

Annual Meeting of the Council – 17th May, 2012

Report of the Director of Corporate Resources

Appointment and Membership of the Cabinet and Committees for 2012/13 and Related Matters

Purpose of Report

1. To receive a report of the Leader on the appointment of the Deputy Leader and Members of the Cabinet and to consider the appointment and membership of Committees and a number of related matters for the 2012/13 municipal year.

Background

Appointment of the Deputy Leader and Members of the Cabinet

2. Article 7 of the Council's Constitution prescribes that the Cabinet will consist of the Leader together with at least 2, but not more than 9 other Councillors appointed to the Cabinet by the Leader. Under Article 7, it is the responsibility of the Leader to maintain the list of responsibilities and executive functions allocated to Cabinet Members.
3. The Leader is proposing that the Cabinet comprises of 10 members (including himself) with the designations shown on the lists to be circulated at the meeting. The Leader will update the list of responsibilities and executive functions allocated to Cabinet Members for inclusion in Part 3 of the Constitution.
4. The Leader will report at the meeting on the appointment of the Deputy Leader and the designation of Cabinet Members for the 2012/13 municipal year, as set out in the lists to be circulated at the meeting. The Constitution provides that Cabinet Members appointed by the Leader shall hold office until:
 - (a) they resign from office; or
 - (b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
 - (c) they are no longer Councillors; or
 - (d) they are removed from office, either individually or collectively, by the Leader.

5. Cabinet Procedure Rules provide that other political groups on the Council may nominate Members from their Group to attend meetings of the Cabinet. Such Members may speak at the meeting, but may not vote. The Opposition Group nominations will be made in accordance with proportionality.

Appointment and Membership of Committees

6. The Localism Act 2011 has presented an opportunity for all local authorities to consider their governance structures in the context of the greater freedoms now afforded to Councils to adopt alternative models of governance. At the annual meeting of the Council in May, 2011, a cross-party Member Working Group was established to consider these issues.
7. The Working Group comprising Councillors L Jones (Chair), Caunt, Hanif, Mrs Ridney, Mrs Shakespeare, Southall, Sparks and K Turner met on 22nd March, 2012. Following consultation with the majority Group Leader, this report recommends the retention of the existing Committee structures at the present time with a view to undertaking further reviews of aspects of the governance structures during the municipal year. Initial priority will be given to a review of the Area Committees to be undertaken by the Chairs of Scrutiny Committees. Any recommended changes will be presented to the Council for consideration.
8. The Council's Procedure Rules prescribe that the Council, at its Annual Meeting, will appoint at least one Scrutiny Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions, and will in this connection:
 - (a) decide the size and terms of reference for Committees;
 - (b) appoint Chairs and Vice-Chairs for Committees;
 - (c) decide the allocation of seats and substitutes to political groups in accordance with the political balance rules;
 - (d) receive nominations of Councillors to serve on each Committee.

The proposals of the majority group in respect of issues (a) to (c) above and the nominations of the political groups regarding Members to serve on each Committee will be circulated at the meeting.

9. There are currently two political groups represented on the Council:-

Labour (41 seats)
Conservative (29 seats)

(NB: There is 1 Councillor representing the Green Party and 1 vacant seat in the Norton ward)

The Regulations provide that a political group is constituted where two or more Members of the Council give notice that they wish to be treated as a group.

10. Under Sections 15 and 16 of the Local Government and Housing Act 1989, the Council is required to provide for political balance on Committees. It is proposed that the composition of the following Committees be determined in accordance with political balance:

Scrutiny Committees (x5)
Appeals Panel (Children's Services Transport)
Appointments Committee
Audit and Standards Committee
Development Control Committee
Disciplinary/Dismissal/Grading Appeals Committee
Licensing and Safety Committee
Shadow Dudley Health and Wellbeing Board
Taxi Committee
Tree Preservation Orders Committee

11. The political balance 'rules' provide that political groups are entitled to be allocated seats on Committees in accordance with the proportion of seats they hold on the Council.
12. Section 17 of the Local Government and Housing Act 1989, authorises the Council to approve different arrangements (eg: not reflecting political balance) provided no Member of the Council votes against them.

Terms of Reference and Onward Delegation of Functions

13. The terms of reference and ongoing delegations are set out in Part 3 of the Constitution. For the purposes of this annual meeting, the existing terms of reference of Committees will be retained pending further consideration of the Council's governance structures as referred to in paragraph 7.

Appointment of Co-opted Representatives to Serve on the Children's Services Scrutiny Committee and the Health and Adult Social Care Scrutiny Committee

14. The Council has previously appointed co-opted representatives to serve on the Children's Services Scrutiny Committee. The persons appointed in 2011/12 were as follows:-

Non-Elected Voting Members

Parent Governor Representatives
Secondary Schools - Vacancy
Primary Schools - Mr Songole
Special Schools - Mr Tinsley

Church Representatives
Worcester Diocesan Board of Education – Revd Wickens
Archdiocese of Birmingham – Mrs Ward

Non-elected, Non-voting Members

Teacher Representatives:
Primary Education – Mrs Verdegem
Secondary/Special Education – Mr Bruton

Church Representative:
Free Churches – Mr Taylor

Persons with experience of and interest in Education in the Borough:
Mr Duffield
Mrs Lees

15. For 2012/13, it is proposed that the same number of co-opted representatives be appointed to serve on the Children's Services Scrutiny Committee. As the Scrutiny Committee has the responsibility to scrutinise the Council's executive functions, it has been considered appropriate that the Teacher Representatives be sourced only from local authority schools. The names of the persons nominated for co-option to the Committee for 2012/13 will be submitted in the lists to be circulated at the meeting.
16. The Health and Adult Social Care Scrutiny Committee has previously agreed to co-opt the Chair of Dudley's Local Involvement Network (LINK) to the Committee as a non-voting Member. This is being reviewed in the light of national developments and it is recommended that no co-opted member is appointed at this stage pending further consideration by the Scrutiny Committee.
17. In order to mitigate any delay in their serving, the Council has previously authorised the Director of Corporate Resources, in consultation with the Leader, to appoint non-elected co-opted Members to fill any vacancies that might arise from time to time. Approval is requested for the same facility to apply in 2012/13.

Licensing Act 2003 – Statutory Functions

18. In accordance with the Licensing Act 2003, the Council is required to make provision for the appointment of a Licensing Committee to undertake functions relating to liquor licensing. The Licensing and Safety Committee undertakes the statutory functions under the 2003 Act, with the exception of the approval of the licensing policy and any other specific functions that may be reserved to full Council. The Committee comprised 12 Members in 2011/12. In practice, the majority of licensing applications are dealt with by the Licensing Sub-Committees. For 2012/13, it is proposed to appoint Licensing Sub-Committees on the same basis as the previous year. The establishment of the Sub-Committees, together with the appointment of Members and allocation of functions, will be considered at the first meeting of the main Committee in the 2012/13 municipal year.
19. The Council has previously decided to waive the proportionality requirement in respect of the Licensing Sub-Committees. It is proposed that the waiver be re-affirmed for 2012/13.

Standards Functions

20. The Localism Act 2011 abolishes the duty placed on the Council to establish a Standards Committee. The residual standards functions are being included within the terms of reference of the Audit Committee to form a new Audit and Standards Committee with the terms of reference shown in Appendix 1.

Reports on the amended Standards Regime were presented to the Standards Committee in January and March of this year. A further report will be submitted to the Audit and Standards Committee setting out the action required to implement the amended standards regime, including:-

- The adoption of a local Code of Conduct
- The process for dealing with complaints
- The appointment of Independent Person(s) as required by the Localism Act 2011
- The arrangements for the future Registration of Members Interests
- Training required for elected and co-opted Members.

It is intended that the hearing of any relevant complaints regarding breaches of the future local Members' Code of Conduct will be dealt with by a Sub-Committee of the Audit and Standards Committee with proportionality waived as is currently the case for Licensing Sub-Committees. This would be consistent with the arrangements that applied to the former Standards Committee. The establishment of a Sub-Committee will be included in the report to the Audit and Standards Committee.

West Midlands Police and Crime Panel

21. On 14th March, 2012, the Cabinet considered a report on the implications of the Police Reform and Social Responsibility Act 2011. This Act provides for the abolition of the existing West Midlands Police Authority when the new Police and Crime Commissioner is elected and takes office in November, 2012. In addition, it is a requirement of the Act to establish a Police and Crime Panel covering the West Midlands policing area.
22. Discussions between the West Midlands Leaders resulted in proposals to establish the new Police and Crime Panel as a joint Committee of the seven West Midlands District Councils, with a membership of 12 elected members and 2 co-opted members (subject to the formal approval of the Home Secretary). The Panel will operate in shadow form from June until the new Police and Crime Commissioner takes office in November, 2012. The membership of the Panel will comprise a Councillor from each of the 7 West Midlands Councils plus 5 additional elected members to be appointed on the basis of 2 from Birmingham City Council; 2 to be jointly nominated by the Black Country Councils and 1 member to be jointly nominated by Coventry City Council and Solihull Metropolitan Borough Council. The Council is requested to endorse the establishment of the West Midlands Police and Crime Panel as a joint Committee on the basis outlined above. A report elsewhere on the agenda deals with the appointment of this Council's representative to this body (and a named substitute) for the 2012/13 municipal year.

Substitute Members of Committees

23. Council Procedure Rules 5.2, 5.3 and 5.4 currently provide for the appointment of substitute Members of Committees. The arrangements for the appointment of substitute Members, as set out in the Council Procedure Rules, have worked successfully and it is recommended that they be continued in 2012/13.

Members should note that the Council Procedure Rules provide that a substitute Member shall only be appointed in that capacity if he/she is otherwise eligible to serve on the body concerned. This would include a requirement, particularly in the case of quasi-judicial meetings (eg: Development Control Committee and Disciplinary/Dismissal/Grading Appeals Committee), that the Member concerned had undertaken any necessary training as required by the Council.

Changes in Committee Memberships

24. Regulations made under the Local Government and Housing Act 1989 require the Council's Committees to reflect the overall political balance of the Council and take account of the wishes of political groups when allocating Members to Committees. From time to time during the municipal year, it may be necessary for changes to be made in the allocation of Committee Memberships to reflect the wishes of the political groups. It is therefore recommended that the Director of Corporate Resources be authorised to make any such changes that might arise from time to time in accordance with the instructions of the Leaders of the political groups.

Area Committees

25. Following consultation with the majority Group Leader, it is recognised that the current Area Committee structure is not always coterminous with the communities represented by Ward Members. In such cases, it is proposed that Members will be able to 'register' as a Member of an additional Area Committee provided that it is clear as to the single Area Committee on which they are exercising voting rights. For Members who take up this option, their attendance statistics will be recorded in respect of both of the Area Committees they attend.
26. Subject to the above, and pending a fundamental review of the Area Committee arrangements by the Scrutiny Committee Chairs, the Council is asked to confirm the current arrangements for the Area Committees, as set out below:-

Stourbridge

Amblecote

Lye and Stourbridge North

Norton

Pedmore and Stourbridge East

Wollaston and Stourbridge Town

Halesowen

Belle Vale
Cradley and Wollescote
Halesowen North
Halesowen South
Hayley Green and Cradley South

Brierley Hill

Brierley Hill
Brockmoor and Pensnett
Kingswinford North and Wall Heath
Kingswinford South
Wordsley

Central Dudley

Castle and Priory
Netherton, Woodside and St Andrew's
St James's
St Thomas's
Quarry Bank and Dudley Wood

North Dudley

Coseley East
Gornal
Sedgley
Upper Gornal and Woodsetton

27. The political balance rules do not apply to Area Committees because the voting Members of these Committees will be ward councillors who will be discharging functions or advising the Council in respect of matters that apply to their area.
28. The election of the Chairs and Vice-Chairs of Area Committees will be considered at the first meeting of each Committee in the municipal year, together with the question of the appointment of any non-elected co-opted representatives.
29. The budget proposals for 2011/12 were agreed on the basis that annual and ongoing savings would be made from the reduction in the number of Area Committees from 5 meetings to 3.

Finance

30. The financial implications arising from the above proposals will be met from existing resources.

Law

31. The relevant statutory provisions regarding the Constitution and arrangements with respect to executives are contained in Part II of the Local Government Act, 2000, as amended by the Local Government Public Involvement in Health Act 2007, together with Regulations, Orders and Statutory Guidance issued by the Secretary of State. The rules on proportionality are contained in the Local Government and Housing Act 1989 and associated regulations.
32. The power to appoint Committees and to delegate functions to Committees and Officers is set out in Sections 101 and 102 of the Local Government Act 1972.
33. Seats on Committees must be allocated to political groups on a proportional basis in accordance with Section 15 of the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990.
34. However, if it so wishes, the Council may resolve not to apply the proportionality rules in respect of one or more Committees, but such a resolution must be passed with no Member of the Council voting against it (Section 17 of the 1989 Act).
35. The rules on proportionality do not apply to Area Committees because the voting Members of these Committees will be ward councillors who will be discharging functions or advising the Council in respect of matters that apply to their area.
36. The implications of the Localism Act 2011 have been reflected in this report, including the freedoms to consider governance structures and the provisions to abolish the former Standards Regime and the statutory Standards Committee.
37. The duty to allocate seats on a politically proportional basis does not apply to a Licensing Committee or to Sub-Committees established under the statutory requirements of the Licensing Act 2003. However, the proportionality duty does apply to the Licensing and Safety Committee in discharging other licensing functions not covered by the 2003 Act (eg functions under the Gambling Act 2005). The Council has previously agreed that the proportionality requirements of Section 15 of the Local Government and Housing Act 1989 should not apply to the Licensing Sub-Committees established by the Licensing and Safety Committee, to enable them to deal with all licensing business requiring Member determination. It is recommended that this should also apply to any Sub-Committee established by the Audit and Standards Committee to consider complaints against Members under the amended standards regime from 1st July, 2012.
38. The relevant statutory provisions regarding the Council's Constitution are contained in Part II of the Local Government Act 2000 together with Regulations, Orders and Statutory Guidance issued by the Secretary of State.

39. The effects and principles contained in Section 499 of the Education Act, 1996, DFES Circular 19/99 and the Education (Parent Governor Representatives) Regulations 2001 are reflected in the proposals in respect of the appointment of co-opted representatives to serve on the Children's Services Scrutiny Committee.
40. The provisions relating to the establishment of the Police and Crime Panel are contained in the Police Reform and Social Responsibility Act 2011. The West Midlands Police and Crime Panel will be established as a joint Committee of the seven West Midlands District Councils.

Equality Impact

41. The requirements to consider the Council's policies with regard to equality, along with duties under the Equality Act 2010, are fully reflected in the Council's governance structures and decision-making processes. Decisions taken by the Council, the Cabinet and its Committees during the year on policy issues and the implementation of the Council Plan framework will involve actions to promote equality and in relation to children and young people. The appointment of co-opted Members to Area Committees will be considered by each Area Committee during the next cycle of meetings. Area Committees have the option of reserving a place amongst the co-opted Members for representative groups (including young people).

Recommendations

42. That the Council note the report of the Leader on the appointment of the Deputy Leader and Members of the Cabinet for the 2012/13 municipal year, as set out in the list circulated at the meeting, together with the designations of Cabinet Members.
43. That the structure of Committees be approved on the basis set out in this report and the lists circulated at the meeting.
44. That the terms of reference and functions of Committees, as set out in Part 3 of the Constitution, be approved subject to the adoption of the new terms of reference of the Audit and Standards Committee as set out in Appendix 1.
45. That, except for the Area Committees, the composition and Membership of Committees for the 2012/13 municipal year be determined in accordance with the political balance requirements of Sections 15 and 16 of the Local Government and Housing Act 1989, as shown on the lists to be circulated at the meeting.
46. That with regard to the Children's Services Scrutiny Committee and the Health and Adult Social Care Scrutiny Committee, the proposals in relation to co-opted representatives and the arrangements for the filling of vacancies for co-opted Members, be approved.
47. That the Licensing and Safety Committee be appointed in 2012/13 to undertake the statutory Committee functions in accordance with the Licensing Act 2003 and that the Committee comprise 12 Members.

48. That the Council confirm that the proportionality requirements of the Local Government and Housing Act 1989 shall not apply to Licensing Sub-Committees established by the Licensing and Safety Committee or to any Sub-Committee established by the Audit and Standards Committee to hear complaints against Members under the local Members' Code of Conduct.
49. That the Council endorse the establishment of the West Midlands Police and Crime Panel as a joint Committee of the seven West Midlands District Councils, subject to the formal approval of the Home Secretary, on the basis referred to in paragraph 22.
50. That the arrangements for substitutes on Committees, as set out in Council Procedure Rules 5.2 to 5.4, be reaffirmed for the 2012/13 municipal year.
51. That the Director of Corporate Resources be authorised to make any necessary changes to the appointments to Committees that might arise from time to time during the 2012/13 municipal year in accordance with the instructions of the political groups.
52. That pending a review of the Area Committee arrangements by the Scrutiny Committee Chairs, the existing Area Committees be appointed on the basis set out in this report.
53. That the appointment of Chairs and Vice-Chairs of Committees be approved in accordance with the list to be circulated at the meeting (with the exception of Area Committees and the Shadow Dudley Health and Wellbeing Board who appoint their own).
54. That the Director of Corporate Resources be authorised to take all the necessary and consequential actions required to implement the proposals contained in this report.



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Philip Tart
Director of Corporate Resources

TERMS OF REFERENCE AND FUNCTIONS

AUDIT AND STANDARDS COMMITTEE

- (1) Determination of appropriate action on recommendations of the External Auditors.
- (2) Determination of appropriate action on recommendations about the system of internal controls, both financial and otherwise.
- (3) Determination of appropriate action on recommendations arising from investigations of fraud, corruption or other irregularity.
- (4) Determination of appropriate action on recommendations arising from audits of construction and other contracts.
- (5) Determination of appropriate action regarding the organisation, management and performance of the external and internal audit functions.
- (6) Determination of appropriate action on recommendations about the performance of the treasury management function.
- (7) Approval of the Certified Statement of Accounts.
- (8) Oversight of the proper administration of financial affairs, under Section 151 of the Local Government Act, 1972.
- (9) Determination of appropriate action regarding the arrangements for the Corporate Risk Process.
- (10) Determination of any amendments to Financial Regulations and Contract Standing Orders, including those relating to Schools.
- (11) Determination of all necessary action associated with the Council's Corporate Governance Arrangements.
- (12) Consideration and approval of the Council's Anti Fraud and Corruption Strategy.
- (13) To promote and maintain high standards of conduct within the Council.
- (14) To advise the Council on the adoption or revision of the Members' Code of Conduct.
- (15) To monitor the operation of the Members' Code of Conduct.
- (16) To assist Councillors and co-opted Members to observe the Members' Code of Conduct including advising, training or arranging to provide training on matters relating to the Members' Code of Conduct.

- (17) Granting dispensations to Councillors and Co-opted Members from requirements relating to interests set out in the Members' Code of Conduct.
- (18) All other standards functions under the relevant provisions of, or Regulations made under, the Localism Act, 2011.
- (19) To recommend to the Council on the appointment of an Independent Person(s) required under the Localism Act 2011 and any relevant Regulations.
- (20) To advise the Council on an Employees Code of Conduct.
- (21) To advise the Council on confidential reporting policies and procedures ("whistle-blowing") and to monitor and review the operation of the procedures.
- (22) To appoint any Sub-Committees, as appropriate, to hear and determine complaints against Members and Co-opted Members under the provisions of the Members Code of Conduct and in accordance with locally agreed procedures.

NB: The onward delegation of functions to Officers from the former Audit and Standards Committees remain unchanged from those set out in Part 3 of the Constitution.