership. The recommendations of the PAG are then incorporated into an Officers report back to the Executive. However on a couple of recent issues the Executive has set up small working groups with the membership drawn more widely than the PAG to ensure that the expertise and experience of a larger number of members across the authority can be utilised.
10. The Leader of the Council considers that such a process for establishing new 'Participative Groups' would be unnecessarily burdensome particularly as they each need to be individually approved by the Executive following a report from Officers. To overcome this problem it is proposed to introduce a new arrangement within the Constitution whereby any such new 'Participative Groups' may be created by one of the following means:
  - (a) The Leader, or the Deputy Leader, or
  - (b) a Portfolio Holder in consultation with one of (a) above, or
  - (c) the Chief Executive in consultation with one of (a) above.
11. Details of any Participative Groups established under the arrangements outlined in Paragraph 10 above and their purpose will be reported to the next available meeting of the Executive.
12. In terms of how such Participative Groups shall operate it is suggested that they work within the following broad guidelines:
  - a) The membership of the groups shall be cross party and will not be subject to political balance.
  - b) The groups may, as appropriate, include Council Officers and/or representatives from outside the Council.
  - c) The composition of the group shall be determined by its founders in consultation with the relevant Head of Service.

- d) No Special Responsibility Allowance shall be paid to those participating in the group.
  - e) Usual travel/mileage allowance shall be paid.
  - f) Reasonable expenses may, at the discretion of the respective Head of Service, be paid to those participating in the group.
  - g) The group shall cease to exist once the purpose for which it was created has, in the opinion of its founders, been discharged.
  - h) Members of the group who are Councillors or Officers shall be bound by the Council's Code of Conduct for Members or Officers (as appropriate) including its rules on confidentiality, declaration of interests, and conflicts of interest.
  - i) Any Member of the Council may attend any meeting of any Participative Group and may, with the Chairman's consent, speak, but not vote at such a group.
  - j) The group shall prepare such notes and reports as it considers appropriate. In addition, at least once every six months, the group shall prepare a summary of its work and its findings/conclusions and submit this to the appropriate Portfolio Holder and the Leader and Deputy Leader.
13. In all cases, the Participative Group may only give advice, or make recommendations, to its founders or such others as may be specified at its creation. The Groups will not be given any delegated responsibilities. The Participative Groups will not be responsible for make policy recommendations direct to the Executive as that role remains with the Policy Advisory Group (PAG) via the submission of an Officer report.
14. It is not the intention that the Groups should undertake work within the terms of reference of the Overview & Scrutiny Committee ("O&S"). However, there may be occasions when O&S may wish to request such Participative Groups to undertake work on its behalf. Similarly, a Participative Group may, on occasions, draw the attention of O&S to a matter within its remit.
15. In certain circumstances it may be appropriate for the PAG or a PAG Task Group to undertake a task or review that might, alternatively, be given to a participative group as described above. To facilitate this option it is considered desirable that the Constitution should also be amended to allow those specified in Paragraph 10 (a), (b) and (c) above to directly commission the PAG to undertake such work. Such commissioning to be noted at the next meeting of the Executive.

### **Travel Expenses**

16. Part 6, Schedule 3, section 1(d) of the Constitution currently states: '*The Council's policy in respect of Members and Officers, when travelling by rail to or from destinations in the London area is that where the relevant Officer in consultation with the Leader or Executive Portfolio Holders or Chairman of the*

*appropriate Committee/Sub Committee consider in any particular case of two or more persons travelling together that it would be desirable to travel first class that they do so'*

19. It is considered that this provision is inappropriate under the current economic circumstances and it should be deleted.

### **Portfolio Holder's Views**

Two of my aims as Leader are to encourage collaborative working and to eliminate inappropriate expenditure. The changes to the Constitution proposed in this report will make a contribution towards both these aims.

Contact:	Keith Fearon
Email:	<a href="mailto:keith.fearon@ashford.gov.uk">keith.fearon@ashford.gov.uk</a> - Tel 01233 330564