

**Maidstone Borough Council
Tunbridge Wells Borough Council**

**Maidstone and Tunbridge Wells Joint Health Overview and Scrutiny Sub
Committee**

28 August 2012

**The use of Substitute Members at Joint Health Overview and Scrutiny
Meetings.**

Briefing note by Mike McGeary, Overview and Scrutiny Officer, Tunbridge Wells
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1. Background

1.1 At the September 2010 meeting of this Joint Committee, the issue of whether substitutes should be appointed was discussed. The Overview and Scrutiny Officer was tasked with researching the benefits and disadvantages and report back with recommendations.

2. The legal background

2.1 These days, it is common practice for local authorities to operate a substitute system, which provides for the attendance at a committee or sub-committee meeting a substitute member whenever a regular appointed member cannot be present.

2.2 The legal basis of appointing members to formal decision-making committees and sub-committees of a local authority is set out in the Local Government (Committees and Political Groups) Regulations 1990. The practice of appointing substitutes quickly followed but, initially, was questioned by some local authorities as to its legality.

2.3 There are now two opinions from leading counsel in support of the legality of such a system and many doubts that once existed have now been overridden.

3. The benefits and the disadvantages of the substitute system

3.1 The main benefits of appointing substitutes are as follows:

- It preserves the political balance of committees; and
- It ensures a full (or as near as possible) attendance at meetings.

3.2 The key disadvantages of appointing substitutes are:

- Substitute members might not have the same expertise in agenda items as ordinary members; and
- Substitute members might be asked to attend at short notice and will not, therefore, have the time to prepare thoroughly.

Appendix A

4. Overcoming the objections

- 4.1 In a Scrutiny setting, which is less about decision-making and more about exercising an enquiring and challenging mind, the lack of expertise in a subject matter should not be a barrier to the appointment of substitutes.
- 4.2 To ensure that a substitute has sufficient time in which to read the agenda papers thoroughly, it is suggested that at least three clear working days' notice (not counting the day of the meeting) would need to be given.
- 4.3 It would be recommended that substitutes be appointed at the start of the civic year.

5. Conclusions

- 5.1 This is not a comprehensive study into the merits or objections to the system of appointing substitutes to the JHOSC. It aims to highlight the principal issues only.
- 5.2 There are some regulatory committees of both Tunbridge Wells and Maidstone Borough Councils, operating in the Planning or Licensing areas for instance – and on Standards Sub-Committees – where Constitutional (and best practice) requirements say that only fully-trained members can be appointed, including substitute members. In a Scrutiny setting, it is not felt that the same stringent requirements should be established. As previously mentioned, the 'critical friend' approach is more important, with professionally-trained officers and expert witnesses on hand at meetings to answer members' detailed questions.
- 5.3 Based on the above arguments, the officer's conclusions are that there are more advantages than disadvantages in applying a substitute system to JHOSC meetings. Members will, however, have other aspects of this which they will need to argue and, ultimately, it is for the JHOSC to decide whether they wish to introduce a substitute system. If, having considered the issue, there was a wish to trial the process for, say, 12 months, this is another option which could be followed.

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