



Selection and Constitutional Review Committee

Notice of a meeting, to be held in Committee Room 2 (Bad Münstereifel Room), Civic Centre, Tannery Lane, Ashford, Kent TN23 1PL on Thursday, 14th October 2010 at 6.30pm.*

The Members of this Committee are:-

Cllr. Bartlett (Chairman)

Cllr. Wood (Vice-Chairman)

Cllrs Bradberry, Davison, French, Goddard, Mrs Hawes, Mrs Heyes, Hodgkinson, Kemp, Mrs Martin, Naughton

NB: Under the Council's Public Participation Scheme, members of the public can submit a petition, ask a question or speak concerning any item contained on this Agenda (Procedure Rule 9 refers)

*Please Note Start Time

Agenda

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Nos.

1. **Apologies/Substitutes** - To receive notification of substitutes in accordance with Procedure Rule 1.2(iii)
2. **Declarations of Interest** - Declarations of Interest under the Code of Conduct adopted by the Council on the 24th May 2007 relating to items on this agenda should be made here. The nature as well as the existence of any such interest must also be declared
3. **Minutes** – To approve the Minutes of the Meeting of this Committee held on the 8th July 2010

Part I – For Decision

4. Local Government and Public Involvement in Health Act 2007 – New Executive Arrangements for the Council – Results of Consultation and Next Steps
5. The Duty to Respond to Petitions – A New Petition Scheme for Ashford Borough Council
6. Extension of Term of Appointment of Member of the Independent Remuneration Panel

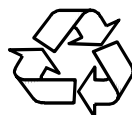
7. Appointments to Outside Bodies/Organisations

Part II – For Information

None for this Meeting

DS/EB
6th October 2010

Queries concerning this agenda? Please contact Danny Sheppard:
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Selection & Constitutional Review Committee

Minutes of a Meeting of the Selection & Constitutional Review Committee held in Committee Room No.2 (Bad Münstereifel Room), Civic Centre, Tannery Lane, Ashford on the **8th July 2010**

Present:

Cllr. Bartlett (Chairman);
Cllr. Wood (Vice-Chairman);
Cllrs. Clarkson, Claughton, Mrs Hawes, Hodgkinson

In accordance with Procedure Rule 1.2 (iii) Councillors Clarkson and Claughton attended as Substitute Members for Councillors French and Mrs Heyes respectively.

Apologies:

Cllrs. Davison, French, Goddard, Mrs Heyes.

Also Present:

Head of Legal & Democratic Services, Senior Member Services & Scrutiny Support Officer.

92 Minutes

Resolved:

That the Minutes of the Meeting of this Committee held on the 4th May 2010 be approved and confirmed as a correct record.

93 Constitutional Amendments

The report set out proposed amendments to three areas of the Constitution. Namely:
- to remove some anomalies which excluded the rights of Members who were not Members of a Group etc to attend those meetings as this was inconsistent with an existing Procedure Rule; to provide for the establishment of new 'Participative Groups' to enable Members and Officers to work more closely together on issues referred to them; and to delete the reference which allowed Members and Officers to travel first class in certain circumstances.

With regard to the reference that Participative Groups prepare a summary of their work at least once every six months, the Vice-Chairman explained that it would be for the Group itself to decide what form this took and the key phrase in the paragraph was "as it considers appropriate".

In response to a question the Chairman explained that it was unclear why the reference to Members and Officers being able to travel first class by train was in the Constitution and to his knowledge it had never been used. It was considered that this

provision was inappropriate in the current economic circumstances and that it should be deleted. With regard to High Speed 1, the Chairman said that he would encourage any Member to use this service and that the Council would reimburse the full amount as the time saved more than made up for the small extra cost.

With regard to Participative Groups, Members reported that, subject to the agreement of this Committee and Full Council the following week, the first three such Groups had been set up namely: - the ABC Five Year Plan Member Sounding Board; an ABC Environmental Group; and a Group to examine how the Council communicated with the public.

Recommended:

That the Head of Legal & Democratic Service be authorised to amend the Constitution in respect of the three areas set out in (i) (ii) and (iii) below: -

- (i) The deletion of the footnotes set out in the Terms of Reference of the various meetings detailed within the report as they relate to the attendance of non Committee Members.**
- (ii) 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.**
- (iii) The deletion of Section 1(d) of Schedule 3 of Part 6 of the Constitution regarding first class travel.**

DS

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Agenda Item No: 4

Report To: Executive
Selection & Constitutional Review Committee



Date: 9 September 2010
14 October 2010

Report Title: Local Government and Public Involvement in Health
Act 2007 – New Executive Arrangements for the Council –
Results of Consultation and Next Steps

Report Author: Head of Legal and Democratic Services

Summary: As reported to the Selection and Constitutional Review Committee and Executive on 4 February 2010, due to changes in legislation all Local Authorities which presently operate a Leader and Cabinet form of Executive must change their form of Executive to either a new style Leader and Cabinet Executive or an elected Mayor and Cabinet Executive. The Council meeting on 18 February 2010 endorsed the recommendations of both the Executive and Selection and Constitutional Review Committee to undertake a consultation with the public on the basis that, subject to the outcome of the consultation, the Council's preferred option was the revised style of Leader and Cabinet Model. This report advises of the results of the consultation exercise and sets out the next steps to be taken to enable the Council to adopt the new style Leader and Cabinet Model by the statutory deadline of 31 December 2010, to come into effect following the Council elections in May 2011.

Key Decision: No – this is not an Executive decision.

Affected Wards: All Wards

Recommendations: **The Executive and Selection and Constitutional Review Committee recommend to Council:-**

- (i) that the outcome of the consultation exercise be noted;**
- (ii) that proposals to amend the Council's Executive arrangements to reflect the new style Leader and Cabinet Model as outlined within paragraph 10 of the report be approved and published in accordance with the Local Government Public Involvement in Health Act 2007;**
- (iii) an Extraordinary meeting of the Council be held at the rising of the scheduled meeting of the Council on 16 December 2010 to agree the formal adoption**

of the new Executive arrangements;

- (iv) the Head of Legal and Democratic Services be given delegated authority to amend the Constitution to incorporate the proposals as set out within the report.**

Policy Overview: The Council is required by the 2007 Act to consider this issue.

Financial Implications: None in relation to this report.

Risk Assessment The new style Leader and Cabinet Executive will automatically be imposed on the Council by the Secretary of State if the statutory procedure is not adhered to.

Equalities Impact Assessment No

Other Material Implications: Not applicable

Background Papers: Email dated 15 June 2010 from Mr E W Cheeseman
Letter dated 7 July 2010 from the Rt Hon Grant Shapps MP
Minister for Housing and Local Government

Contacts: keith.fearon@ashford.gov.uk – Tel: (01233) 330564
terry.mortimer@ashford.gov.uk – Tel: (01233) 330210

Report Title: Local Government and Public Involvement in Health Act 2007 – New Executive Arrangements for the Council – Results of Consultation and Next Steps

Purpose of the Report

1. To advise Members of the outcome of the public consultation exercise carried out in accordance with the Local Government and Public Involvement in Health Act 2007 and to set out detailed proposals to enable the Council to move to a new style of Leader and Cabinet Model with effect from the Annual Meeting after the May 2011 local elections.

Issue to be Decided

2. To consider the proposals set out within Paragraph 10 of this report as they relate to the operation of the revised Executive arrangements to enable them to be published in accordance with the Local Government and Public Involvement in Health Act 2007 and adopted.

Background

3. The previous report to Members advised that the 2007 Act changed the forms of Executive which were now limited to:-
 - (a) The Mayor and Cabinet Executive, or
 - (b) A Leader and Cabinet Executive
4. To continue with the current arrangements is not an option and the Council has to make a final decision on this matter by 31 December 2010. The previous report also set out in detail the main differences between the current Model operated by the Council and the changes as detailed in the 2007 Act. The report also briefly outlined the major issues associated with the Mayor and Cabinet Executive Model.
5. The timetable agreed by the Council in February envisages the Council meeting on 21 October 2010 approving the formal proposals for the new Executive Model which would then be formally published. The formal resolution to approve the new Executive arrangements has to be taken at an Extraordinary Meeting of the Council and it is suggested that this should be held at the rising of the scheduled Council meeting on 16 December 2010.

Consultation

6. By virtue of Minute No.408/2/10 the Council agreed that the consultation with the public be undertaken by way of an article in Ashford Voice and a dedicated page on the Council's website and on the basis that, subject to the outcome of the consultation, the Council's preferred option was the

revised style of Leader and Cabinet Model. An article appeared in the Ashford Voice which was delivered to homes at the end of May 2010 with a deadline for responses set at 31 August 2010. The Council's Democracy web pages also had a dedicated page which provided further information on the nature of the consultation exercise. The response to the consultation has been very poor with little public interest shown in the issue. One formal comment was received during the 12 week period which stemmed from the article within the Ashford Voice. The comment expressed a clear preference for the revised Leader and Cabinet Model.

7. Responses to consultations undertaken elsewhere in the Country have also been low. For example, Durham City Council received five responses, London Borough of Harrow received one response and Birmingham City Council received no responses at all. In view of the response to the consultation it is recommended that Council takes steps to adopt the revised new style Leader and Cabinet Model.

Coalition Government Position

8. In a letter dated 7 July 2010 to the Leader of the Council from the Rt Hon Grant Shapps MP, it was stated that Councils need not incur any significant expenditure on the requirements of the Local Government and Public Involvement in Health Act 2007 and their expectation was that all Councils would pursue this at minimal cost. The letter also advised that the requirements within the 2007 Act would remain in force until repealed by fresh primary legislation which Government intend to promote in due course. However, it was confirmed that the Council still needed to formally resolve by 31 December 2010 to move to either the new Leader and Cabinet Model or Mayor and Cabinet Model. The letter also referred to the Government's commitment to allow Councils to legislate to return to the Committee system, should they wish to. The letter goes on to say that this may mean that any new governance Model the Council adopts in May 2011 may be further changed within a year or so but this is unavoidable.

Proposed Executive Arrangements

9. The suggested arrangements set out below are based on the statutory provisions and an analysis of how several other Councils have approached the matter, including KCC who had to introduce the new arrangements last year.
10. With effect from the third day after the May 2011 Elections the Council will adopt the Leader and Cabinet Executive (England) Model, as set out in the provisions of the Local Government Act 2000 (as amended by the 2007 Act). The key elements of the arrangements will be as follows:-

(a) Election and Removal of the Leader

The Leader will be a Councillor elected to the position of Leader by the Council. The term of office for the Leader will start on the day of his/her election as Leader and end on the day of the next post Local Election Annual Meeting which follows his/her election as Leader. The Leader will hold office unless he/she:-

- (i) resigns from the office;
- (ii) is suspended from being a Member under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of the suspension);
- (iii) is no longer a Councillor (otherwise than by expiration of office);
- (iv) is removed from office by resolution of the Council on the basis of a motion signed by five Members of the Council and included on the agenda for a Council Meeting. Such motion must be given in writing to the Proper Officer at least 14 days prior to the relevant meeting and shall indicate the reasons for the motion. The motion shall take precedence over any other item of business.

(b) **Appointment of the Cabinet (Executive) and Scheme of Delegation**

The Leader will determine the size of the Executive and appoint between two and nine Members of the Council to the Executive. The Leader will allocate areas of responsibility ie Portfolios to them and be able to remove them from the Cabinet at any time. The Leader will determine the scheme of delegation for the discharge of the Executive functions of the Council and report to the Council all appointments and changes to the Cabinet (Executive).

(c) **Deputy Leader**

The Leader will appoint one of the Members of the Cabinet (Executive) to be his/her Deputy, to hold office until the end of the term of office of the Leader (unless the person resigns as Deputy Leader, ceases to be a Councillor or is disqualified or removed from office by the Leader). The Leader may if he/she thinks fit, remove the Deputy Leader from office, but must then appoint another person in his/her place.

(d) **Absent Leader**

If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in his/her place. If the Deputy Leader is unable to act or the office is vacant, the Cabinet (Executive) must act in the Leader's place or arrange for a Member of the Cabinet (Executive) to do so.

(e) **Removal of Leader**

As referred to in paragraph 10 (a) above and authorised by, Section 44 (C) of the Local Government Act 2000 (as amended) provision is made for removal of the Leader by resolution. The Act further specifies that if the Council passes a resolution to remove the Leader, a new Leader is to be elected:-

- (a) at the meeting at which the Leader is removed from office, or

- (b) at a subsequent meeting.

Transitional Arrangements

11. The Council will continue to operate the old style Leader and Executive Model until the end of the transitional period under the 2007 Act i.e. the third day after the elections in 2011. From the third day after the local elections to the date on which the new executive leader is elected any matter of urgency arising will be dealt with by the Chief Executive under his existing delegated power to act in relation to such matters, which may relate to any functions of the Council, subject to the use of this power being reported to councillors.

Continuous Improvement

12. In drawing up the proposals, the Council must consider the extent to which the proposals, if implemented, would be likely to assist in securing continuous improvement in the way in which the Local Authority's functions are exercised, having regard to the combination of economy, efficiency and effectiveness.
13. The new Leader and Cabinet Executive (England) Model is the one which most closely reflects the Council's current Executive arrangements, which have worked well in Ashford since 2001 and the public have not shown any interest in wanting change.

Next Steps

14. Following approval of the draft proposals set out within this report by the Council on 21 October 2010, a Notice setting out brief details of the proposals will be advertised in the Kentish Express and on the Council's website. Arrangements will also be made for an Extraordinary Meeting of the Council to be held at the rising of the scheduled meeting on 16 December 2010 to formally agree the adoption of the new Executive arrangements as detailed in this report.

Conclusion

15. The Executive and the Selection and Constitutional Review Committee are requested to agree the recommendations set out within this report.

Portfolio Holder's Views

16. The Leader of the Council supports the proposals set out within the report.

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Email: keith.fearon@ashford.gov.uk

Agenda Item No: 5

Report To: Selection & Constitutional Review Committee

Date: 14th October 2010

Report Title: The Duty to Respond to Petitions – A New Petition Scheme for Ashford Borough Council

Report Author: Head of Legal & Democratic Services



Summary: The Local Democracy, Economic Development and Construction Act 2009 requires the Council to respond to petitions and in particular to make a Petition Scheme under that Act. This report sets out the new duties and the amendments needed to be made to the Council's existing Petition Scheme in order to meet the requirements of the Act.

Key Decision: N/A as not an Executive decision

Affected Wards: All

Recommendations: **The Selection & Constitutional Review Committee is requested to make the following recommendations to Full Council. That:-**

- (i) the amended Petition Scheme as set out in Appendix A to this report be approved and adopted.**
- (ii) the Committee make recommendations on the threshold for signatures for the different types of petition given the advice in paragraphs 6-11 of the report, namely:- (a) For 'ordinary petitions'; (b) For 'petitions requiring debate by Council'; (c) For 'petitions to hold Officers to account'.**
- (iii) the Monitoring Officer be granted delegated authority to reject petitions which he considers to be vexatious, abusive or otherwise inappropriate.**
- (iv) the formal Petition Scheme be incorporated as part of the Council's Constitution and the other consequential changes to the Council's Constitution be made (Paragraph 20 of the report refers).**
- (v) the operation of the Petition Scheme be reviewed 18 months after implementation.**

Risk Assessment	No. There is a need for the Council to meet the requirements of the Act.
Equalities Impact Assessment	No implications arising directly from this report.
Other Material Implications:	None
Exemption Clauses:	N/A
Background Papers:	None
Contacts:	danny.sheppard@ashford.gov.uk – Tel: (01233) 330349

The Duty to Respond to Petitions – A New Petition Scheme for Ashford Borough Council

Purpose of the Report

1. The Local Democracy, Economic Development and Construction Act 2009 (the Act) requires the Council to respond to petitions and in particular to make a Petition Scheme under that Act. This report sets out the new duties and the amendments needed to be made to the Council's existing Petition Scheme in order to meet the requirements of the Act.

Issue to be Decided

2. Whether to approve and adopt the amended Petition Scheme as set out at Appendix A to this report.

Background

3. The Commencement Order of the Act has determined that the majority of provisions of the Act, including the Petition Scheme, came into force on the 15th June 2010, with the remaining e-petition provisions coming into force on the 15th December 2010. It is necessary that the Scheme be approved by a meeting of the Full Council prior to the Scheme coming into force. Section 11 of the Act imposes a duty on Local Authorities to adopt a Petition Scheme setting out how it will acknowledge receipt of petitions and at the same time to advise the petition organiser how the petition will be dealt with. Unlike many Local Authorities Ashford Borough Council does already have an existing adopted Petition Scheme (attached at Appendix B to the report) but there is a need to make a number of amendments to the Scheme to meet the requirements of the Act.
4. Attached at Appendix A to the report is a draft scheme for Ashford Borough Council based on a model scheme produced by The Consultation Institute (TCI) but taking into account the local circumstances for Ashford.
5. The Act requires that the Scheme define three categories of petition being 'ordinary petitions', 'petitions requiring debate by Council', and 'petitions holding Officers to account'. Formal guidance recommends how minimum thresholds for signatures for each petition should be set. Full details are shown in Paragraphs 6-11 of this report.

Ordinary Petitions

6. For 'ordinary petitions' the Council is given wide discretion to set the threshold number of signatures as low or as high as it wishes and to determine how such petitions will be dealt with. The Act provides that a petition may be signed by anyone who lives, works or studies in the Council's area. Under the current scheme the Council's existing threshold is 15. Following research, the current or proposed thresholds for 'ordinary petitions' of neighbouring Authorities, where known, are set out below for information: -

Authority	Current or Proposed Threshold for 'Ordinary Petitions'
Canterbury	15
Dartford	15
Maidstone	100
Shepway	250
Thanet	25
Tonbridge & Malling	50
Tunbridge Wells	50

The Committee is asked to make a recommendation as to the number of signatures needed to trigger an 'ordinary petition'.

7. If the Petition Organiser does not wish the petition to be presented to a Meeting then it is suggested that the relevant Head of Service in consultation with the relevant Portfolio Holder determine the response. If the Petition Organiser wishes to present their petition to Full Council, Executive or a relevant Committee then they should be allowed to do so. In accordance with the Council's existing Scheme written notice to register an 'ordinary petition' must be given to the Member Services Department by 10am on the day of the meeting if the meeting starts at 7pm (if the Meeting starts before 7pm then notice must be received by 10am on the working day before the Meeting). It is suggested that the current practice of making one of the following decisions on an ordinary petition continues, namely: -

- (a) Note the petition and provide a written response.
- (b) Refer the petition to another Meeting, Officer or Authority for consideration.

The Petition Organiser will be kept updated about progress and notified of the date and time at which any additional Meeting is to be held which will consider the petition, and will be invited to speak again at that Meeting.

Petitions Requiring Debate at Council

8. 'Petitions requiring debate at Council' must be reported to Full Council for debate, and the Council can set a higher number of signatures than for 'ordinary petitions' as the threshold. The recommended thresholds are set out below: -

The TCI Model Scheme – 0.66% of the population – **759** (based on a population of 115,000) OR **1000**

Communities & Local Government (CLG) Model Scheme – 1% of the population – **1150** OR **1500**

The maximum figure allowed in the Act is 5% of the population – **5750**

There is no 'lower limit' recommended and the CLG Guidance states that any thresholds which Local Authorities set are expected to be "locally achievable" and where practical Local Authorities are expected to set thresholds around the 1% or 1500 mark. Following research, the current or proposed thresholds for 'petitions requiring debate at Council' of neighbouring Authorities, where known, are set out below for information: -

Authority	Current or Proposed Threshold for 'Petitions Requiring Debate at Council'
Canterbury	TBC (range is 1500 - 4000)
Dartford	3000
Dover	1600 (1.5% of population)
Medway	2535 (1% of population)
Sevenoaks	1000
Shepway	1000
Swale	1500 (reduced to 200 where local matter affecting no more than 2 Wards)
Thanet	1300
Tonbridge & Malling	1500
Tunbridge Wells	1000
KCC	1% of population (12,000) for countywide petitions and 1000 for single district or electoral division matters.

9. Guidance recommends that the debate should conclude with a decision being taken by Full Council. This could be a decision to take the action the petition requests, not to take the action requested for reasons given in the debate, or to commission further investigation into the matter, for example by a relevant Committee. The draft Scheme recommends that the Chairman of the Meeting will decide upon the amount of time to allow for the debate on the Petition, and will take account of the degree of public interest in the issue, the level of support given to the Petition and the number of Elected Members wishing to express their views on the subject.

The Committee is asked to make a recommendation as to the number of signatures needed to trigger a 'Petition requiring debate at Council'.

Petitions to Hold an Officer to Account

10. 'Petitions to hold an Officer to account' must name a Senior Officer and will trigger an open meeting of the Overview & Scrutiny Committee at which the Officer may be questioned by the Committee in relation to his or her actions on a particular matter and give evidence. The Guidance suggests that the definition of a "Senior Officer" should be "tier one and two management" – in Ashford's case the Chief Executive, Deputy Chief Executive and Heads of Service. The Council can set a lower threshold number of signatures for 'petitions to hold an Officer to account' or the same amount, although it must not be higher. The recommended thresholds are set out below: -

The TCI Model Scheme – 0.33% of the population – **380 OR 500**

CLG Model Scheme – 0.5% of the population – **575 OR 750**

The maximum figure allowed in the Act is 5% of the population – **5750**

There is no 'lower limit' recommended and the CLG Guidance states that any thresholds which Local Authorities set are expected to be "locally achievable" and where practical Local Authorities are expected to set thresholds around the 0.5% or 750 mark. Following research, the current or proposed thresholds

for 'petitions to hold an Officer to account' of neighbouring Authorities, where known, are set out below for information: -

Authority	Current or Proposed Threshold for 'Petitions Requiring Debate at Council'
Canterbury	TBC (range is 750 - 3000)
Dartford	1500
Dover	800 (0.75% of population)
Medway	1267 (0.5% of population)
Sevenoaks	500
Shepway	500
Swale	500 (reduced to 100 where local matter affecting no more than 2 Wards)
Thanet	650
Tonbridge & Malling	750
Tunbridge Wells	500

11. The final decision on which Officer should attend, and the questions to be asked of him or her, rest with the Overview & Scrutiny Committee. It is suggested that the Chief Executive, Deputy Chief Executive and Heads of Service should be able to be called to account through the Petition Scheme, as well as the relevant Portfolio Holder if considered appropriate. Officers below that level can attend at the discretion of the relevant Head of Service.

The Committee is asked to make a recommendation as to the number of signatures needed to trigger a 'Petition to hold an Officer to account'.

Petition Review

12. Where the petition organiser is not satisfied by the actions taken by the Council in response to a petition, the Scheme must give a right of appeal to the Overview & Scrutiny Committee.

E-Petitions

13. As noted above at present the Council's Petition Scheme must make provision for the consideration of electronic petitions. The duty to provide e-petitioning facilities is scheduled to come into effect on the 15th December 2010. The Council has recently written to the Minister recommending that the Government have a re-think about e-petitions as part of the response to the CLG 'Lifting the Barriers' consultation. Should e-petitioning go ahead there will be a need for a new e-petitioning administration system to be installed which will enable e-petitions to be hosted on the Council's website. This can be made ready prior to the introduction of the new duty.
14. The Council's Petition Scheme must ensure that the Council's e-petition facility allows citizens to create a petition that can be published on-line and made available to others for electronic signature. Government does not consider that mere acceptance of emailed petitions meets this requirement, therefore Councils are only required to respond to e-petitions made through their e-petition facility.

15. To come within the Scheme the petition must normally relate to a function of the Council. In the case of Borough Councils, a petition need not to relate to their functions, but can relate to an improvement in the economic, social or environmental wellbeing of their area to which any of their partners, such as County Councils, could contribute.
16. The Scheme does not apply to petitions received under other statutory provisions. Planning and Licensing matters are to be excluded from being the subject matters of petitions under the Scheme unless they relate to a systematic failure in service provision. Matters are also excluded under the Scheme where there is another appeal mechanism, for example, Council Tax banding.
17. The Council should delegate to an appropriate Officer the power to reject petitions which he or she considers to be vexatious, abusive or otherwise inappropriate. The test that the Officer should apply in such circumstances would be the same as that used for Freedom of Information requests, namely 'Is the request likely to cause distress, disruption or irritation without any proper or justified cause'. The types of petitions which Local Authorities may consider inappropriate include those relating to matters which are part of ongoing legal proceedings or those which target individual members of a community. In addition, it may be inappropriate for the Council to deal with certain petitions during periods when they are subject to restrictions immediately before elections or referendums. However, the decision on what constitutes an inappropriate petition is ultimately for the Local Authority to decide considering the circumstances of the individual case. In terms of the authenticity of a petition, consideration has been given to this matter and the proposal that petitions will only be accepted from "people who live, work or study in the Authority's area" would appear to cover this. A valid address is required to be given on submission of a petition and it is expected that any e-petitions facility introduced would be able to ask for valid postcodes.

Handling

18. The issues in this report expand on matters referred to in a report to the Policy Advisory Group on the 16th June 2010 by the Council's Head of Communications & Marketing reviewing the Council's Community Consultation and Involvement Arrangements. A report on this was also submitted to the Executive on the 8th July 2010.
19. The recommendations of this Committee need to be agreed by Full Council on the 21st October 2010. If agreed, the Petitions Scheme will come into effect after that date and be incorporated into the Council's Constitution.
20. The adoption of the Petition Scheme will lead to consequential amendments to the Constitution, namely: -
 - a. Part 3 Appendix 4 – The Terms of Reference of the Overview & Scrutiny Committee will need to be amended to reflect their role in considering petitions requiring Officers to be held to account and also in reviewing the response to petitions.

- b. Part 3 Appendix 5 – An addition needs to be made to the delegations to the Head of Legal & Democratic Services/Monitoring Officer to reflect his ability to reject petitions which he considers to be vexatious, abusive or otherwise inappropriate.
 - c. Part 4 Appendix 3 – Scheme of Public Participation – The Council's process for dealing with petitions will need to be amended.
21. As the Petition Scheme forms part of the Constitution any review will be first considered by the Selection & Constitutional Review Committee before making recommendations to Council. It is suggested that a review of the Scheme takes place in April 2012, 18 months after implementation.

Conclusion

22. **The Selection & Constitutional Review Committee is requested to make the following recommendations to Full Council. That:-**
- (i) **the amended Petition Scheme as set out in Appendix A to this report be approved and adopted.**
 - (ii) **the Committee make recommendations on the threshold for signatures for the different types of petition given the advice in paragraphs 6-11 of the report, namely:- (a) For 'ordinary petitions'; (b) For 'petitions requiring debate by Council'; (c) For 'petitions to hold Officers to account'.**
 - (iii) **the Monitoring Officer be granted delegated authority to reject petitions which he considers to be vexatious, abusive or otherwise inappropriate.**
 - (iv) **the formal Petition Scheme be incorporated as part of the Council's Constitution and the other consequential changes to the Council's Constitution be made (Paragraph 20 of the report refers).**
 - (v) **the operation of the Petition Scheme be reviewed 18 months after implementation.**

Portfolio Holder's Views

24. Both the Leader and the Deputy Leader support the recommendations above.

Contact: Danny Sheppard – (01233) 330349

Email: danny.sheppard@ashford.gov.uk

Petition Scheme for Ashford Borough Council

A INTRODUCTION

- A1 This is the Petitions Scheme for Ashford Borough Council made under Section 11 (1) of the Local Democracy, Economic Development and Construction Act 2009. ('The Act')
- A2i The Scheme was approved at the full meeting of the Ashford Borough Council on 21st October 2010 and is available on the Authority's website:- (www.ashford.gov.uk)
- A3 The purpose of the Scheme is to establish a clear process for petitions submitted to the Council to be handled in accordance with the legislation (Sections 10 – 22 of the Act).

It covers,

- how people who live, work or study in the Authority's area can organise or sign a petition and secure a statutory response
- how specific responses can be triggered by achieving prescribed levels of signatory support
- who will do what and to what performance standards
- how petition organisers can seek a review of the Council's response

- A4 The officer responsible for this Petitions Scheme, and its operation is Keith Fearon, Member Services & Scrutiny Manager whose contact details are as follows:-

Mr K Fearon, Member Services & Scrutiny Manager, Ashford Borough Council, Civic Centre, Tannery Lane, Ashford, Kent, TN23 1PL
Tel – 01233 330564
E-mail keith.fearon@ashford.gov.uk

- A5 The Council will promote the Scheme, both within the public sector organisations responsible for delivering local services and also beyond in the wider community.

B ABOUT PETITIONS in ASHFORD

- B1 The Council and its Partners recognise the need to help citizens communicate their needs and concerns about issues in the local area. Petitions have a long tradition, and can be useful in suggesting levels of support for various propositions, so the Council will encourage their use in appropriate circumstances, and will offer advice to interested persons as to how best to make use of this Scheme in order to achieve their aims.

Such advice may be forthcoming from different departments of the Council, but enquiries should, in the first instance be directed to Keith Fearon.

The Council will also publish *Guidelines for Petition Organisers* – this should include a list of ‘Council and Partner Functions’ to assist in avoiding unnecessary submissions

- B2 The Council places importance on the opportunity offered by petitions, to seek solutions and agreements to issues identified by Petition Organisers. If this can be accomplished before the period set aside for the petition, then the Council may seek agreement with the Petition Organiser to withdraw the relevant petition.
- B3i Petitions to this Authority should be about matters relating to one of its functions. However, the Kent County Council will consider Petitions relating to improvements *‘in the economic, social or environmental well-being of the area to which any of its partner authorities could contribute’* and its Scheme will specify which organisations can be regarded as Partner Authorities for these purposes.
- B3ii Potential Petition organisers who need advice as to whether it would be appropriate to address a Petition to the County Council will be offered guidance. At first instance, the relevant contact point should be the person specified in Paragraph A4

C Submission of Petitions

C1 Petitions may be submitted to the Authority in the following ways:-

- On paper
- In person
- Electronically, through the Council’s own ePetition facility (after 15th December 2010)

In every case, a Petitions Organiser must identify his or her self and provide such details as will assist the Council or other service providers to make contact to discuss the petition.

If the lead signatory wishes to relinquish their role then another signatory can, and must, be elected as lead signatory

- C2i The Council will formally acknowledge and respond to such Petitions as meet the criteria shown in Paragraph 3 of this Section.
- C2ii For ePetitions, the Council will issue a formal acknowledgement within **5 working days** of its initial submission. Note that during this period, the ePetitions Facility Administrator will act as a ‘moderator’ and establish that there are no problems that might prevent the system from hosting the Petition. If there are difficulties, the Administrator will contact the Petition Organiser and use their best endeavours to resolve matters so that the Petition can be open for signatures. Where such a dialogue occurs, the formal acknowledgement will be sent within **5 working days** of the resolution of the difficulty.

- C2iii For all other Petitions, the Council will issue a formal acknowledgement within **10 working days** of its receipt.
- C2iv In all cases, formal acknowledgements will indicate how the Council proposes to handle the issue, and where appropriate, to outline what it may be possible for the Authority to do in response
- C3 To be a valid Petition, and trigger the provisions of the statutory 'duty to respond', a Petition must:-
- Be initiated by Petition Organiser whose details have been supplied to the Council
 - Relates to the Council's functions or to wider issues applicable to the areas served by the County Council
 - Not be vexatious or abusive
 - Not related to matters excluded from the Scheme. These include any matter relating to individual planning or licensing decisions, for which other established processes exist.
 - Obtain a minimum of 50 valid signatories, including verifiable details that they live, work or study in the Council area.
 - Not be a duplicate or near-duplicate of a similar petition received or submitted under 12 months ago
- C4i To ensure the Council understands the level of local support for a Petition, it reserves the right to seek to verify each signature appended to a Petition. This can be significant when establishing whether a Petition has obtained the requisite number of signatures to trigger specific processes.
- C4ii In the case of ePetitions, the Council requires signatories to append their email addresses and their postcodes; failure to provide this information may lead to the signature not being counted.
- C4iii Unless otherwise agreed following discussions with the Petition Organiser, an ePetition will remain open for signatures for 90 days.
- C5 As each Petition is received or created online, the Council will log each one, and publish details on its website. For any Petition relating specifically to a Council Ward or Wards, the relevant Elected Member will be formally notified and asked for comments.

D Responding to Petitions

D1 Upon receipt or submission, the Council will assign the Petition to a Responding Officer, who will take responsibility for investigating the issue and advise on the action to be taken by the Authority.

The name of the Responding Officer will be notified to the Petitions Organiser at the time of the acknowledgement.

D2 Among the actions the Council may undertake are one or more of the following:-

- Taking the action requested in the Petition
- Considering the Petition at a Council Meeting
- Holding an Inquiry
- Commissioning relevant research
- Organising a public meeting
- Mounting a wider public consultation
- Meeting with the Petition Organiser or representatives of signatories
- Providing a written response outlining the Council's views on the subject
- Referring the issue to the Council's Overview & Scrutiny Committee **OR**
- Referring the issue to the relevant Committee
- Consulting statutory partners and local service providers
- Instigating discussions with the voluntary and community sectors
- Make representations to Commercial or other Interests

D3 Under normal circumstances, the Council will expect to provide the Petition organiser with a response detailing which of the actions specified in D2 or other initiatives it intends within 28 days of receipt of a paper Petition. In the case of ePetitions which will be expected to remain open for some time, the response will be within 28 days of the closing date for signatures, or a date requested by the Petition Organiser, whichever is the earlier

D4i If a Petition has, or acquires ? valid signatures, the issue will be debated at a full Council Meeting to which all elected members are invited

D4ii At such a meeting, the Petition Organiser or someone nominated on his or her behalf will have the right to speak about the petition, normally for up to 10 minutes; reasonable advance notice will be provided to ensure that any preparation can be undertaken in time

D4iii The Chairman of the Meeting will decide upon the amount of time to allow for the debate on the Petition, and will take account of the degree of public interest in the issue, the level of support given to the Petition and the number of elected members wishing to express their views on the subject.

D4iv The Council accepts that it will not normally be sufficient for such a meeting merely to 'take note' of the Petition and that there should be a decision taken

as to what other steps (including but not restricted to the actions specified in Paragraph D2) should also be taken as a response.

- D4v The Petitions Organiser will be formally notified of the decision taken at the Council meeting. This will take place within 5 working days.
- D5i Petitions may request that a senior Council Officer be required to appear and give evidence on an issue for which he or she is responsible. If such a Petition has, or acquires ? valid signatures, the Council will organise such a meeting, though it reserves the right to substitute a more appropriate person for the name referred to in the Petition.
- D5ii Those Officers who may be called to give evidence in this way as a result of a Petition consist of the Chief Executive, Deputy Chief Executive and Heads of Service.
- D5iii The Petition Organiser will be given reasonable notice of the meeting, and although able to attend, will not normally be able to participate in the meeting. The meeting Chairperson will normally be prepared to consider suggested lines of questioning from the Petition Organiser or signatories
- D5iv If in the opinion of the Council, an issue raised in a petition seeking to call a Senior Officer to account would be better considered through the attendance of relevant Senior Officers from a Partner Authority, the Council may, at its discretion request that such an individual be invited to give evidence to the Overview and Scrutiny Committee.
- D5v Following the meeting at which the Senior Officer appears and gives evidence, the Overview and Scrutiny Committee will prepare a Report and/or make recommendations. These will be sent to the Authority's Chief Executive and to the Leader of the Council, and a copy sent to the Petition Organiser. Unless the issue raises matters of confidentiality, the Council will normally publish this document on the Council's website.
- D5vi References to 'threshold' numbers of signatures in paragraphs C3, D4i and D5i confer a clear entitlement under the provisions of this Scheme. However, the Council accepts that there are situations where issues may be of considerable significance to a small number of stakeholders, but where the absolute number of signatures for a petition may be less appropriate a measure of relevant support.

In these circumstances the Scheme Administrator is authorised to substitute for the thresholds in the paragraphs referred to above, revised numbers that take account of the specifics of the case. When this occurs, the entitlements operate as for the rest of this Scheme

- D6i At the end of the process of considering the Petition, a relevant Chief Officer will formally write to the Petition Organiser with a formal response. This communication will normally outline the steps taken by the Council to consider

the issue and will refer to the involvement (where applicable) of the Authority's elected members.

In the case of an ePetition the response will be distributed by email to all of the petition signees.

A copy of the response to all petitions will be posted to the publicly accessible website and available to view for a period of 6 months from closing the petition. For ePetitions this will include the names of signees.

The letter will also identify the Responding Officer who handled the issue and highlight his or her involvement where appropriate.

This Formal Response will be despatched within 90 days of receipt or submission of a Petition, and a copy will be published both on the Council website and easily accessible from the relevant pages of the ePetitions facility

E Reviewing the Results

- E1 If a Petitions Organiser is not satisfied with the Council's response to the Petition, he or she may request a Review

Such a request should be made in writing within 28 days of the despatch of the Formal Response to the Petitions Organiser.

- E2 Upon receipt of such a Request the Scheme Administrator will identify a Reviewing Officer from among Senior Officers at the Council. This Officer will be given wide scope to reconsider whether the Authority should, in all the circumstances take additional steps to respond to the Petition. This will normally include reference to the Overview & Scrutiny Committee which will itself consider the adequacy of the initial response.

On some occasions, such as where the initial response took the form of the Overview & Scrutiny Committee's taking evidence from a Senior Officer, it may be inappropriate for the same Committee to review the issue. In consultation with the Scheme Administrator, the Reviewing Officer will ensure that a suitable alternative process is followed to engage elected members in reviewing the Petition.

- E3 At the end of the process of reviewing the Petition, the Council's Monitoring Officer will formally write to the Petition Organiser to inform him or her of the results of the Review. This communication will normally outline the process followed to establish whether the initial response had been adequate and outline any additional steps taken by the Council as part of the Review. It will also refer to the involvement (where applicable) of the Authority's elected members.

The letter will also identify the Reviewing Officer who handled the issue and highlight his or her involvement where appropriate.

This Review Response will be despatched within 28 days of receipt or the request for Review, and a copy will be published both on the Council website and easily accessible from the relevant pages of the ePetitions facility

Public Participation – Petitions



ASHFORD
BOROUGH COUNCIL

Petitions may be submitted and presented to meetings of Ashford Borough Council (prior to any resolution to exclude the public). This excludes meetings of the **Planning Committee** and **Overview and Scrutiny Committees** which have their own arrangements for consulting with the public.

Requirements

- a petition must be relevant to the meeting at which it is presented
- a petition can be on any issue on which the council has powers or duties, or which specifically affects the borough provided that it does not relate to a confidential matter
- a petition must be signed by at least 15 people
- written notice to register a petition must be given to the Member Services Dept by **10am on the day of the meeting if the meeting starts at 7pm** (if the meeting starts before 7pm then notice must be received by 10am on the working day before the meeting)

At the meeting

- decide beforehand who will be the spokesperson as **only one** person will be permitted to speak to the meeting on the subject of the petition (and that person must be a signatory to the petition)
- you must sit in the public area and the Chairman will invite you to speak at the appropriate point in the meeting
- a speech in support of the petition will be limited to **three minutes**
- it is unlikely that any debate will take place at the meeting to which the petition is presented – either a written response will be sent out or the petition will be referred to another meeting for further consideration. The spokesperson will be kept updated about progress and notified of the date and time at which the meeting is to be held which will consider the petition, and will be invited to speak at that meeting
- petitioners are not allowed to enter into the debate at the meeting to which the petition is presented
- in exceptional cases relating to matters on which the Council or Committee are required to act in a quasi judicial manner it will not be possible for the council to agree to accept a petition
- the ruling of the Mayor (or chairman of the committee) is final and binding

Dates of meetings – these can be found on the council's website: Committee diary (or contact Member Services)

If you don't know which meeting to present your petition to or need any other advice please contact the Member Services Dept:

NB: If you wish to question or comment on the conduct of individual officers or elected Councillors, or on procedural matters, this should be done via the council's complaints procedure.

Either

- call 01233 331111
- go to Complaints in the A-Z section of the council's website www.ashford.gov.uk
- or visit one of our Customer Contact Centres:
 - Civic Centre, Tannery Lane, Ashford
 - Gateway Centre, Park Mall, Ashford
 - Tenterden Gateway, 2 Manor Row, Tenterden

Public Participation – Petitions

Member Services
Ashford Borough Council
Civic Centre, Tannery Lane
Ashford
Kent TN23 1PL

Telephone Number: 01233 330564
Minicom service available: 01233 330744
Fax Number: 01233 330639
email: membersservices@ashford.gov.uk

Application to register a petition

Please fill in the following form and post or fax to Member Services.

NB. An application to register a petition may also be submitted via the council's website www.ashford.gov.uk Council Democracy – Public Participation

I would like to present a petition to the (please specify which meeting):

On (please specify date)

The subject of the petition is (please give brief details of what the petition is about)

I confirm that the petition is signed by 15 people with a bona fide interest

I confirm that I am willing to attend the relevant meeting to present the petition and be spokesperson

Signed

Name

Address

Day time contact tel no.

email address

Agenda Item No: 6
Report To: Selection And Constitutional Review Committee
Date: 14TH OCTOBER 2010
Report Title: Extension of Term of Appointment of Member of the Independent Remuneration Panel
Report Author: Head of Legal & Democratic Services



Summary:	To seek agreement to extend the term of appointment of a Member of the Independent Remuneration Panel to 31 st October 2013.
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Key Decision: NO

Affected Wards: N/A

Recommendations: To recommend to the Full Council that the term of appointment for one of the Members of the Independent Remuneration Panel, namely Mrs Judy Blount, be extended to the 31st October 2013.

Policy Overview: The Local Authorities (Member's Allowances) (England) Regulations 2001 require Councils to establish and maintain an Independent Remuneration Panel which will broadly have the functions of providing the Local Authority with advice on its Members Allowances Scheme and the amounts to be paid. The Ashford Panel also serve as the Interview Panel for Independent Members of the Standards Committee.

Financial Implications: N/A

Other Material Implications: N/A

Exemption Clauses: N/A

Background Papers: Nil

Contacts: danny.sheppard@ashford.gov.uk – Tel: 01233 330349

**Report Title: Extension of Term of Appointment of
Member of the Independent Remuneration
Panel**

Issue to be Decided

1. The term of appointment of one of the members of the Independent Remuneration Panel expires on the 31st October 2010 and authority is therefore being sought to extend the period of appointment for a further three year period.

Background

2. Pursuant to Minute No. 694/5/02 Mrs Judy Blount was appointed as a member of the Independent Remuneration Panel for a five period to October 2007. At that time it was agreed that Panel members could serve a further period and for such periods to be agreed by the Democratic Services Manager in liaison with the Panel members. In 2007 it was agreed to stagger the appointments of the three members for three, four and five years respectively. This was to try and ensure that in the future there were always at least two members of the Panel who had some previous experience. Mrs Blount was appointed for three years so her appointment is the first to expire.

Mrs Blount has indicated that she would be willing to serve a further term, and it is therefore suggested that the existing period of appointment be extended for a further three years to 31st October 2013.

Consideration

3. The Local Authorities (Member's Allowances) (England) Regulations 2001 require Councils to establish and maintain an Independent Remuneration Panel which will broadly have the functions of providing the Local Authority with advice on its Members Allowances Scheme and the amounts to be paid. The Ashford Panel also serve as the Interview Panel for Independent Members of the Standards Committee. Ashford's Panel is comprised of three local people and made up from representatives from: - The Business Sector (by way of the Ashford Chamber of Commerce and Industry); The Trade Union Sector (retired Transport and General Workers Union representative); and the Community/Voluntary Sector (a retired Head Teacher/Churches Together in Ashford). Mrs Blount serves as the Voluntary Sector representative.
4. It is Officers' view that they would like to, where possible, re-appoint members to retain knowledge, expertise and experience. This is also in recognition of the positive contribution of the existing Panel members who have undertaken their tasks with a high degree of professionalism and understanding of the issues they have considered. To go through another recruitment and selection process at this time when the Council has the opportunity to retain a member and ensure continuity seems unnecessary. The Panel has met very infrequently (five times since 2002), so it is considered that extended service would not affect the impartiality of the members.

5. The Council previously agreed that to safeguard the Council and ensure the integrity of the Independent Remuneration Panel's work, that if circumstances arise whereby any Panel member becomes discredited and the Council wishes to remove that person from membership of the Panel, i.e. if for example a Panel member was found guilty of a criminal offence, then the Council may terminate such appointment. This provision may not be invoked to change a Panel member for any political or vexatious ends.

Handling

6. Subject to Council agreeing to extend the term of appointment, the member will be advised accordingly.

Conclusion

7. That it be recommended to the Full Council on the 21st October 2010 that the term of appointment for Mrs Judy Blount as a member of the Independent Remuneration Panel, be extended to the 31st October 2013.

Portfolio Holder's Views

8. Nil as the appointment of members to the Independent Remuneration Panel is a whole Council function.

Agenda Item No: 7

Report To: SELECTION AND CONSTITUTIONAL
REVIEW COMMITTEE



Date: 14TH OCTOBER 2010

Report Title: Appointments to Outside
Bodies/Organisations

Report Author: Senior Member Services & Scrutiny Support Officer

Summary:	To advise the Committee of the need to make nominations to various positions on outside bodies/organisations
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Key Decision: NO

Affected Wards: N/A

Recommendations: The Committee is asked to: -

(a) make a nomination for the appointment of a Member representative to sit on the Marshlink Steering Group.

(b) make nominations for two Members to sit on the Ashford Almshouses and Parochial Charities to 30th November 2013.

Policy Overview: The appointment of Members to outside bodies/organisations assists Councillors in their community engagement role.

Financial Implications: N/A

Other Material Implications: N/A

Exemption Clauses: None

Background Papers: None

Contacts: danny.sheppard@ashford.gov.uk – Tel: 01233 330349

Report Title: Representatives on Outside Bodies/Organisations

Purpose of the Report

1. To advise the Committee of the need to make nominations to various outside bodies/organisations.

Issues to be Decided

2. The Council has received a request from the Sussex Community Rail Partnership to put forward an official representative to attend Marshlink Steering Group meetings. The Group works with the railway communities from Ashford to Hastings, through Hamstreet, Appledore and Rye. Meetings are held quarterly at Rye Town Hall and Councillor Mrs Hicks has recently attended meetings as an observer. The Group has requested that the Council allow her to attend in an official capacity. Councillor Mrs Hicks has said that she would be happy to take on the role as she uses the Marshlink line, has family connections with the railways and has Hamstreet in her Ward. Therefore the Committee is asked to consider making a nomination to the Marshlink Steering Group.
3. The three year appointments of Councillors Howard and Koowaree to the Ashford Almshouses and Parochial Charities expire on the 30th November 2010. Councillor Koowaree has indicated that he would be happy to carry on in the role for a further three year period however Councillor Howard has said that he would like somebody else to take on the role because the Charities meet during the day and he is in full-time employment. The Charities would like the same two Members to be appointed to both Charities as has been done in the past as the meetings are normally held one after the other during the day .The Committee is therefore asked to nominate two Members to serve on the Ashford Almshouses and Parochial Charities for a three year period, preferably Members who are able to attend daytime meetings.
4. **The Committee is asked to: -**
 - (a) make a nomination for the appointment of a Member representative to sit on the Marshlink Steering Group.**
 - (b) make nominations for two Members to sit on the Ashford Almshouses and Parochial Charities to 30th November 2013, preferably Members who are able to attend daytime meetings.**

Contact: Email:	danny.sheppard@ashford.gov.uk - Tel 01233 330349
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