



Purpose: For Decision

Full Council Report

Date **5 OCTOBER 2022**

Title **NOMINATIONS AND APPOINTMENTS TO COMMITTEES AND OUTSIDE BODIES**

Report of **MONITORING OFFICER**

EXECUTIVE SUMMARY

1. The purpose of this report is to receive nominations of councillors to serve on any established council committee that is currently carrying a vacant position, in line with the political proportionality as agreed by Full Council in May 2022.
2. The report has become necessary following the resignation in August 2022 of Cllr Michael Lilley from the Planning Committee, for which a nomination is sought.
3. In addition, the report also deals with other appointments which still stand to be made, being the Isle of Wight Association of Local Councils (IWALC) representative on Appeals Committee (when considering Code of Conduct complaints in relation to councillors on Town/Parish or Community Councils), and the Health and Wellbeing Board.
4. It is also to note that there is an ongoing vacancy for a non-aligned councillor on the Policy and Scrutiny Committee for Neighbourhoods and Regeneration which the Council has left vacant.
5. It also seeks a nomination to be put forward for appointment by an external organisation, namely the Armed Forces Day parade organising committee.

RECOMMENDATION

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| <ol style="list-style-type: none">6. That Councillor [yet to be named] be appointed to serve on the Planning Committee to fill the vacancy arising from Cllr Michael Lilley's resignation from the Planning Committee.7. That Cllr Mick Lyons (with Cllr Patricia Redpath as substitute) be appointed to serve as the non-voting co-opted member of the Appeals Committee. |
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| <ol style="list-style-type: none">8. That Cllr Shirley Smart (with Cllr Emily Brothers acting as substitute) be appointed to serve as the voting co-opted member on the Health and Wellbeing Board.9. That the current ongoing vacancy on the Policy and Scrutiny Committee for Neighbourhoods and Regeneration be noted.10. That Councillor [yet to be named] be nominated for the Council's representative on the Armed Forces Day organising committee, in so far as those organisations are relevant to the exercise of council functions. |
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BACKGROUND

Appointment to committees

11. Under the current political proportionality, as agreed at Annual Council in May 2022, the only known additional vacancy at the time of writing this report is in respect of one of the seats on the Planning Committee allocated to the Alliance Group. Full Council previously agreed not to fill the vacancy for a non-aligned councillor on the Policy and Scrutiny Committee for Neighbourhoods and Regeneration and the ongoing vacancy is reported for noting.
12. Before making any nominations the following criteria ought to be carefully considered namely (1) eligibility, (2) suitability and (3) willingness to serve.

Co-opted Members

13. Under PART 3 (section 6 - Terms of Reference of Committees and Boards) of the council constitution, it states that when the Appeals Committee or Sub-Committee is determining a Code of Conduct investigation into the conduct of a town, parish or community council councillor, it shall also comprise a non-voting co-opted town, parish or community council councillor from another council, who is not a serving Isle of Wight Council councillor and does not have a conflict of interest. Cllr Mick Lyons has been put forward and Cllr Patricia Redpath as substitute by the Isle of Wight Association of Local Councils.
14. There is also currently a vacancy to be filled on the Health and Well-being Board. Cllr Shirley Smart has been nominated with Cllr Emily Brother as substitute.

Please note for information that Annual Council on 18 May 2022 agreed two co-opted positions, namely Cllr Cameron Palin on Corporate Scrutiny and Cllr Giles Aldred to sit as a non-voting member on the Planning Committee.

Outside Bodies

15. Outside bodies are external organisations, including those with which the local authority has formal or informal arrangements.
16. Participation in outside bodies contributes to the local authority's strategic functions, priorities or community leadership roles, supports partnership and joint working and enables councillors to gain and share knowledge and expertise.
17. There is a vacancy for the Council to nominate someone to be put forward for

appointment to serve on the Armed Forces Day parade organising committee and the appointment is made by that outside body.

CORPORATE PRIORITIES AND STRATEGIC CONTEXT

18. Good governance arrangements are essential to the delivery of the council's services and the decision-making process that supports this.
19. The appointment of members to such committees contributes to good governance and enables [Corporate Plan 2021 – 2025](#) delivery of the corporate priorities and vision contained within it.

CONSULTATION

20. The draft report was circulated to group leaders and ungrouped councillors.

FINANCIAL / BUDGET IMPLICATIONS

21. 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 the Full Council on 23 February 2022.

LEGAL IMPLICATIONS

22. Under section 16 of the Local Government and Housing Act 1989 the power to appoint committees and to committee seats is that of the local authority acting through the Full Council. (The power to appoint sub-committees and to sub-committee seats rests with the parent committee).
23. This power to appoint persons to committees (and indeed the power to remove persons 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 express provision contained in that Act or in any subsequent enactment, and section 102 of the Local Government Act 1972 ('Appointment of committees') and section 16 of the Local Government and Housing Act 1989 are such express provisions.
24. It is the duty of the Full Council itself to exercise the power of appointment of elected councillors to its committees 'as soon as practicable'. The obligation on the Full Council is to give effect at the first practicable opportunity. Appointments are required to be made.
25. In the absence of alternative arrangements, the Full Council must appoint to the seats allocated to particular political groups in accordance with the expressed wishes of such groups, and must appoint seats allocated to the ungrouped in accordance with the proportion allocated to the ungrouped councillors (see section 16 (1) and section 16(2A) of the Local Government and Housing Act 1989 as inserted by way of modification by regulation 16 of the Local Government (Committees and Political Groups) Regulations 1990 SI 1553 as amended).

26. Notification of the vacancy on the Planning Committee was given under regulation 14 of the Local Government (Committees and Political Groups) Regulations 1990 on 30 August 2022 to the Leader in order to enable the Alliance Group to express its wishes.
27. At the time of writing this report (23 September 2022) no such wishes have yet been expressed. Regulation 15 of the 1990 Regulations deals with the situation in the event that no wishes are expressed in relation to that appointment within the period of three weeks, beginning with the date on which notice was given under regulation 14 (i.e. 30 August 2022). Where no such wishes are expressed within that statutory timescale, then the Full Council may make such appointment to that seat as they see fit. No nominations have been expressed within that deadline.
28. Some appointments to outside bodies are made because of a statutory or legal requirement to appoint one or more councillors to them. In other cases, for example, the constitution of outside bodies may require a councillor to be appointed. However, most appointments to outside bodies are discretionary, and take into consideration how representation on them adds value in terms of contributing towards the local authority's strategic priorities.
29. Those councillors or members who are appointed to other bodies or by other bodies are advised to update their notifications for their relevant register(s) of interest, where appropriate.

EQUALITY AND DIVERSITY

30. 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

Planning Committee

31. Option 1: That Councillor [yet to be named] be appointed to serve on the Planning Committee to fill the vacancy arising from Cllr Michael Lilley's resignation from the Planning Committee .
32. Option 2: Not to make such an appointment.

Appeals Committee

33. Option 3: That Cllr Mick Lyons (with Cllr Patricia Redpath as substitute) be appointed to serve as the non-voting co-opted member of the Appeals Committee. .
34. Option 4: Not to agree such appointments.

Health and Wellbeing Board

35. Option 5 – That Cllr Shirley Smart (with Cllr Emily Brothers acting as substitute) be appointed to serve as the voting co-opted member on the Health and Wellbeing Board.
36. Option 6 – Not to agree such appointments

Policy and Scrutiny Committee for Neighbourhoods and Regeneration

37. Option 7 –That the current ongoing vacancy on the Policy and Scrutiny Committee for Neighbourhoods and Regeneration be noted.
38. Option 8 – That Councillor (yet to be named from the non-aligned councillors) be appointed to the Policy and Scrutiny Committee for Neighbourhoods and Regeneration.

Nomination to the Armed Forces Organising Committee

39. Option 9: That Councillor [yet to be named] be nominated for the Council's representative on the Armed Forces Day organising committee, in so far as those organisations are relevant to the exercise of council functions.
40. Option 10: Not to agree such nomination on the Armed Forces Day organising committee.

RISK MANAGEMENT

41. 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 legal action.
42. Councillors who are involved in the management of outside bodies have responsibilities to that body that must be acted upon. Their role, responsibilities and potential liabilities will depend upon the legal nature of the organisation (e.g. another local authority, company, trust, charity, unincorporated association) and the capacity in which they have been appointed (e.g. director, trustee, member with voting rights or member with observer status). Failure to act in a proper manner may give rise to personal liability or liability for the local authority.
43. Councillors should therefore carefully consider the implications and responsibilities of being involved with particular outside bodies, including time commitments, managing potential or actual conflicts of interest, personal risk arrangements and the extent of any insurance cover, and obligations to report back to the local authority.
44. For instance, with the continued emphasis on partnership working, councillors (as community leaders) have an important role to fulfil in supporting and advising outside bodies. However, this can give rise to conflicts of interest, particularly where the organisation is seeking or receiving funding from the local authority. Councillors always need to be clear about their roles and alert to potential conflicts of interest in order to ensure transparency and public confidence in local democracy, including

the local government decision-making process. [Conflicts of interest \(nao.org.uk\)](https://nao.org.uk)

45. All councillors taking up such appointments are recommended to make sure that when they take up their appointment with the relevant outside body they have access to the important documents regulating that organisation such as its constitution or terms of reference to ensure that they are aware of what the body can and cannot do, and receive a proper briefing on that body and their role within it if necessary.
46. Those councillors taking up such appointments are obliged to continue to comply with the local authority's Members' Code of Conduct, to comply with the code of conduct of the outside body they are appointed to if one exists, and to declare a personal interest in any business of the local authority where it relates to a body they are appointed to by the local authority.

EVALUATION

47. Council has no option and must respect the duly expressed wishes of the respective political group and to appoint those nominated to their allocated seats on committees which are politically balanced provided such expressed wishes are made within the statutory deadline for doing so.
48. Equally Council has no option and must appoint any unallocated seats on committees which are politically balanced to ungrouped councillors, but it does have discretion as to which ungrouped councillor(s) to appoint. Such discretion has to be exercised properly and in good faith. Fairness requires ungrouped councillors to express their wishes for nomination and for nomination of substitutes. There are however no current vacancies for any unaligned councillor.
49. 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 councillors to its committees seeks to do this.
50. Where appointments are not made to all of the outside bodies, there is a risk that this could hinder the local authority in furthering its interests and corporate priorities, and not further develop the external facing role of councillors. In those cases where appointments are required to be made, there would be a risk of legal challenge. Where the option is taken not to appoint to particular outside bodies, consideration should be given whether there are any implications arising from that decision by not making an appointment.

BACKGROUND PAPERS

51. None.

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