

## ANNUAL MEETING OF THE COUNCIL – 19TH MAY 2005

### APPOINTMENT AND MEMBERSHIP OF COMMITTEES FOR 2005/06 AND RELATED MATTERS

#### REPORT OF THE DIRECTOR OF LAW & PROPERTY

##### 1.0 PURPOSE OF REPORT

- 1.1 To consider the appointment and membership of Committees and a number of related matters for the 2005/06 municipal year.

##### 2.0 BACKGROUND

- 2.1 The Council 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.
- 2.2 The proposals of the Majority Group in respect of issues (a) to (c) above and the nominations of the political groups regarding the nomination of members to serve on each Committee will be circulated at the meeting.
- 2.3 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 2005/06 municipal year it is proposed that the composition of the following Committees be determined in accordance with political balance:
- Development Control  
Licensing and Safety  
Taxis  
Disciplinary/Dismissal/Grading Appeals  
Social Services Appeals  
Audit  
Appointments  
Tree Preservation Orders  
The six Select Committees
- 2.4 It is also proposed that, with the exception of the specific points and issues set out below, the terms of reference and onward delegations of functions for the remaining committees listed in paragraph 2.3 above, as set out in the Council's Constitution, be re-affirmed for the 2005/06 Municipal Year.

- 2.5 During the year, discussions have been held with members regarding the need to clarify the functions of the Development Control and the Tree Preservation Orders Committees. Proposals for revised Terms of Reference and onward delegation of functions in respect of the Tree Preservation Orders Committee are set out in Appendix 1 to this report. These revisions, if agreed, will lead to deletions from the Terms of Reference and onward delegation of functions shown in respect of the Development Control Committee and the need for consequential amendments to the Constitution.
- 2.6 Section 499 of the Education Act, 1996 and the Education (Parent Governor Representatives) (England) Regulations 2001 require Local Education Authorities to appoint elected parent governor representatives to Committees dealing with Education. The Council has determined that such persons comprise one representative from each of the primary, secondary and special phases of education and that representatives be elected every two years. At elections held in 2004 and 2005 respectively for representatives to serve for the two year period expiring in 2006, Ms N Chapman and Mr S R Smith were elected to serve as the representatives for the primary and secondary phases of education but no nominations have been received in respect of the special phase at the initial or subsequent elections.
- 2.7 Similarly, where there are Church of England and Roman Catholic schools in the area of the Local Education Authority, a Ministerial Direction contained in DFES Circular 19/99 requires diocesan representatives to be appointed with a voting entitlement on educational matters on committees of the Local Education Authority dealing with education. Mrs A Capell and Mr A M P Hatton have been nominated by their respective dioceses to serve as non-elected voting, members of the Select Committee on Lifelong Learning as the representatives of the Church of England or the Roman Catholic Church for 2005/06.
- 2.8 In addition, the Council has approved that the following non-elected, non-voting representatives serve on the Select Committee on Lifelong Learning: one teacher representative of each of the primary and secondary education sectors; two representatives with an interest in, or knowledge of, education in the Borough and one representative of the Free Churches. Mr J Guest has been nominated by the Free Churches as their representative for 2005/06 and Mrs S Hewitt-Clarkson and Mrs P Roe have been nominated by ballot organised by the Directorate of Education and Lifelong Learning to serve as the teacher representatives for the Primary and Secondary sectors respectively. The names of the other two non-elected, non-voting representatives referred to above will be submitted in the lists to be circulated at the meeting.
- 2.9 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. During 2004/05, the Council has operated interim arrangements. For practical purposes, and to simplify administrative arrangements, it is recommended that the 15 members appointed to the Licensing and Safety Committee should 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 will be 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 2005/06 municipal year.

- 2.10 The terms of reference of Area Committees currently include a requirement for each Area Committee to produce a local community plan. This requirement needs to be viewed in context with other ongoing planning work, including area development frameworks, community planning, area/township planning and the Black Country study. To avoid the potential for duplication or confusion, it is recommended that it should no longer be a specific requirement for each Area Committee to produce a separate local community plan. This will not, however, prevent any individual Area Committee from developing its own local plan if appropriate.
- 2.11 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.
- 2.12 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.
- 2.13 The political balance rules in Section 15 of the Act do not apply to the Standards Committee by virtue of Section 53 (10) of the Local Government Act, 2000.
- 2.14 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.
- 2.15 The Council, at its meeting held on 6th December, 2004, 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 2005/06.
- 2.16 Council Procedure Rule 5.2 currently provides for the appointment of substitute members of Committees, as follows:-

For each Committee, the Council will appoint all other members of each political group as substitutes for each Group on that Committee. Members of the Cabinet will not be appointed as substitutes if they are not eligible to be members of that Committee. Any substitute nominated by a political group should be notified to the Director of Law and Property at least one hour before the start of the meeting.

In view of the establishment of Sub-Committees (see paragraph 2.9 above), consideration has been given to the appointment of substitute members on Committees or Sub-Committees hearing matters of a quasi-judicial nature. It is proposed that the following wording be added to Council Procedure Rule 5.2 and that the Director of Law and Property be authorised to amend the Constitution accordingly:-

“The appointment of a substitute member is permitted for every member on any body exercising functions of a quasi-judicial nature where it is necessary for that body to be of a prescribed size or there is a need to comply with the requirements of any statutory requirement or Government guidance. A substitute member shall only be appointed if he/she is otherwise eligible to serve on the body concerned. Any substitute nominated to serve on a quasi-judicial body should be notified to the Director of Law and Property prior to the commencement of the meeting in question.

A substitute member shall serve only for the duration of the meeting to which they are appointed as a substitute except in the case of a quasi-judicial body:-

- (a) where a member is required to withdraw for, or cannot attend to hear a particular case, where substitution will be permitted for that particular case.
- (b) where an adjourned meeting is reconvened and it is essential for the substitute member to consider a case to comply with the rules of natural justice. In these circumstances, the substantive member may not attend other than as an observer.

2.17 There are currently three political groups formally represented on the Council, viz:

Conservative (40 seats)  
Labour (25 seats)  
Liberal Democrat (6 seats)

2.18 Having reviewed the composition and number of Area Committees at the last annual meeting of the Council, Members are asked to confirm the current arrangements, 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

3.0 PROPOSALS

- 3.1 That, except for the Standards Committee and Area Committees, the composition and membership of Committees for the 2005/06 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.
- 3.2 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 2.9.
- 3.3 That with regard to the Select Committee on Lifelong Learning, the position in relation to non-elected members as described in paragraphs 2.6 to 2.8 above, be noted.
- 3.4 That the composition and membership of the Standards Committee for the 2005/06 municipal year be as shown on the lists to be circulated at the meeting.
- 3.5 That the arrangements for substitutes on Committees, as set out in Council Procedure Rule 5.2, be re-affirmed, and that the arrangements for substitution on Committees and Sub-Committees undertaking business of a quasi-judicial nature, as set out under paragraph 2.16 above, be added to Council Procedure Rule 5.2 and the Director of Law and Property amend the Constitution accordingly.

- 3.6 That Area Committees be appointed for the 2005/06 municipal year in accordance with paragraph 2.18 above; that the Committees comprise the Ward Councillors for the areas referred to and that the functions and protocol of Area Committees as set out in the Council's Constitution be re-affirmed, subject to the amendment to the terms of reference set out in paragraph 2.10.
- 3.7 That, subject to the proposals in respect of the Tree Preservation Orders Committee and Development Control Committee referred to in paragraph 2.5 above, the terms of reference and onward delegation of functions of the other Committees referred to in Paragraph 2.3 above, as set out in the Council's Constitution, be reaffirmed for the 2005/06 municipal year.
- 3.8 That the terms of reference of the Standards Committee, as set out in the Council's Constitution, be reaffirmed for the 2005/06 municipal year.
- 3.9 That the 15 members of the Licensing and Safety Committee be appointed to undertake the statutory Committee functions in accordance with the Licensing Act 2003, as referred to in paragraph 2.9.
- 3.10 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.
- 4.0 FINANCE
- 4.1 The financial implications arising from this report will be met from existing resources.
- 5.0 LAW
- 5.1 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.
- 5.2 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.
- 5.3 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).
- 5.4 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.
- 5.5 The proportionality rules do not apply to the Standards Committee by virtue of Section 53(10) of the Local Government Act, 2000.
- 5.6 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.

5.7 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.

5.8 The effects of Section 499 of the Education Act, 1996 and the Education (Parent Governor Representatives) Regulations, 2001 in respect of elected parent governors serving on Committees dealing with education are as described in paragraph 2.6 above.

## 6.0 EQUAL OPPORTUNITIES

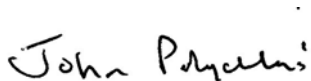
6.1 This report complies with the Council's policies with regard to equal opportunities.

## 7.0 RECOMMENDATIONS

7.1 That the proposals set out in Section 3 above be approved.

## 8.0 BACKGROUND PAPERS

### [The Council's Constitution](#)



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DIRECTOR OF LAW & PROPERTY

Committee	Membership	Functions	Onward Delegation of Functions
<u>Tree Preservation Orders</u>	Members of the Authority	<p>(1) To consider representations for the modification of and objections to Tree Preservation Orders made under Sections 198, 199 and 200 of the Town and Country Planning Act, 1990 and subsequently to determine such orders.</p> <p>(2) To revoke Tree Preservation Orders.</p> <p>(3) The consideration of reports by the Ombudsman into complaints of maladministration; and the local settlement of complaints to the Ombudsman for sums above £2000.</p> <p>(4) To vary Tree Preservation Orders.</p> <p>(5) Powers relating to the preservation of trees.</p> <p>(6) The determination of all applications relating to the felling of trees subject to a Tree Preservation Order or in a Conservation Area.</p> <p>(7) Power to licence planting, retention and maintenance of trees etc in part of the highway.</p>	<p><u>Director of the Urban Environment</u></p> <p>(1) The local settlement of complaints to the Ombudsman up to £2000.</p> <p>(2) The service of Notices under Sections 207, 208 and 209 of the 1990 Act requiring replacement trees.</p> <p>(3) The determination of applications for minor pruning work to trees the subject of a Tree Preservation Order, with the exception of applications which do not have the support of the Council's arboriculturalist or which have attracted an objection from the public.</p> <p>(4) The determination of applications to lop or fell trees in Conservation areas.</p> <p>(5) Power to licence planting, retention and maintenance of trees etc in part of the highway, subject to consultation with the Area Committee.</p> <p><u>Director of Law and Property</u></p> <p>(1) To vary a Tree Preservation Order if no new trees or woodlands are added to the Order.</p> <p>(2) To vary a Tree Preservation Order, where new trees or woodlands are added to the Order, provided that there are no objections from any person affected by the Order.</p> <p>(3) the making (and confirmation where unopposed) of Tree Preservation Orders under Sections 198, 199, 200 and 201 of the 1990 Act, in consultation with the Director of the Urban Environment.</p> <p>(4) the institution of prosecution proceedings under Section 210 of the 1990 Act for contraventions of Tree Preservation Orders.</p> <p>(5) the institution of prosecution proceedings under Sections 211-214 of the 1990 Act for causing damage to trees in Conservation Areas.</p>