

Annual Meeting of the Council – 19th May, 2022

Report of the Lead for Law and Governance (Monitoring Officer)

Appointment and Membership of the Cabinet and Committees for 2022/23 and Related Matters

Purpose of Report

1. To receive a report on the appointment of the Deputy Leader and Members of the Cabinet and to consider the appointment and membership of Committees and related matters for the 2022/23 municipal year.

Recommendations

2. That the Council note the report to be circulated at the meeting concerning the appointment of the Deputy Leader and Members of the Cabinet for the 2022/23 municipal year, together with the designation and appointment of Cabinet Members.
3. That the structure of Committees for 2022/23 be approved on the basis set out in this report and the lists to be circulated at the meeting.
4. That the terms of reference and functions of Committees, as set out in Part 3 of the Constitution, be approved subject to any consequential amendments arising from decisions made at this meeting.
5. That, with the exceptions referred to in this report, the composition and membership of Committees for the 2022/23 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.
6. That with regard to the Children and Young People Scrutiny Committee, the Health and Adult Social Care Scrutiny Committee and the Ernest Stevens Trusts Management Committee, the proposals in relation to co-opted representatives and the arrangements for the filling of vacancies for co-opted members be approved.

7. That the Licensing and Safety Committee be appointed in 2022/23 to undertake the statutory Committee functions in accordance with the Licensing Act 2003 and that the Committee comprise 12 Members.
8. 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 Members' Code of Conduct.
9. That the appointment of Chairs and Vice-Chairs be approved in accordance with the lists to be circulated at the meeting.
10. That the arrangements for substitutes on Committees, as set out in Council Procedure Rules, be reaffirmed for the 2022/23 municipal year.
11. That the Planning (Site Visits) Working Group be appointed for the 2022/23 Municipal Year to undertake visits to sites where the Committee has resolved that there should be a site visit and that the Working Group comprise all Members of the Planning Committee.
12. That Scrutiny Working Groups be appointed for the 2022/23 Municipal Year for each of the Scrutiny Committees and that the membership of the Working Groups comprise all Members of the relevant Scrutiny Committees.
12. That the Dudley Health and Wellbeing Board be established in 2022/23 on the basis set out in this report.
13. That a report on the future arrangements for Community Forums be submitted to the Cabinet and the Council in due course.
14. That the Monitoring Officer be authorised to take any necessary and consequential actions that are required to implement the proposals contained in this report and any other decisions that are taken at this meeting of the Council.

Background

Appointment of the Deputy Leader and Cabinet Members

15. 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.



16. The Cabinet will comprise of 10 members (including the Leader) with the designations shown on the lists to be circulated at the meeting. The list of responsibilities and executive functions allocated to Cabinet Members (and onward delegations to Officers) is set out under Part 3 of the Constitution and will be updated with any consequential changes arising from this meeting.
17. The Leader will report at the meeting concerning the appointment of the Deputy Leader and the designation of Cabinet Members for the 2022/23 municipal year. The Constitution provides that Cabinet Members appointed by the Leader shall hold office until:
 - (a) they resign from office; or
 - (b) they are no longer Councillors; or
 - (c) they are removed from office, either individually or collectively, by the Leader.
18. 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. It is the Council's practice that all Shadow Cabinet Members are invited to attend Cabinet meetings.

Appointment and Membership of Committees

19. 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:
 - (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.

Proposals in respect of the above and the nominations of the political groups regarding Members to serve on each Committee will be circulated at the meeting.

20. There are currently 2 political groups represented on the Council:-

Conservative (46 seats)

Labour (26 seats)

The proportionality 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.



21. 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
Appeals Committee
Appointments Committee
Audit and Standards Committee
Children's Corporate Parenting Board
Planning Committee
Ernest Stevens Trusts Management Committee
Licensing and Safety Committee
Taxis Committee

22. 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.

23. Section 17 of the Local Government and Housing Act 1989 authorises the Council to approve different arrangements (eg: not reflecting political balance) provided that no Member of the Council votes against them.

Overview and Scrutiny Arrangements for 2022/23

24. it is proposed to establish the following Scrutiny Committees for 2022/23:

Children and Young People Scrutiny Committee
Climate Change and Environment Scrutiny Committee
Future Council Scrutiny Committee
Health and Adult Social Care Scrutiny Committee
Housing and Public Realm Scrutiny Committee

25. It is proposed that each of the Scrutiny Committees should comprise 13 elected Members, subject to compliance with the overall political proportionality requirements. The dates of meetings of the Climate Change and Environment Scrutiny Committee will be agreed following consultation with the Chair and Vice-Chair. The terms of reference of this new Scrutiny Committee will be considered at the first meeting of the Committee in the municipal year.

26. Ongoing consultation is taking place on items for inclusion in the Annual Scrutiny Programme. Flexibility will be retained to respond to any issues that arise during the year. To assist with developing the Annual Scrutiny Programme it is proposed that Working Groups be established for each of the Scrutiny Committees. The Working Groups will comprise all Members of the relevant Scrutiny Committee and be chaired by the relevant Scrutiny Committee Chair. The Working Groups will initially consider the Annual Scrutiny Programme for 2022/23 and subsequently consider

any other business that is allocated to them during the year within the remit of each Scrutiny Committee.

27. Informal meetings of the Chairs and Vice Chairs of Scrutiny Committees are also being scheduled during the municipal year.

Terms of Reference and Onward Delegation of Functions

28. The terms of reference and onward delegation of functions are set out in Part 3 of the Constitution. The Council has previously delegated authority to the Monitoring Officer to make any urgent, necessary or consequential changes to the Constitution arising from Council restructuring and to reflect any changes in legislation or other statutory provisions. It is proposed that this delegation should remain in place for 2022/23.

Appointment of Co-opted Representatives

29. Statutory co-opted Members will be appointed to serve on the Children and Young People Scrutiny Committee in 2022/23. The co-opted representatives will only have voting rights in relation to matters concerning education.
30. The five non-elected voting Members are made up of:-
- Three Parent Governor Representatives (representing Secondary, Primary and Special Schools)
 - Two Church Representatives (representing the Worcester Diocesan Board of Education and the Archdiocese of Birmingham).
31. Where these are available, the names of the persons nominated for 2022/23 will be included in the lists to be circulated at the meeting.
32. A co-opted member (without voting rights) representing Dudley Healthwatch has previously been co-opted onto the Health and Adult Social Care Scrutiny Committee. It is proposed that this should continue for 2022/23. The name of the person nominated will be included in the lists to be circulated at the meeting.
33. The Ernest Stevens Trusts Management Committee has previously agreed to appoint three non-elected, non-voting members (one from each of the Friends Groups from Mary Stevens Park Stourbridge, Stevens Park Quarry Bank and Stevens Park, Wollescote). This provides independence on the Committee and safeguards to protect each charity's beneficiaries. Co-opted representatives are appointed to serve on the Committee for a period of three years. Where available, the names of the co-opted Members will be included in the lists circulated at the meeting.

34. To mitigate any delay in their serving, the Council has previously authorised the Monitoring Officer, following 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 2022/23.

Licensing Act 2003 – Statutory Functions

35. 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 2021/22. In practice, the majority of licensing applications are dealt with by the Licensing Sub-Committees. For 2022/23, 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 2022/23 municipal year.
36. The Council has previously decided to waive the proportionality requirements in respect of the Licensing Sub-Committees. It is proposed that the waiver be re-affirmed for 2022/23.

Appeals Committee

37. The Appeals Committee has delegated powers to determine all appeals in cases where a right of appeal to elected members exists under any of the Council's policies or procedures.
38. It is recommended that the Appeals Committee comprise 5 elected members appointed in line with overall political proportionality. Council Procedure Rule 5 will apply to the appointment of substitute members as referred to below.

Member Complaints and Standards Matters

39. The Audit and Standards Committee has previously established a Standards Sub-Committee to hear and determine complaints against Members and Co-opted Members. The appointment of the Sub-Committee will be considered at the first meeting of the Audit and Standards Committee in the municipal year.

Substitute Members of Committees

40. Council Procedure Rule 5 provides for the appointment of substitute Members on Committees. The arrangements for the appointment of substitute Members have worked successfully and it is recommended that they be continued in 2022/23.

41. 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 includes a requirement, particularly in the case of quasi-judicial meetings (eg: Planning and Appeals Committees), that the Member concerned has undertaken the necessary training as required by the Council.

Changes to the Composition of Committees

42. 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. Under Article 4.02 of the Constitution, the Monitoring Officer is authorised to make any necessary changes to the composition of Committees that might arise from time to time in accordance with the requirements of the Leaders of political groups.

Planning Committee

43. In view of its public profile and to be consistent with other Black Country Councils, it is proposed to redesignate the Development Control Committee as the Planning Committee. A Site Visits Working Group has previously been established to allow for site visits by Members. Site visits are undertaken in appropriate circumstances as provided for in the Code of Conduct for Members and Officers dealing with planning matters (as set out in the Council's Constitution). The Working Group will comprise all Members of the Planning Committee. It is proposed that the Site Visits Working Group be established on the same basis for 2022/23.

Dudley Health and Wellbeing Board

44. The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 make provision for the disapplication and modification of certain enactments relating to local authority committees, including the rules on proportionality. The Regulations aim to provide local areas with the flexibility and freedom to shape health and wellbeing boards to fit local circumstances.
45. The Dudley Health and Wellbeing Board is established under Section 194 of the Health and Social Care Act 2012 and operates within its own terms of reference and associated governance arrangements.
46. The Chair and Vice-Chair are appointed by the Board at its first meeting in the municipal year.

Community Forums

47. The Council has previously established 10 Community Forums. The Community Forums comprise the elected representatives of the following wards:-



- Amblecote/ Cradley and Wollescote/ Lye and Stourbridge North
- Belle Vale/ Hayley Green and Cradley South
- Brierley Hill/Brockmoor and Pensnett
- Castle and Priory/ St James's/ St Thomas's
- Coseley East/ Sedgley
- Gornal/ Upper Gornal and Woodsetton
- Halesowen North/Halesowen South
- Kingswinford North and Wall Heath/Kingswinford South/Wordsley
- Netherton, Woodside and St Andrew's/ Quarry Bank and Dudley Wood
- Norton/Pedmore and Stourbridge East/Wollaston and Stourbridge Town

Physical meetings of Community Forums were suspended during the Covid-19 Pandemic. A cycle of 'virtual' meetings of Community Forums was held during the previous municipal year. A report on the future arrangements for Community Forums will be submitted to the Cabinet and the Council in due course.

Finance

48. The financial implications arising from the proposals in this report will be met from existing resources.

Law

49. The relevant statutory provisions regarding the Constitution and arrangements with respect to executive functions are contained in Part II of the Local Government Act, 2000, as amended, and the Localism Act 2011, together with Regulations, Orders and Statutory Guidance issued by the Secretary of State.
50. 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.
51. Seats on Committees must be allocated to political groups on a proportional basis in accordance with the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990.
52. 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).
53. The rules on proportionality do not apply to the Community Forums because the Forums are not Committees of the Council and they comprise all the ward councillors for the areas concerned.

54. The implications of the Localism Act 2011 have been reflected in this report, including the freedoms to consider governance structures and the provisions relating to standards.
55. 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. This is also applied to any Sub-Committee established by the Audit and Standards Committee to consider complaints against Members under the Council's standards arrangements.
56. The rules on proportionality do not apply to the Dudley Health and Wellbeing Board established under Section 194 of the Health and Social Care Act 2012. The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 specifically disapply the proportionality rules in respect of Health and Wellbeing Boards.
57. The effects and principles contained in Section 499 of the Education Act 1996, Department for Education and Science 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 and Young People Scrutiny Committee.

Risk Management

58. This report deals with the Council's governance arrangements, which will ensure that the Council considers any ongoing material risks as part of the Risk Management Framework.

Equality Impact

59. The requirements to consider the Council's policies on equality and diversity, 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 Committees during the year on policy issues and the implementation of the Council Plan framework will involve actions to promote equality and diversity and in relation to children and young people.

Human Resources/Organisational Development

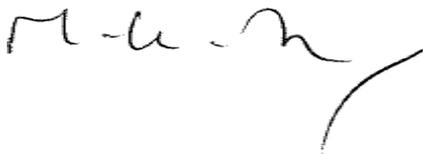
60. The Council's governance arrangements will be administered from existing resources.

Commercial/Procurement

61. Decisions taken by the Council, the Cabinet and Committees will reflect the Council Plan objectives to maximise value from procurement, deliver social value and develop a commercial focus as appropriate.

Council Priorities

62. This report deals with the Council's governance arrangements to underpin the delivery of key Council priorities including the Borough Vision, Council Plan and Future Council Programme. Reports to meetings and decision takers will include details of how proposals impact on or contribute to Council priorities.



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(Monitoring Officer)