

Annual Meeting of the Council – 19th May, 2011

Report of the Director of Corporate Resources

Appointment and Membership of the Cabinet and Committees for 2011/12 and Related Matters

Purpose of Report

1. To appoint the Deputy Leader and Members of the Cabinet and to consider the appointment and membership of Committees and a number of related matters for the 2011/12 municipal year.

Background

Appointment of the Deputy Leader and Members of the Cabinet

2. 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, Councillors appointed to the Cabinet by the Leader.
3. The Leader will report at the meeting on the appointment of the Deputy Leader and the designation of Cabinet Members for the 2011/12 municipal year, as set out in the lists to be circulated at the meeting. The Constitution provides that Cabinet Members appointed by the Leader shall hold office until:
 - (a) they resign from office; or
 - (b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
 - (c) they are no longer Councillors; or
 - (d) they are removed from office, either individually or collectively, by the Leader.
4. 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. The Opposition Group nominations will be made in accordance with proportionality. These nominations will be made through the Director of Corporate Resources.

Appointment and Membership of Committees

5. The Council's Procedure Rules prescribe that the Council, at its Annual Meeting, will appoint at least one Select (ie: Scrutiny) 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.

6. There are currently two political groups represented on the Council:-

Conservative (43 seats)
Labour (28 seats)

A political group is constituted where two or more Members of the Council give notice that they wish to be treated as a group.

7. 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 2011/12 municipal year it is proposed that the composition of the following Committees be determined in accordance with political balance:

Appointments
Appeals Panel (Children's Services Transport)
Audit
Development Control
Disciplinary/Dismissal/Grading Appeals
Shadow Dudley Health and Wellbeing Board
Licensing and Safety
Scrutiny Committees (x5)
Taxis
Tree Preservation Orders

8. 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.
9. 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.

Terms of Reference and Onward Delegation of Functions

10. On 28th February, 2011, the Council approved the establishment of a Shadow Dudley Health and Well Being Board as a Council Committee. Further work has been undertaken to develop the associated procedures and protocols for the Board. This work will continue to be progressed in the context of national developments relating to the Health and Social Care Bill and emerging guidance. The terms of reference and membership relating to the Board are set out in Appendix 1. This work will be progressed by the Director of Corporate Resources in consultation with the Leader and the Cabinet Member for Adult and Community Services.
11. Subject to the recommendations made at this meeting, it is proposed that the terms of reference and onward delegations of functions for all other Committees, as set out in the Council's Constitution, be re-affirmed for the 2011/12 Municipal Year. The former Select Committees are being redesignated as Scrutiny Committees to more accurately reflect their roles. The Constitution will be updated to reflect this change and any associated working arrangements, including work programming and the process for the submission of reports to Scrutiny Committees.

Appointment of Co-opted Representatives to Serve on the Children's Services Scrutiny Committee and the Health and Adult Social Care Scrutiny Committee

12. The Council has previously appointed co-opted representatives to serve on the Select Committee for Children's Services. The persons appointed in 2010/11 were as follows:-

Non-Elected Voting Members

Parent Governor Representatives
Secondary Schools - Vacancy
Primary Schools - Vacancy
Special Schools - Mr D Tinsley

Church Representatives
Worcester Diocesan Board of Education - Revd A Wickens
Archdiocese of Birmingham - Mrs M Ward

Non-elected, Non-voting Members

Teacher Representatives:
Primary Education - Mrs M Verdegem
Secondary/Special Education - Mrs P Roe
Church Representative:
Free Churches - Mr S Taylor
Persons with experience of and interest in Education in the Borough:
Mrs G Simms
Mrs J Lees

13. For 2011/12, it is proposed that co-opted representatives be appointed to serve on the Children's Services Scrutiny Committee on the same basis as outlined above. The names of the persons nominated for co-option to the Committee for 2011/12 will be submitted in the lists to be circulated at the meeting.
14. The Select Committee on Health and Adult Social Care has previously agreed to co-opt the Chairman of Dudley's Local Involvement Network (LiNK) to the Committee as a non-voting Member. The Council is recommended to extend this appointment to the Health and Adult Social Care Scrutiny Committee for 2011/12. However, this will be reconsidered in the light of national developments to abolish the LiNK and replace it with a successor body.
15. In order to mitigate any delay in their serving, the Council has previously authorised the Director of Corporate Resources, in 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 2011/12.

Licensing Act 2003 – Statutory Functions

16. 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 previously adopted by the Council have been successful. 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 2010/11. In practice, the majority of licensing applications are dealt with by the four 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 2011/12 municipal year.
17. The Council has previously decided to waive the proportionality requirement in respect of the four Sub-Committees of the Licensing and Safety Committee. It is proposed that the waiver be re-affirmed for 2011/12.

Standards Committee

18. Notwithstanding the current proposals in the Localism Bill, it remains 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 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. The report at Agenda Item No. 10 proposes that a cross-party Member Working Group should consider the implications of the Localism Bill during 2011/12. Any recommendations will be presented to the Cabinet and the Council during the year as necessary.

Substitute Members of Committees

19. 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 2011/12. 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.

Changes in Committee Memberships

20. 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 or Sub-Committee Memberships to reflect the wishes of the various political groups. It is therefore recommended that the Director of Corporate Resources be authorised to make any such changes that might arise from time to time in accordance with the instructions of the Leaders of the political groups.

Designation of Member Champions

21. It has been the practice of the Council in recent years to designate a number of "Member Champions" for various key corporate issues and particular areas of focus. These designations are not formally required under the Constitution, however, Member involvement through the 'Champions' designation helps to promote corporate working, improve Member engagement and assist in promoting understanding of issues facing the Council.

22. In 2010/11, the following Member Champions were appointed:

Community Cohesion – Councillor Mrs Millward
Equality * – Councillor Mrs. Shakespeare
Community Safety – Councillor A. Turner
Information and Communications (ICT) Technology (e-Champion) – Councillor L Jones
Heritage Buildings – Councillor Stanley
Cycling – Councillor Attwood
Member Development - Councillor Mrs. P. Martin
Small Business – Councillor Knowles
Older People - Councillor Mrs. P. Martin
Learning Disabilities – Councillor Vickers
Physical Disabilities - Councillor Banks
Mental Health - Councillor Mrs. Greenaway
Autism – Councillor Burston
Adult Safeguarding - Councillor J. D. Davies

(* NB: With regard to executive functions, the Cabinet Member for Personnel, Legal and Property held responsibility for Equality and Diversity issues)

23. The proposed designation of Member Champions for 2011/12 will be included on the lists to be circulated at the meeting. Any necessary changes to the designations will be made by the Leader of the Council by way of a decision sheet during the municipal year.

Area Committees

24. 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 Stourbridge North
Norton
Pedmore and Stourbridge East
Wollaston and Stourbridge Town

Halesowen

Belle Vale
Cradley and Wollescote
Halesowen North
Halesowen South
Hayley Green and Cradley South

Brierley Hill

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

Central Dudley

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

North Dudley

Coseley East
Gornal
Sedgley
Upper Gornal and Woodsetton

25. 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.

26. The election of the Chairmen and Vice-Chairmen of Area Committees will be considered at the first meeting of each Committee in the municipal year, together with the question of the appointment of any non-elected co-opted representatives.

Finance

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

Law

28. The relevant statutory provisions regarding the Constitution and arrangements with respect to executives are contained in Part II of the Local Government Act, 2000, as amended by the Local Government Public Involvement in Health Act 2007, together with Regulations, Orders and Statutory Guidance issued by the Secretary of State. The rules on proportionality (which are applied to the nomination of representatives from opposition group(s) at meetings of the Cabinet) are contained in the Local Government and Housing Act, 1989 and associated regulations.
29. 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.
30. 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.
31. 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).
32. 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.
33. The proportionality rules do not apply to the Standards Committee by virtue of Section 53(10) of the Local Government Act, 2000. The Standards Committee (England) Regulations 2008 contain provisions relating to the constitution and general proceedings of Standards Committees and Sub-Committees.
34. 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 Sub-Committees established by the Licensing and Safety Committee, to enable them to deal with all licensing business requiring Member determination.

35. 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.
36. 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 Children's Services Scrutiny Committee.

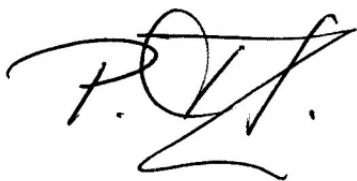
Equality Impact

37. This report has no direct implications for the Council's policies with regard to equality and diversity. Decisions taken by the Council, the Cabinet 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. The appointment of co-opted Members to Area Committees will be considered by each Area Committee during the next cycle of meetings. Area Committees have the option of reserving a place amongst the co-opted Members for representative groups (including young people).

Recommendations

38. That the Council note the report of the Leader on the appointment of the Deputy Leader and Members of the Cabinet for the 2011/12 municipal year, as set out in the list circulated at the meeting.
39. That subject to the redesignation of Select Committees as Scrutiny Committees, the structure of Committees for 2011/12 be approved on the basis set out in this report and the Director of Corporate Resources be authorised to make any necessary and consequential changes to the Constitution relating to the ongoing working arrangements of Scrutiny Committees.
40. That the terms of reference and membership of the shadow Dudley Health and Wellbeing Board, as set out in Appendix 1, be approved and the Director of Corporate Resources, in consultation with the Leader and the Cabinet Member for Adult and Community Services, be authorised to make any necessary amendments and to adopt operational protocols in the light of future legislation and associated guidance.
41. That the terms of reference and onward delegation of functions of the Committees referred to in this report, and as set out in the Council's Constitution, be reaffirmed for the 2011/12 municipal year.
42. That, except for the Standards Committee and Area Committees, the composition and Membership of Committees for the 2011/12 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.

43. That with regard to the Children's Services Scrutiny Committee and the Health and Adult Social Care Scrutiny Committee, the proposals in relation to co-opted representatives and the arrangements for the filling of vacancies for co-opted Members, be approved.
44. That the Licensing and Safety Committee be appointed in 2011/12 to undertake the statutory Committee functions in accordance with the Licensing Act 2003 and that the Committee comprise 12 Members.
45. 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.
46. That the composition and membership of the Standards Committee for the 2011/12 municipal year be as shown on the lists to be circulated at the meeting.
47. That the terms of reference of the Standards Committee, as set out in the Council's Constitution, be reaffirmed for the 2011/12 municipal year, pending further consideration of the implications of the Localism Bill when enacted.
48. That the arrangements for substitutes on Committees, as set out in Council Procedure Rules 5.2 to 5.4, be reaffirmed for the 2011/12 municipal year.
49. That the Director of Corporate Resources be authorised to make any necessary changes to the appointments to Committees or Sub-Committees that might arise from time to time during the 2011/12 municipal year in accordance with the instructions of the political groups.
50. That the proposed designation of Member Champions for 2011/12, as nominated by the Leader of the Council, be as set out in the lists to be circulated at the meeting.
51. That Area Committees be appointed for the 2011/12 municipal year; 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.
52. That the appointment of Chairmen and Vice Chairmen of Committees be approved in accordance with the list to be circulated at the meeting (with the exception of Area Committees and the Shadow Dudley Health and Wellbeing Board who appoint their own).



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Philip Tart
Director of Corporate Resources

**SHADOW DUDLEY HEALTH AND WELLBEING BOARD
MEMBERSHIP**

1.0 DUDLEY MBC

Elected Members: Cabinet Member for Adult and Community Services; Cabinet Member for Integrated Children's Services; one member from the Opposition Group

Officers: Director of Adult, Community and Housing Services; Director of Children's Services; Director of the Urban Environment (or their nominees)

Safeguarding Board: Chairs (2)

2.0 DUDLEY GP COMMISSIONING CONSORTIUM / NHS DUDLEY

Dudley GP Commissioning Consortium: Chair; 2 GP Consortium Board Members.

Dudley PCT (until abolished): Chair; Chief Executive; Director of Public Health (will form part of DMBC representation upon disestablishment of the PCT)

**3.0 VOLUNTARY / COMMUNITY SECTOR AND PATIENT REPRESENTATIVE:
LINKs (until abolished); Dudley CVS Chief Executive; Dudley Community Partnership Director**

NOTE:

The NHS Commissioning Board may be invited as required.

Representation from other NHS providers which include the Dudley Group of Hospitals, NHS Foundation Trust, the Dudley and Walsall Mental Health Partnership NHS Trust; the Sandwell Mental Health and Social Care Foundation NHS Trust or any others may also be invited as appropriate.

The Chairman of the Health and Adult Social Care Scrutiny Committee will be entitled to attend as an observer at the invitation of the Board.

SHADOW DUDLEY HEALTH AND WELLBEING BOARD

TERMS OF REFERENCE AND ROLE

Purpose

- To promote integration and partnership working between the NHS, social care, public health and other local services and improve democratic accountability.
- To deliver better health and wellbeing outcomes for children and adults, quality of care and value for money, reduce service overlaps or gaps in provision and facilitate services working together.
- To agree priorities for the benefit of patients and taxpayers, informed by local people and neighbourhood needs.

Role

1. To provide leadership and democratic accountability to improve health and well-being and reduce inequalities.
2. To promote integration and partnership working, through the encouragement of coherent commissioning strategies between the NHS, social care, public health and other local services.
3. To assess the needs of the local population and approve the Joint Strategic Needs Assessment (JSNA) as prepared by the Dudley MBC & the GP Commissioning Consortium.
4. To develop, in the light of the JSNA, a joint health and wellbeing strategy, setting out how the health and wellbeing needs of the community will be addressed, as the concise, high level, overarching framework within which specific commissioning plans for the NHS, social care, public health and other services, which the board agrees to consider, are developed.
5. To make recommendations to the Dudley Community Partnership and other bodies, pertaining to the improvement of health and wellbeing, as appropriate.
6. To support joint commissioning and pooled budget arrangements as a means of delivering service priorities and receive regular reports on the operation of such arrangements.
7. To receive reports from other partnership bodies, including Mental Health, Older People's, Learning Disabilities, Children's, Safeguarding Boards for Children's and Adults, GP Commissioning Consortium and other bodies or services that may be established to promote partnership working.
8. To determine appropriate partnership structures required to deliver the Board's responsibilities.