

## **Annual Meeting of the Council – 18<sup>th</sup> May, 2006**

### **Report of the Director of Law and Property**

### **Appointment and Membership of Committees for 2006/07 and Related Matters**

#### **Purpose of Report**

1. To consider the appointment and membership of Committees and a number of related matters for the 2006/07 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 (40 seats)  
Labour (26 seats)  
Liberal Democrat (5 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 2006/07 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, with the exception of any specific points and issues set out in this report, the terms of reference and onward delegations of functions for the remaining committees listed in paragraph 4 above, as set out in the Council's Constitution, be re-affirmed for the 2006/07 Municipal Year.

#### **Select Committees 2006/07**

8. On 4<sup>th</sup> April, 2006, the meeting of Select Committee Chairmen considered and made recommendations on the structure of Select Committees for 2006/07. These recommendations were referred to the Leader of the Council. For 2006/07, it is now proposed that the Council establish the following five Select Committees with the membership and terms of reference as set out in Appendix 1:-
  - Children's Services
  - Community Safety and Community Services
  - Environment
  - Health and Adult Social Care
  - Regeneration, Culture and Adult Education
9. All of the terms of reference have been given a common format with a clear reference to their statutory overview and scrutiny role. The work programme for each Select Committee will be linked directly to one or more of the Council's Community Strategy and Council Plan priorities.
10. It has been necessary for the Council to review its Select Committee structure for the following reasons:-
  - There is a requirement to ensure that Select Committees help the Council to fulfil additional statutory responsibilities, particularly with regard to services for children and young people and crime and disorder.
  - The new Community Strategy contains six fresh key priorities, which must be linked to the work of the Select Committees. In 2006/07, the work programme of each Select Committee will be linked directly to one or more of the Community Strategy and Council Plan priorities.

- Select Committees need to reflect changes brought about by the remodelling of Council Directorates in order to enable Directorates to focus their resources more efficiently in support of the scrutiny work undertaken by each Select Committee.
11. Select Committee Chairmen have also discussed the potential for duplication between Select Committees. The general principle for dealing with such circumstances is that the Select Committee with the “primary” service responsibility should take the lead on overlapping issues but, where appropriate, joint meetings/discussions should be held with other Select Committees. However, in areas where it is not clear that one Select Committee has the primary responsibility, a final decision will be made by the Select Committee Chairmen meeting as a Group. This is currently reflected in paragraph 18 of the Select Committee Procedure Rules within the Constitution.
  12. With regard to responsibility for corporate issues, the Select Committee on Economic Regeneration has previously been allocated responsibility for a number of corporate issues such as equality and diversity, human resources and ICT. It is proposed that the new Select Committee for Regeneration, Culture and Adult Education should retain corporate responsibility for equality and diversity. However, other corporate themes will be discussed before the start of each year by the Select Committee Chairmen who will agree a limited number of such themes for inclusion in the work plan for one or more of the Select Committees. As at present, however, each Select Committee will continue to scrutinise the Equality and Diversity Action Plans for a particular Directorate.

### **Appointment of Co-opted Representatives to Serve on the Select Committee on Children’s Services**

13. 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 Lifelong Learning. The persons appointed in 2005/06 were as follows:-

#### **Non-Elected Voting Members**

Parent Governor Representatives  
 Mr S R Smith – Secondary Schools  
 Mr G Dudley – Primary Schools  
 Vacancy – Special Schools

Church Representatives  
 Mrs A Capell – Worcester Diocesan Board of Education  
 Mr A M P Hatton – Archdiocese of Birmingham

#### **Non-elected, Non-voting Members**

Teacher Representatives:  
 Mrs S Hewitt-Clarkson – Primary Education  
 Mrs P Roe – Secondary Education  
 Church Representative:  
 Mr J Guest – Free Churches

Persons with experience of and interest in Education in the Borough:  
Mr H Nottingham  
Mrs G Simms

14. For 2006/07, 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 co-opted representatives to be appointed for 2006/07 will be submitted in the lists to be circulated at the meeting.

#### **Licensing Act 2003 – Statutory Functions**

15. 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 adopted by the Council in 2005/06 were successful. It is recommended that the 15 members appointed to the Licensing and Safety Committee continue to undertake 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. In practice, the majority of licensing applications are dealt with by five Licensing Sub-Committees. 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 2006/07 municipal year.
16. The Council, at its annual meeting held on 19<sup>th</sup> May, 2005, agreed to waive the proportionality requirement in respect of the five Sub-Committees of the Licensing and Safety Committee. It is proposed that the waiver in this regard be re-affirmed for 2006/07.

#### **Standards Committee**

17. 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**

18. 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 2006/07. 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.

## **Area Committees**

19. 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 & Stourbridge East  
Wollaston & Stourbridge Town

### **Halesowen**

Belle Vale  
Cradley & Foxcote  
Halesowen North  
Halesowen South  
Hayley Green & Cradley South

### **Brierley Hill**

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

### **Central Dudley**

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

### **North Dudley**

Coseley East  
Gornal  
Sedgley  
Upper Gornal & Woodsetton

20. 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.
21. 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**

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

## **Law**

23. 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.
24. 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.
25. 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).
26. 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.
27. The proportionality rules do not apply to the Standards Committee by virtue of Section 53(10) of the Local Government Act, 2000.
28. 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. 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.
29. 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.
30. 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.

## **Equality Impact**

31. 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. At its meeting on 15<sup>th</sup> March, 2006, the Cabinet suggested to Area Committees that one of their vacancies for a co-opted member be reserved for a representative of young people. This will be considered by each Area Committee during the next cycle of meetings.

## **Recommendations**

32. That the revised structure of Select Committees for 2006/07 be approved together with the memberships and terms of reference set out in the Appendix.
33. That the proposals relating to dealing with the potential for duplication between Select Committees and responsibility for corporate issues, as set out in paragraphs 11 and 12 of this report, be endorsed.
34. That the terms of reference and onward delegation of functions of the other Committees referred to in this report, and as set out in the Council's Constitution, be reaffirmed for the 2006/07 municipal year.
35. That, except for the Standards Committee and Area Committees, the composition and membership of Committees for the 2006/07 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.
36. That with regard to the Select Committee on Children's Services, the proposals in relation to co-opted representatives, as described in paragraphs 13 and 14 above, be endorsed.
37. That the 15 members of the Licensing and Safety Committee continue to undertake the statutory Committee functions in accordance with the Licensing Act 2003, as referred to in paragraph 15.
38. 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 16.
39. That the composition and membership of the Standards Committee for the 2006/07 municipal year be as shown on the lists to be circulated at the meeting.
40. That the terms of reference of the Standards Committee, as set out in the Council's Constitution, be reaffirmed for the 2006/07 municipal year.
41. That the arrangements for substitutes on Committees, as set out in Council Procedure Rules 5.2 to 5.4, be reaffirmed for the 2006/07 municipal year.
42. That Area Committees be appointed for the 2006/07 municipal year in accordance with paragraph 19 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.
43. That the 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.

John P. ...

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**Director of Law and Property**

**Background Papers**

The Council's Constitution.



**TERMS OF REFERENCE FOR SELECT COMMITTEES**

**1. SELECT COMMITTEE ON CHILDREN'S SERVICES**

**Membership**

11 Councillors, 5 voting Church and Parent Governor representatives, and 5 non-voting representatives, in accordance with paragraph 3 of the Select Committee Procedure Rules.

**Terms of Reference**

To fulfil all of the overview and scrutiny functions of a Select Committee as they relate to Children's Services and, in particular, the functions and responsibilities of the Council under the Children Act 2004 and associated Regulations and guidance, including:-

- (a) the roles and responsibilities of relevant partners;
- (b) listening to and involving children

with the objective of improving the well-being of all children in the Council's area by developing the "Every Child Matters" outcomes.

**2. SELECT COMMITTEE ON HEALTH AND ADULT SOCIAL CARE**

**Membership**

11 Councillors

**Terms of Reference**

- (a) To fulfil all of the overview and scrutiny functions of a Select Committee as they relate to the improvement of local health and adult social/health care services, as a contribution to the Council's community leadership role.
- (b) To create an annual Scrutiny Plan.
- (c) To make reports and recommendations to local National Health Service (NHS) bodies and to the Council on any matter reviewed or scrutinised which explain the matter reviewed, summarise the evidence considered, provides a list of participants in the scrutiny exercise, and makes any recommendations on the matter reviewed as appropriate.
- (d) To proactively receive information within given timescales, with some exceptions as per current Government Guidance, requested from local NHS bodies.
- (e) To be consulted by and respond to (as appropriate) NHS bodies in connection with the rationale behind any proposal and options for change

to local health services made by the NHS.

- (f) To ensure the involvement of local stakeholders, e.g. by co-opting individuals, as appropriate, to help the work of the Committee.
- (g) To take referrals from local Patients' Forums.
- (h) To act in accordance with Government Guidance relating to Health and Scrutiny.

### **3. SELECT COMMITTEE ON REGENERATION, CULTURE AND ADULT EDUCATION**

#### **Membership**

11 Councillors.

#### **Terms of Reference**

To fulfil all of the overview and scrutiny functions of a Select Committee as they relate to:-

- (a) the regeneration of communities in the area;
- (b) the physical regeneration of the area, including economic development;
- (c) assisting in the development of the Council's planning policies (including the Development Plan and other plans for the use and development of land);
- (d) the functions of the Council in relation to leisure, arts, sport and recreational activities to enhance the quality of life for local people;
- (e) the provision and management of museums, art galleries, theatres, local history service, libraries, leisure centres, swimming pools, parks and open spaces, cemeteries and crematoria, allotments and other like facilities;
- (f) the functions of the Council relating to adult education and training and community learning;
- (g) corporate issues relating to equality and diversity.

### **4. SELECT COMMITTEE ON THE ENVIRONMENT**

#### **Membership**

11 Councillors.

#### **Terms of Reference**

To fulfil all of the overview and scrutiny functions of a Select Committee as they relate to:-

- (a) the functions of the Council as local housing authority;

- (b) the functions of the Council as local highway authority;
- (c) promoting the environmental well-being of the area;
- (d) waste management.

**5. SELECT COMMITTEE ON COMMUNITY SAFETY AND COMMUNITY SERVICES**

**Membership**

11 Councillors.

**Terms of Reference**

To fulfil all of the overview and scrutiny functions of a Select Committee as they relate to:-

- (a) the crime and disorder functions of the Council under the Crime and Disorder Act 1998, or any other relevant legislation;
- (b) all other community safety issues affecting the Borough or any part of it,
- (c) the functions of the Council relating to social inclusion, community development, neighbourhood management and Dudley Council Plus.