

## **Selection and Constitutional Review Committee**

**10th May 2012**

### **Report of the Head of Legal and Democratic Services**

#### **Background and Principles of Political Balance and Administrative Structure**

##### **Purpose of Report**

To consider the political balance for the Authority and to agree a number of other constitutional matters which need to be recommended to the Annual Meeting of the Council on the 17<sup>th</sup> May 2012. The balance calculation as contained in the Appendix to this report has been agreed by Group Leaders.

##### **External Consultees**

None.

##### **Internal Consultees**

The Leaders of Groups on the Council.

##### **Financial/Legal and Human Rights Implications**

The Authority is required to adopt a political balance which complies with the Local Government and Housing Act 1989 and associated regulations. Alternative arrangements are permitted only if no individual Member votes against the proposal.

##### **Staffing Implications**

None.

##### **Environmental Implications**

None.

##### **Corporate Strategy**

Not relevant in the context of this report.

## Introduction

1. Appendix A contains details of the draft political balance calculation for 2012/13 which needs to be recommended by this Committee for agreement at the Full Council.

## Background and Principles of Political Balance

2. The Local Government and Housing Act 1989 (as amended) requires the Council to allocate seats on its Committees and Sub-Committees to political groups in proportion to their relative strengths on the Council.
3. In allocating seats a number of principles must be adhered to, namely:-
  - (a) A political group (where there is more than one) may not have all of the seats on a Committee or Sub-Committee.
  - (b) The majority of seats must be allocated to the majority group. This allocation is calculated by reference first, to the total number of seats available on ordinary Committees of the Authority and secondly, to the total number of seats available on ordinary Sub-Committees. It does not follow that this results in the majority group upon the Council (in this case the Conservative Group) having the majority of seats on individual Committees or Sub-Committees as the regulations further provide:-
    - (i) That the total number of seats on the Council's Ordinary Committees must be allocated in the proportion as is borne by the number of members of any group to the membership of the Authority as a whole.
    - (ii) The seats on the Council's Ordinary Committees and Sub-Committees as a whole must be allocated in proportion to the political groups' membership of the appointing Council.

**NB: It is possible for the Council to agree to make other arrangements but it is essential that no member votes against them.**

4. The Constitution provides for a number of constitutional matters to be considered at the Annual Meeting of the Council, which will be in the form of recommendations from the Selection and Constitutional Review Committee.

## **Policy Advisory Group, Planning Policy Task Group and Community Partnership Group**

The Leader has signified his wish that the Policy Advisory Group, the Planning Policy Task Group and the Community Partnership Group be disbanded with effect from the forthcoming Municipal Year. Instead the Leader has advised that a number of Cabinet Task Groups will be convened to undertake the type of work previously carried out by the Policy Advisory Group, Mini PAGs and the Planning Policy Task Group on behalf of the Cabinet. The Cabinet will agree the establishment of any new Cabinet Task Group and the Portfolio Holder will be the link between the Task Group and the Cabinet.

It is intended that the Cabinet Task Groups will be mentored by a Cabinet Member and in some cases the Cabinet Member will also act as the Chairman of the Group.

To ensure a smooth transition of work it is intended that, in the main, existing Mini PAGs will continue until they have completed their current workload or have reached a suitable transition point. Following that the issues which have been dealt with by the Mini PAGs may in the future be handled by a Cabinet Task Group established by the Cabinet.

The Community Partnership Group, although convened for the Municipal Year 2011/12 did not meet as its former role related principally to monitoring the progress on Ashford's Future and furthermore the Ashford Locality Board was established and deals with partnership issues. It is therefore considered appropriate that the Group be no longer constituted.

### **Lead Members**

The Leader has signified his wish to increase the opportunities for member involvement in the work of the Council and, through this, promote closer member interaction with and support for the Council, Cabinet, partners and officers in various areas of activity. This will be achieved through the introduction of a Lead Member scheme.

The Lead Member scheme will allow appointed members who have skills and interest in a specific subject area to assume additional responsibility and raise the prominence and standing of that area, while also working with greater authority with the relevant officers and external partners in promoting the subject area.

The Lead Member role can be viewed as a natural progression from the role of Member Champion, a role that will continue to exist, but is distinct from it in that the latter is essentially advisory in form, whereas the former is essentially executive in form and function and is thus akin to a quasi-cabinet or deputy-cabinet role.

The Lead Member role will attract an appropriate Special Responsibility Allowance which will be determined by the Independent Remuneration Panel in due course.

Initially, the Leader intends appointing Lead Members for the following areas:

- Economic Development

- Procurement and IT
- Romney Marsh

## **Standards Committees**

Although the Localism Act 2011 includes substantially revised Code of Conduct and ethical framework provisions, these will not come into effect until 1 July 2012 at the earliest. Commencement and transitional Regulations have not yet been issued. Accordingly the existing Standards regime – with a statutory Standards Committee and Assessment and Hearings Panels – will need to continue until at least 1 July 2012 and probably beyond in order to ensure work in progress eg on complaints, can be taken through to a conclusion. This report therefore rolls forward existing constitutional provisions on standards and these will cease to operate in accordance with whatever Government transitional arrangements are published in due course. It is also recommended that existing appointments of the three Independent members on Standards Committee be extended for the same period subject to those members agreeing to continue to act in those roles.

Councillor Taylor has been chairing a small Standards Task Group consisting of Borough Councillors, the Independent Chair of Standards and the Chairman of the Kent Association of Local Councils. The Task Group has considered reports from the Monitoring Officer on options for developing a new Code of Conduct and setting up new arrangements for handling borough and Parish Councillors complaints under the Localism Act. Its work has been hampered by delays in publication of regulations and guidance but it is proposed to hold a final meeting of the Group in May and, if necessary, report to a special meeting of the full Council in late June on adopting a new Code of Conduct. The Mayor elect has agreed that this meeting, if required, should take place provisionally on 28 June 2012. The need for such a special meeting may depend on the contents of the Government's transitional regulations. If they allow existing codes to continue to apply after 1 July 2012 pending adoption of new codes, a special meeting may not be required. A separate report on complaint handling arrangements can be presented to Council for approval at its scheduled 19 July meeting if this is necessary. This will include any new constitutional arrangements and this may result in revisions to political balance arrangements.

In the meantime and in preparation for the new regime, it is necessary to agree a procedure for appointment of the statutory "Independent Person" (IP) position which the Localism Act creates. Although the Localism Act will repeal the existing provisions regarding appointment of "independent members" to Standards Committees, it does create a new IP role outside the formal Committee structure. All principal Councils must appoint at least one IP and his/her role must include being a consultee on all decisions on code breach allegations it has been decided to investigate. The views of the IP may also be sought in other circumstances including by a Councillor the subject of an allegation. The new IP will have to work closely with the Council's Monitoring Officer in providing an independent input to decision-making under the new regime. The Localism Act sets out detailed criteria as to who

can be appointed as an IP. Although it is expected that the role must be publicly advertised and any appointment approved by a majority of Council Members, it would obviously be sensible for interviews for the post to be held by a small Panel which can then recommend an appointment to Council. The recommendations in this report therefore include proposals to enable the process for appointment of an IP to get under way as soon as possible, including a suggested level of retainer allowance to reflect the likely level of work.

## **Conclusion**

Many of the following recommendations are implied through the political balance calculation and the allocation of seats on Committees, however for completeness, the Selection and Constitutional Review Committee is asked to consider the following recommendations.

## **Recommendations**

**That:**

(i) **the Committee recommends the adoption of the political balance of the Authority as contained in Appendix A to this report subject to the Council agreeing that the requirements of the Political Balance Regulations be not applied to the Membership of the Appeals and the Audit Committees and the Sub-Committee of the Licensing and Health and Safety Committee established under the Licensing Act 2003 and Gambling Act 2005.**

(ii) **the following Committees be constituted for the 2012/13 Municipal Year as detailed in Part 3 of the Constitution:**

**Audit**

**Overview and Scrutiny**

**Planning**

**Selection and Constitutional Review**

**Licensing and Health and Safety**

**Appointments**

**Appeals**

**Standards (including an Assessment Panel; a Hearings Panel and a Review Panel) (until such time as all complaints submitted under the existing code have been dealt with in accordance with any transitional arrangements under the Localism Act)**

**Joint Arrangements – Joint Transportation Board**

**NB: Details of Members appointed to Membership of each Committee etc by Group Leaders is shown in Appendix B.**

**Note: This will be subject to amendments from Group Leaders.**

(iii) **to extend the appointments of existing Independent Members of the Standards Committee on the same basis as extension of the**

**existing Standards Committee arrangements, subject to the Independent Members agreeing to act.**

- (iv) to authorise the Head of Legal and Democratic Services and Monitoring Officer to prepare a Job Description and person specification for the new IP role under the Localism Act to include an all-inclusive annual retainer up to the level of the lowest Special Responsibility Allowance under the Council's existing scheme (c £1400).**
- (v) to authorise a Panel to interview applicants for the IP role, and recommend an appointment to the Council. The Panel to consist of the Portfolio Holder, Cabinet member on the Standards Committee, the Vice-Chair of Standards and a Parish Council representative.**
- (vi) the establishment and appointment of Lead Members for Economic Development, Procurement and IT and the Romney Marsh be approved and the Independent Remuneration Panel be asked to consider an appropriate Special Responsibility Allowance for the role.**
- (vii) the Council appoint the Chairman and Vice Chairman for each Committee etc as shown in Appendix B.**
- (viii) the Scheme of Executive and Council Delegations as set out in Part 3 of the Constitution be reaffirmed.**
- (ix) the intention of the Cabinet to reconstitute the Forums and Groups as listed in Part 3 Appendix 2 to the Constitution be noted, subject to the deletion of the Policy Advisory Group, Planning Policy Task Group and the Community Partnership Group.**

Terry Mortimer  
Head of Legal and Democratic Services

**APPENDIX A**

**THE POLITICAL BALANCE CALCULATION  
FINAL ARRANGEMENTS  
MAY 2012**

**A.1 All Committees to which balance applies**

	<b>Committee</b>	<b>Seats/Committee</b>		<b>Total Seats</b>
1 x 19	Overview and Scrutiny	19	=	19
1 x 14	Planning	14	=	14
1 x 13	Licensing and Health & Safety	13	=	13
1 x 12	Selection	12	=	12
1 x 8	Audit	8	=	8
1 x 5	Appointments	5	=	5
			<b>Total</b>	<u>71</u>

**B. Percentage of group in relation to total membership of the authority**

43 members =		%
30 Conservative	=	69.76744
5 Ashford Independent	=	11.6279
5 Labour	=	11.6279
2 Liberal Democrat	=	4.65116
		<u>99.99998</u>
Note: 1 Independent = 2.32558		

## C.1 Allocation of Seats on Committees in proportion to Group strength

Committee	Con	AI	Lab	LD	Ind	Total
1 x 19 O&S	13	2	2	1	1	19
1 x 14 Planning	10	2*	1	1	0	14
1 x 12 Selection	9***	1*	1	0	1	12
1 x 13 Licensing, Health & Safety	9	1	2**	1	0	13
1 x 8 Audit	5	1	1	0	1	8
1 x 5 Appointments	3	1	1	0	0	5
<b>Totals</b>	<b>49(50)</b> (49.534882)	<b>8</b> (8.255809)	<b>8</b> (8.255809)	<b>3</b> (3.3023236)	<b>3(2)****</b> (2.32550)	<b>71</b>

NB: During the rounding up and down of the percentage figures, it was not possible to achieve overall balance, and

- \*1 On the Planning Committee the Ashford Independent Group took the additional seat which was available to either them or the Labour Group.
- \*\*2 On the Licensing and Health & Safety Committee the Labour Group took the additional seat which was available to either them or the Ashford Independent Group.
- \*\*\*3 To enable the Conservative Group to have their overall entitlement of 50 seats across all Committees, the Liberal Democrat Group gifted their seat on the Selection and Constitutional Review Committee as the balance across Committees had resulted in the Liberal Democrat Group being allocated an additional seat over and above their entitlement of 3 seats.
- \*\*\*\*4 The Group Leaders wished to retain the Independent Member on the Audit Committee (in line with the arrangement agreed during the last Council) to draw upon his previous experience as a Local Authority Auditor. The Conservative Group gifted a seat on the Audit Committee to the Independent Member to enable this arrangement to continue to apply. Furthermore under the draft calculation all Groups had received their allocations on the Overview and Scrutiny Committee and the Selection and Constitutional Review Committee and in both cases one seat remained to be allocated on each of them. Group Leaders agreed to allocate these to the Independent Member.

## C.2 Allocation of seats on all ordinary Committees to achieve overall proportionality

<b>Political Group entitlement in relation to <u>all</u> seats:</b>	<b>71</b>
<b>Conservative</b>	<b>49.534882 = 50</b>
<b>Ashford Independent</b>	<b>8.255809 = 8</b>
<b>Labour</b>	<b>8.255809 = 8</b>
<b>Liberal Democrat</b>	<b>3.3023236 = 3</b>
<b>Note -Independent – 2 seats to be allocated</b>	<b>= 2</b>
<b>Total</b>	<b>71</b>



**D. Committees to which balance will not apply either as a direct result of statute or the Council agreeing, i.e. no member votes against this arrangement, on each occasion the Council adopts a revised political balance for the Authority.**

*1 x 15	Appeals	3 Members per meeting drawn on rota from a panel of 15 Members	=	15
+1 x 5	Standards	(Special arrangements apply as to the Membership of this Committee) ◇See note below re Sub-Committees	=	5
× 1 x 7	Joint Transportation Board		=	7
*1 x 8	Audit		=	8
+1 x 3	Licensing Sub-Committee (3 Member Panels)		=	3

\* Council's choice as to whether balance will apply to this Committee. **This may only happen if no member votes against this arrangement.**

+ Balance disapplied by statute.

◇ The Head of Legal & Democratic Services has been given delegated authority to set up an Assessment Panel, a Review Panel and a Hearings Panel, each comprised of 3 Members. All members will be drawn from those on the Standards Committee. Balance is, however, disapplied by statute.

× Due to the Joint Arrangements and the manner in which seats are allocated by the Kent County Council, it is impossible to have a balanced allocation of seats.

<b>Committee</b>	<b>Con</b>	<b>AI</b>	<b>Lab</b>	<b>LD</b>	<b>Ind</b>	<b>Total</b>
<b>*1 x 15 Appeals</b>	<b>10</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>15</b>
<b>+1 x 5 Standards</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>5</b>
<b><sup>x</sup>1 x 7 Joint Transportation</b>	<b>5</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>7</b>

**\* That the requirements of the 'Political Balance' regulations be not applied to the membership of the Appeals and the Licensing and Health & Safety Panels of 3 Members which are drawn for each meeting.**

## APPENDIX B

### SELECTION AND CONSTITUTIONAL REVIEW COMMITTEE

10<sup>TH</sup> MAY 2012

#### MEMBERSHIP OF COMMITTEES, GROUPS AND FORUMS, INCLUDING CHAIRMEN AND VICE-CHAIRMEN

On the basis of the Political Balance Calculation agreed with Group Leaders, the entitlement to seats is set out below.

The Committee may wish to propose the identity of the Chairman and Vice-Chairman of each Committee, for appointment, in accordance with the Constitution, by the Full Council.

**Current Membership and Chairmanship/Vice-Chairmanship is shown for Members' clarity. It is acknowledged that this is subject to change and clarification at the meeting.**

#### Overview and Scrutiny Committee (19 members)

Members of the Cabinet may not be appointed to this Committee

<b>Conservative (13)</b>	<b>Ashford Independent (2)</b>	<b>Labour (2)</b>	<b>Liberal Democrat (1)</b>	<b>Independent (1)</b>
Apps	Davison (VCh)	Chilton	<del>Davidson</del> {Ch} Aby	Smith
Bell	Mortimer	Yeo		
Mrs Bell				
Bennett				
Feacey				
Galpin				
Goddard				
Mrs Heyes				
Hodgkinson				
Mrs Martin				
Robey				
Shorter				
Wright				

**Audit Committee (8 Members)**

<b>Conservative (5*)</b>	<b>Ashford Independent (1)</b>	<b>Labour (1)</b>	<b>Liberal Democrat (0)</b>	<b>Independent (1*)</b>
Clokie (CH)	Sims	Yeo		Smith
Link (VCh)				
Marriott				
Taylor				
Wright				

\* The Conservative Group have gifted one of their seats on this Committee to the Independent Member.

**Planning Committee (14 Members) (plus 1 ex officio)**

<b>Conservative (10)</b>	<b>Ashford Independent (2)</b>	<b>Labour (1)</b>	<b>Liberal Democrat (1)</b>	<b>Independent (0)</b>
Bell (CH)	Davison	Clark	Davidson Aby	
Bennett	Michael			
Burgess				
Clarkson				
Clokie				
Mrs Dyer				
Heyes				
Mrs Heyes				
Robey				
Wedgbury (VCh)				
Wood (EO)				

**Selection & Constitutional Review Committee (12 Members)**

<b>Conservative (9)</b>	<b>Ashford Independent (1)</b>	<b>Labour (1)</b>	<b>Liberal Democrat (0)</b>	<b>Independent (1)</b>
Bennett	Davison	Chilton		Smith
Clarkson (VCh)				
Mrs Dyer				
Galpin				
Goddard				
Mrs Heyes				
Howard				
Mrs Martin				
Wood (CH)				

**Licensing and Health and Safety Committee (13 Members)**

Group Leaders are reminded of the importance of nominating Members who are available to attend day-time hearings of the Licensing Sub-Committee.

<b>Conservative (9)</b>	<b>Ashford Independent (1)</b>	<b>Labour (2)</b>	<b>Liberal Democrat (1)</b>	<b>Independent (0)</b>
Mrs Bell	Davey	Chilton	Adby Davidson	
Buchanan		Rutter		
Feacey (VCh)				
French				
Goddard (Ch)				
Hodgkinson				
Marriott				
Mrs Martin				
Shorter				

**Appointments Committee (5 members)**

<b>Conservative (3)</b>	<b>Ashford Independent (1)</b>	<b>Labour (1)</b>	<b>Liberal Democrat (0*)</b>	<b>Independent (0*)</b>
Mrs Blanford	Michael	Rutter	Davidson  (invited non-voting Member)	Smith  (invited non-voting Member)
Clarkson (VCh)				
Wood (CH)				

**Appeals (15 Members – 3 members to be drawn per meeting)**

Members should not be a Member of the Cabinet. Group Leaders are reminded of the importance of nominating Members who are available to attend day-time meetings.

<b>Conservative (10)</b>	<b>Ashford Independent (2)</b>	<b>Labour (2)</b>	<b>Liberal Democrat (1)</b>	<b>Independent (0)</b>
Apps	Davey	Clark	Adby Davidson	
Bell	Sims	Rutter		
Mrs Bell				
Bennett				
Buchanan				
Hodgkinson				
Link				
Wedgbury				
Wright				
_____				

### **Standards Committee (5 members)**

The Leader of the Council may not be a Member of this Committee. One Member must be a Member of the Cabinet but that Member cannot be the Committee's Chairman.

<b>Conservative (3)</b>	<b>Ashford Independent (1)</b>	<b>Labour (1)</b>	<b>Liberal Democrat (0)</b>	<b>Independent (0)</b>
Mrs Blanford	Mortimer	Chilton (VC)		
Feacey				
Galpin				

### **Policy Advisory Group (19 Members)**

**RECOMMENDED TO BE DISBANDED (COVERING REPORT AND  
RECOMMENDATION 8 REFERS)**

<b>Conservative (13)</b>	<b>Ashford Independent (2)</b>	<b>Labour (2)</b>	<b>Liberal Democrat (1)</b>	<b>Independent (1)</b>
Mrs Blanford	Mortimer	Chilton	Davidson	Smith
Bennett (CH)	Sims	Rutter		
Buchanan				
Burgess (VCh)				
Cloughton				
Clokie				
Mrs Dyer				
French				
Hicks				
Howard				
Link				
Marriott				
Wedgbury				

**Joint Transportation Board (7 members plus Portfolio Holder for the Environment (non-voting) and the Chairman of the Transport Forum (ex-officio))**

<b>Conservative (5)</b>	<b>Ashford Independent (1)</b>	<b>Labour (1)</b>	<b>Liberal Democrat (0)</b>	<b>Independent (0)</b>
Mrs Bell	Davey	Yeo		
Burgess (CH)				
Cloughton				
Heyes				
Robey				
Mrs Blanford (PH) (Non Voting)				
Feacey Chairman of Transport Forum (EO)				

**Grants Gateway Panel (5 members including the Portfolio Holder for Community & Wellbeing)**

<b>Conservative (3)</b>	<b>Ashford Independent (1)</b>	<b>Labour (1)</b>	<b>Liberal Democrat (0)</b>	<b>Independent (0)</b>
Cloughton (PH)	Sims (VCh)	Adley		
Howard (CH)				
Link				



**Joint Consultative Committee (6 members) – One from each Group - two from the administration.**

Membership is to include the Leader or appropriate Portfolio Holder.

<b>Conservative (2)</b>	<b>Ashford Independent (1)</b>	<b>Labour (1)</b>	<b>Liberal Democrat (1)</b>	<b>Independent (1)</b>
Taylor (CH)	Davey	Adley	Davidson	Smith
Wood				

**Nature Conservation Forum (6 members including Portfolio Holder for the Environment)**

<b>Conservative (4)</b>	<b>Ashford Independent (1)</b>	<b>Labour (1)</b>	<b>Liberal Democrat (0)</b>	<b>Independent (0)</b>
Hicks	Michael	Adley		
Mrs Martin				
Wedgbury (CH)				
Mrs Blanford (PH)				

**Community Partnership Group (15 Members)  
RECOMMENDED TO BE DISBANDED (COVERING REPORT AND  
RECOMMENDATION 8 REFERS)**

<b>Conservative (10)</b>	<b>Ashford Independent (2)</b>	<b>Labour (2)</b>	<b>Liberal Democrat (1)</b>	<b>Independent (0)</b>
Bell (CH)	Davey	Adley	Adby	
Mrs Bell	Michael	Clark		
Burgess				
Mrs Dyer				
Feacey				
Hicks (VCh)				
Hodgkinson				
Howard				
Mrs Martin				
Shorter				

### Parish Forum (6 members)

Membership to include the Leader of the Council and the Leaders of Groups

<b>Conservative (2)</b>	<b>Ashford Independent (1)</b>	<b>Labour (1)</b>	<b>Liberal Democrat (1)</b>	<b>Independent (1)</b>
Clarkson (VCh)	Davison	Yeo	Davidson	Smith
Wood (CH)				

### Transport Forum (7 members including the Portfolio Holder for the Environment)

<b>Conservative (5)</b>	<b>Ashford Independent (1)</b>	<b>Labour (1)</b>	<b>Liberal Democrat (0)</b>	<b>Independent (0)</b>
Mrs Blanford (PH)	Davey	Yeo (VCh)		
Cloughton				
Feacey (CH)				
Heyes				
Wedgbury				

### Member Training Panel (8 Members)

<b>Conservative (2)</b>	<b>Ashford Independent (2)</b>	<b>Labour (2)</b>	<b>Liberal Democrat (1)</b>	<b>Independent (1)</b>
Cloughton	Mortimer (VC)	Adley	Davidson	Smith (Ch)
Hicks	Sims	Chilton		

**Planning Policy Task Group (7 Members) - RECOMMENDED TO BE DISBANDED (COVERING REPORT AND RECOMMENDATION 8 REFERS)**

<b>Conservative (5)</b>	<b>Ashford Independent (1)</b>	<b>Labour (1)</b>	<b>Liberal Democrat (0)</b>	<b>Independent (0)</b>
Bell	Davison	Chilton		
Burgess (CH)				
Clarkson				
Galpin				
Heyes (VCh)				

**Parish Council Review and Polling District Review Task Group (10 Members)**

<b>Conservative (7)</b>	<b>Ashford Independent (1)</b>	<b>Labour (1)</b>	<b>Liberal Democrat (1)</b>	<b>Independent (0)</b>
Apps	Mortimer	Rutter	Adby Davidson	
Mrs Bell				
Mrs Blanford				
Clarkson (VCh)				
Link				
Taylor				
Wood (CH)				