

TONBRIDGE & MALLING BOROUGH COUNCIL

COUNCIL

14 May 2024

Report of the Interim Chief Executive

Part 1- Public

Matters For Decision

1 APPOINTMENT OF SUBSTITUTE MEMBERS

1.1 Substitute members have all the powers and duties of any primary ordinary member of the Board or committee but cannot exercise any special powers or duties exercisable by the person they are substituting e.g. they cannot act as Chair of a committee if they are substituting for a member who has been appointed by Council as the Chair of that committee. However, in the absence of both the Chair and Vice-Chair from a meeting it would be necessary to appoint a Chair for the meeting – this person may be drawn from any members (including any substitute members) present.

1.1.1 Members are reminded that any substitute members need to be physically present in the Council Chamber in order for their formal attendance to be recorded and to exercise their right to vote. It will not be possible for substitute members to attend remotely.

1.1.2 The substitute members are named and appointed at the same time as the regular committee membership at annual Council. This method has the advantage of certainty in that the identity of the substitute members is publicised in advance. In the event that an ordinary Committee or Board member were unable to attend a specific meeting, one of the appointed substitutes (from within the same political group) could attend the meeting in their place, subject to the appropriate notification procedures (see paragraph 1.3.1 below).

1.1.3 Each political group is permitted to nominate up to 5 substitute members on each Committee (subject to the exceptions set out at paragraph 1.2.1 below).

1.2 Exceptions

1.2.1 There are a number of exceptions to the substitution rules:-

- (a) The Cabinet is not lawfully able to have substitutes;
- (b) The Licensing Act 2003 does not allow for the use of a formal substitution process for the Council's Licensing & Appeals Committee or any of its

panels dealing with alcohol, entertainment or gambling licensing (although the panels are drawn on a case-by-case basis from the membership of the Licensing & Appeals Committee so substitutions are not likely to be necessary);

- (c) Substitution cannot occur at full Council meetings;
- (d) Constitutionally, the Terms of Reference for the Audit Committee and the Overview & Scrutiny Committee prevent Cabinet Members from being a member of these Committees. Cabinet Members would not therefore be able to act as substitute members. Similarly, Cabinet Members are unable to chair Scrutiny Select Committees and have not been appointed as ordinary or substitute members.
- (e) Given the criteria set out in the Constitution for membership of the Council's 3 Area Planning Committees i.e. each of the 3 Committees contain only elected members from specific wards of the Borough there are no substitute members appointed to Area Planning Committees.

1.3 Notification Procedure at meetings

1.3.1 The following provisions are made within the rules:-

- (a) Substitute Members may attend meetings in that capacity only
 - if the substitution is notified at the commencement of the meeting;
 - at the commencement of a reconvened meeting; or
 - immediately upon the substitute member arriving at the meeting
- (b) Once the meeting has been informed of the appointment of a substitute Member, the original Member may not resume membership of the Committee until after the conclusion of the meeting;

1.4 Legal Implications

1.4.1 N/A

1.5 Financial and Value for Money Considerations

1.5.1 N/A

1.6 Risk Assessment

1.6.1 N/A

1.7 Equality Impact Assessment

1.7.1 N/A

1.8 Policy Considerations

1.8.1 As set out in the Constitution

1.9 Recommendations

1.9.1 That the appointments for substitute members for the municipal year 2024/25 be approved, as set out at Annex 6 to the report

Background papers:

Nil

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