



Purpose: For Decision

Committee report

Committee	FULL COUNCIL
Date	20 JANUARY 2021
Title	APPOINTMENTS TO COMMITTEES
Report of	MONITORING OFFICER

EXECUTIVE SUMMARY

1. This report sets out appointments to be made by the Full Council in respect of its allocation of seats on its committees (including, where appropriate, the appointment of named substitutes).

BACKGROUND

2. On 16 September 2020 (at the meeting of the Annual Council) the council conducted a review of political proportionality under the Local Government and Housing Act 1989 and agreed the revised allocation of seats on its committees as set out in the amended Appendix C to that September report.
3. On 18 November 2020 Full Council approved its revised Constitution. This included changes to the composition of the Audit Committee. Previously the Constitution had stated that 'Audit Committee members should not be Cabinet members and ideally also not be members of the Scrutiny Committee' (p.39). The present Constitution provides that 'Audit Committee members should not be Cabinet members or members of a Scrutiny committee' (p.29).
4. Part 4B of the current Constitution also refers to (limited) substitution on p.114 – p.115 (rule 5) whereby if an elected committee member cannot attend a meeting of their committee, their political group may nominate a substitute from the same political group (unless otherwise provided in a committee's terms of reference).
5. Having conducted the review of political proportionality, agreed the revised allocation of committee seats, approved the above change to its Constitution in respect to the Audit Committee and approved the particular substitution rule, Full Council accordingly needs to make appointments of elected members to its committees to give effect to such provisions.

STRATEGIC CONTEXT

6. Good governance arrangements are essential to the delivery of the council's services and the decision-making process that support this.

CONSULTATION

7. Notification of any vacancies has been given to political groups by the proper officer (the Monitoring Officer), and the wishes of any non-grouped members have been sought.

FINANCIAL / BUDGET IMPLICATIONS

8. There are no additional costs associated with the proposals contained in this report. The recommendations accord with the resources available within the overall budget agreed by Full Council in February 2020.

LEGAL IMPLICATIONS

9. Under section 16 of the Local Government and Housing Act 1989 the power to appoint to committees is that of the local authority i.e. the council.
10. With regard to nominations from the respective political groups, council is required to appoint those members nominated for appointment by political groups to their respective allocated seats on the council's committees so as to give effect to the agreed political balance requirements in accordance with section 16(1) of the Local Government and Housing Act 1989.
11. With regard to appointments to any unallocated seats, these are to be filled by ungrouped members, and whilst there is no nomination rights procedure equivalent to that which applies to political groups, the wishes of any ungrouped member should be sought. Such appointment(s) to any unallocated seats on committees fall to be made by the council at its discretion in terms of which ungrouped member(s) are appointed in accordance with section 16 (2A) of the Local Government and Housing Act 1989.
12. The power to appoint councillors to committees (and indeed the power to remove councillors from committees) cannot be delegated by the Full Council to a committee or to any officer of the council or indeed to any political group, but must be exercised by the Full Council itself. This is because the power to make delegated arrangements under section 101 of the Local Government Act 1972 is subject to any express provision contained in that Act or in any subsequent enactment, and section 102 of the Local Government Act 1972 and section 16 of the Local Government and Housing Act 1989 are such express provisions.
13. It is the duty of the council itself to exercise the power of appointment of elected members to its committees 'as soon as practicable'. The obligation on the Full Council is to give effect at the first practicable opportunity. That does not require the calling of a special meeting. It merely requires it to consider it at the next available meeting. Appointments are required to be made.

14. As it is only the council that can make appointments to its committees (and only the council has the power to remove) the council must appoint any substitutes to its committees as political groups have no power to appoint, merely to nominate. The appointment of named substitutes (where such substitution is permitted by law and under the Constitution) has the merit of transparency and openness, and, as the council has already agreed that political groups should only nominate members as substitutes if they have had relevant training in the work of the committee, this approach enables training and resources to be better focussed and better discharges its fiduciary duty to ratepayers.
15. Under regulation 14 of the Local Government (Committees and Political Groups) Regulations 1990 as amended, the appointed proper officer (the Monitoring Officer) has the duty to notify the relevant leaders of the political groups 'as soon as practicable' after the agreed allocation of seats (or after any vacancies subsequently arising) so that such political groups may nominate members from their groups for appointment by the council to the seats allocated on its committees to their groups. Should a political group fail to express its wishes in relation to such appointment within three weeks beginning with the date on which the proper officer gave due written notice, the council has discretion to make such appointment to that seat as they think fit in accordance with reg 15 of the same regulations.
16. This legal inability to implement the nominations of political groups by way of delegated authority is clearly administratively inconvenient as delays in appointment inevitably result, but any purported delegation would be, and is, unlawful and ineffective. However, fortunately in such circumstances there would be, and is, specific statutory protection preventing the invalidation of any proceedings due to any defect in the appointment of any person. Hence the need for this report so appointments can be confirmed and duly made following these approved changes.

EQUALITY AND DIVERSITY

17. The council as a public body is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It is not considered that the content of this report has any negative impact on any of the protected characteristics.

OPTIONS

18. To confirm and appoint those nominated by the respective political groups to their allocated seats as contained in Appendix A.
19. To confirm and appoint to any unallocated seats those named ungrouped councillors as contained in Appendix A.
20. To confirm and appoint named substitutes as contained in Appendix A.

RISK MANAGEMENT

21. The recommendations are to ensure that the council meets its corporate governance requirements and responds to changing requirements and demands. These should lessen the risks arising from any challenge to the decision-making process by way of judicial review or other such legal action.

EVALUATION

22. Council has no option and must respect the duly expressed wishes of the respective political groups and to appoint those nominated to their allocated seats and to appoint those nominated as substitutes (unless no such wishes were expressed within the prescribed statutory deadline in which case the council has discretion to appoint).
23. Equally Council has no option and must appoint any unallocated seats to ungrouped members but it does have discretion as to which ungrouped member(s) to appoint. Fairness requires ungrouped members to be able to nominate their substitutes too from among any other ungrouped member(s).
24. An effective governance system for the council is essential to enable business to be transacted openly and in a timely manner. The appointment of elected members (including where appropriate substitutes) to its committees seeks to do this.

RECOMMENDATION

25. To confirm and appoint those nominated by the respective political groups to their allocated seats as contained in Appendix A.
26. To confirm and appoint to any unallocated seats those named ungrouped councillors as contained in Appendix A.
27. To confirm and appoint named substitutes as contained in Appendix A.

APPENDICES ATTACHED

28. Appendix A – List of appointments to council committees.

BACKGROUND PAPERS

29. None.

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