

Annual Meeting of the Council – 21st May, 2009

Report of the Director of Law and Property

Appointment and Membership of Committees for 2009/10 and Related Matters

Purpose of Report

1. To consider the appointment and membership of Committees and a number of related matters for the 2009/10 municipal year.

Background

Appointment and Membership of Committees

2. The Council's Procedure Rules prescribe that the Council, at its Annual Meeting, will appoint at least one Select Committee, a Standards 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 Chairmen and Vice-Chairmen 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.

3. There are currently three political groups represented on the Council:-

Conservative (43 seats)
Labour (26 seats)
Liberal Democrat (2 seats)

4. Under Sections 15 and 16 of the Local Government and Housing Act, 1989, the Council is required to provide for political balance on Committees. For the 2009/10 municipal year it is proposed that the composition of the following Committees be determined in accordance with political balance:

Appointments
Audit
Development Control
Disciplinary/Dismissal/Grading Appeals
Licensing and Safety
Select Committees (x5)
Taxis
Tree Preservation Orders

5. 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. A political group is constituted where two or more members of the Council give notice that they wish to be treated as a group.
6. However, 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.
7. It is also proposed that the terms of reference and onward delegations of functions for Committees, as set out in the Council's Constitution, be re-affirmed for the 2009/10 Municipal Year.

Appointment of Co-opted Representatives to Serve on the Select Committee on Children's Services and the Select Committee on Community Safety and Community Services

8. In accordance with Section 499 of the Education Act, 1996, DFES Circular 19/99 and the Education (Parent Governor Representatives) (England) Regulations 2001, the Council has previously appointed co-opted representatives to serve on the Select Committee for Children's Services. The persons appointed in 2008/09 were as follows:-

Non-Elected Voting Members

Parent Governor Representatives
Mr S. Smith – Secondary Schools
Mr J. Jones – Primary Schools
Vacancy – Special Schools

Church Representatives
Rev. A. Wickens – Worcester Diocesan Board of Education
Vacancy – Archdiocese of Birmingham

Non-elected, Non-voting Members

Teacher Representatives:
Mrs. M. Verdegam – Primary Education
Mrs. P. Roe – Secondary/Special Education
Church Representative:
Mr. S. Taylor – Free Churches
Persons with experience of and interest in Education in the Borough:
Mrs. G. Simms

Mrs. S. Cunneen

9. For 2009/10, it is proposed that co-opted representatives be appointed to serve on the Select Committee for Children's Services on the same basis as outlined above. The names of the persons nominated for co-option to the Committee for 2009/10 will be submitted in the lists to be circulated at the meeting.

In relation to parent governor representatives for the Secondary and Special Education sectors, the period of office of the Secondary representative, Mr Smith, has expired and no nominations were received in the electoral process. The Director of Children's Services, as Returning Officer, is currently making arrangements for the process to be restarted.

In order to mitigate any delay in their serving, the Council, at the Annual Meeting in May, 2008, authorised the Director of Law and Property, in consultation with the Leader, to appoint non-elected co-opted members to fill any vacancies that might arise from time to time on the Select Committee on Children's Services. Approval is requested for the same facility to apply in 2009/10.

10. The Crime and Disorder (Overview and Scrutiny) Regulations, 2009 came into force on 30th April, 2009 and provide for Crime and Disorder Overview and Scrutiny Committees to co-opt any additional members it feels are appropriate, such persons to have equal voting rights with existing members. A co-opted person's involvement may be limited by the Committee to a particular matter and the number of co-optees cannot exceed the number of ordinary members. The Select Committee on Community Safety and Community Services., at its first meeting in 2009/10, will be considering the appointment of co-opted members under this legislation. Should the Committee determine to co-opt, in order to mitigate any delay in their serving, it is suggested that the Interim Director of Law and Property, in consultation with the Leader, be authorised to make the appointment and put it into effect.

Licensing Act 2003 – Statutory Functions

11. 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 arrangements previously adopted by the Council have been successful with the Licensing and Safety Committee undertaking the statutory functions of the Committee 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. While the Committee comprised 15 members in 2008/09, it is understood that it is proposed that the Committee comprise 12 members in 2009/10. In practice, the majority of licensing applications are dealt with by Licensing Sub-Committees, and it is understood that it is proposed that, corresponding with the smaller size of the Licensing and Safety Committee, four Sub-Committees in number will be appointed in 2009/10, rather than the five appointed in 2008/09. 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 2009/10 municipal year.
12. The Council has previously decided to waive the proportionality requirement in respect of five Sub-Committees of the Licensing and Safety Committee. It is proposed that the waiver be re-affirmed for 2009/10.

Standards Committee

13. It is a requirement of the Local Government Act 2000 that the Council establish a Standards Committee with independent representatives. The political balance rules of the Local Government and Housing Act 1989 do not apply to the Standards Committee by virtue of Section 53 (10) of the Local Government Act, 2000. Proposals for the membership of the Standards Committee will be included on the lists to be circulated at the meeting.

Substitute Members of Committees

14. 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 2009/10. 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 Licensing Sub-Committees), that the member concerned had undertaken any necessary training as required by the Council.

Changes in Committee Memberships

15. 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 or Sub-Committee Memberships to reflect the wishes of the various political groups. It is therefore recommended that the Interim Director of Law and Property 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

16. The Council is asked to confirm the current arrangements for the appointment of all ward representatives to serve on Area Committees, as set out below:-

Stourbridge

Amblecote
Lye and Wollescote
Norton
Pedmore and Stourbridge East
Wollaston and Stourbridge Town

Halesowen

Belle Vale
Cradley and Foxcote
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

17. 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.
18. The election of the Chairmen and Vice-Chairmen of Area Committees will be considered at the first meetings of each Committee in the municipal year, together with the question of the appointment of any non-elected co-opted representatives.

Finance

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

Law

20. 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.
21. 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.
22. 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).
23. 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.

24. The proportionality rules do not apply to the Standards Committee by virtue of Section 53(10) of the Local Government Act, 2000. The Standards Committee (England) Regulations 2008 contain provisions relating to the constitution and general proceedings of Standards Committees and Sub-Committees.
25. 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 duty to apply proportionality 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 Sub-Committees established by the Licensing and Safety Committee, to enable them to deal with all licensing business requiring member determination.
26. 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.
27. The effects of 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 Select Committee for Children's Services.
28. The power for Crime and Disorder Overview and Scrutiny Committees to appoint co-opted members with voting rights is contained in the Crime and Disorder (Overview and Scrutiny) Regulations, 2009.

Equality Impact

29. This report has no direct implications for the Council's policies with regard to equality and diversity. Decisions taken by the Council 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

30. That the structure of Committees for 2009/10 be approved on the basis set out in this report.
31. That the terms of reference and onward delegation of functions of the Committees referred to in this report, and as set out in the Council's Constitution, be reaffirmed for the 2009/10 municipal year.
32. That, except for the Standards Committee and Area Committees, the composition and membership of Committees for the 2009/10 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.

33. That with regard to the Select Committee on Children's Services and the Select Committee on Community Safety and Community Services, the proposals in relation to co-opted representatives and the arrangements for the filling of vacancies for co-opted members, as described in paragraphs 8 to 10 (inclusive) above, be approved.
34. That the Licensing and Safety Committee be appointed in 2009/10 to undertake the statutory Committee functions in accordance with the Licensing Act 2003, as referred to in paragraph 11 of this report, and that the Committee comprise 12 members.
35. That the Council confirm that the proportionality requirements of the Local Government and Housing Act 1989 shall not apply to Sub-Committees established by the Licensing and Safety Committee as referred to in paragraph 11.
36. That the composition and membership of the Standards Committee for the 2009/10 municipal year be as shown on the lists to be circulated at the meeting.
37. That the terms of reference of the Standards Committee, as set out in the Council's Constitution, be reaffirmed for the 2009/10 municipal year.
- 38.. That the arrangements for substitutes on Committees, as set out in Council Procedure Rules 5.2 to 5.4, be reaffirmed for the 2009/10 municipal year.
39. That the Interim Director of Law and Property be authorised to make any necessary changes to the appointments to Committees or Sub-Committees that might arise from time to time during the 2009/10 municipal year in accordance with the instructions of the political groups.
40. That Area Committees be appointed for the 2009/10 municipal year in accordance with paragraph 16 above; that the Committees comprise the Ward Councillors for the areas referred to and that the functions and protocols of Area Committees, as set out in the Council's Constitution, be reaffirmed.
41. That the appointment of Chairmen and Vice Chairmen of Committees (except Area Committees, who appoint their own) be approved in accordance with the list to be circulated at the meeting.



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Philip Tart
Interim Director of Law and Property

Background Papers

The Council's Constitution

