

Annual Meeting of the Council – 20th May, 2010

Report of the Director of Corporate Resources

Appointment and Membership of the Cabinet and Committees for 2010/11 and Related Matters

Purpose of Report

1. To receive a report on the appointment of 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 2010/11 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 2010/11 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 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:

- decide the size and terms of reference for Committees;
- appoint Chairmen and Vice-Chairmen for Committees;
- decide the allocation of seats and substitutes to political groups in accordance with the political balance rules;
- 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 (44 seats)
Labour (26 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 2010/11 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
Licensing and Safety
Select 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 12th April, 2010, the Standards Committee considered a report on Section 30 of the Local Democracy, Economic Development and Construction Act 2009, relating to the designation of Politically Restricted Posts within the Council. The requirement to designate such posts has been in place since 1989, however, the new provisions require some changes in the way such posts are designated in future. The report to the Standards Committee can be viewed on the [Council's website](#).

11. Duties under Section 30 of the 2009 Act will be discharged by the Director of Corporate Services. In practice, the list of Politically Restricted Posts will be co-ordinated centrally by the Assistant Director (Citizenship and Human Resources) and reviewed on an annual basis. Employees who are included in the list of "Sensitive Posts" have a right of appeal to the Standards Committee on the grounds that the criteria have been wrongly applied. Accordingly, it is recommended that the function to determine appeals be allocated to the terms of reference of the Standards Committee.
12. 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 2010/11 Municipal Year.

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

13. The Council has previously appointed co-opted representatives to serve on the Select Committee for Children's Services. The persons appointed in 2009/10 were as follows:-

Non-Elected Voting Members

Parent Governor Representatives
Vacancy – Secondary Schools
Mr J. Jones – Primary Schools
Vacancy – Special Schools

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

Non-elected, Non-voting Members

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

14. For 2010/11, 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 persons nominated for co-option to the Committee for 2010/11 will be submitted in the lists to be circulated at the meeting.

15. During 2009/10, the Select Committee on Health and Adult Social Care 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 into 2010/11.
16. In order to mitigate any delay in their serving, the Council, has previously authorised the Director of Corporate Services, 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 2010/11.

Licensing Act 2003 – Statutory Functions

17. 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 2009/10. 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 2010/11 municipal year.
18. 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 2010/11.

Standards Committee

19. 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

20. 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 2010/11. 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

21. 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

22. 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.

23. In 2009/10, the Leader of the Council appointed the following Member Champions:

Community Cohesion – Councillor Mrs Millward
Equality * – Councillor Mrs. Shakespeare
Community Safety – Councillor A. Turner
Information and Communications Technology (e-Champion) – Councillor Jones
Heritage Buildings – Councillor Stanley
Cycling – Councillor Attwood
Member Development - Councillor Mrs. P. Martin
Small Business – Councillor Knowles

Adult Social Care Champions

- Older People - Councillor Miller
- Learning Disabilities – Councillor Vickers
- Physical Disabilities - Councillor Banks
- Mental Health - Councillor Mrs. Greenaway
- Adult Safeguarding - Councillor J. D. Davies

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

24. The proposed designation of Member Champions for 2010/11 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

25. 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 and Stourbridge East
Wollaston and Stourbridge Town

Halesowen

Belle Vale
Cradley and Foxcote
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

26. 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.
27. 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.

Scrutiny Officer

28. Section 31 of the Local Democracy, Economic Development and Construction Act 2009 refers to the appointment and responsibilities of Scrutiny Officers. This Section came into force on 1st April, 2010.
29. The Act requires local authorities to appoint one of their officers to discharge the following functions and who will be known as the authority's "Scrutiny Officer":
- to promote the role of overview and scrutiny committees;
 - to provide support to overview and scrutiny committees and the Members of those committees;
 - to provide support and guidance, in relation to the functions of overview and scrutiny committees, to Members and officers of the Council.
30. The following officers cannot be appointed as the Scrutiny Officer:-
- the Head of Paid Service designated under Section 4 of the Local Government and Housing Act 1989 – ie: the Chief Executive;
 - the Monitoring Officer designated under Section 5 of that Act – ie: the Director of Corporate Resources;
 - the Chief Finance Officer [Section 151 Officer] – ie: the Treasurer.
31. Subsection (2) of Section 31 of the Act sets out the functions that a Scrutiny Officer may undertake. Typically, a Scrutiny Officer will promote the scrutiny function generally within the Council and local government partners more widely, and provide advice and support to Members of the Council's Committee(s) in undertaking their work. The Constitution will need to be updated to make reference to the designation and duties of the Scrutiny Officer as referred to above.
32. In view of his experience in supporting the Council's existing Select Committees, it is recommended that the Assistant Director of Adult, Community and Housing Services (Housing Strategy and Private Sector), Ron Sims, be initially designated as the Council's Scrutiny Officer in accordance with Section 31 of the Local Democracy, Economic Development and Construction Act 2009.

Finance

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

Law

34. 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.

35. 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.
36. 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.
37. 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).
38. 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.
39. 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.
40. 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.
41. 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.
42. 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.
43. Section 30 of the Local Democracy, Economic Development and Construction Act 2009, deals with the arrangements for the designation of Politically Restricted Posts within the Council.
44. Section 31 of the Local Democracy, Economic Development and Construction Act 2009 requires the designation of one of the Council's Officers as the Scrutiny Officer.

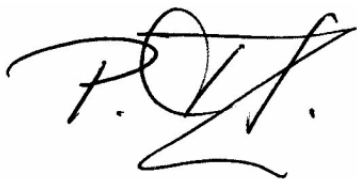
Equality Impact

45. 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

46. That the Council note the report of the Leader on the appointment of the Deputy Leader and Members of the Cabinet for the 2010/11 municipal year, as set out in the list circulated at the meeting.
47. That the structure of Committees for 2010/11 be approved on the basis set out in this report.
48. 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 2010/11 municipal year.
49. That the Director of Corporate Resources be authorised to discharge the functions set out in Section 30 of the Local Democracy, Economic Development and Construction Act 2009, relating to Politically Restricted Posts and that the function to determine appeals be allocated to the terms of reference of the Standards Committee.
50. That, except for the Standards Committee and Area Committees, the composition and Membership of Committees for the 2010/11 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.
51. That with regard to the Select Committee on Children's Services and the Select Committee on Health and Adult Social Care, the proposals in relation to co-opted representatives and the arrangements for the filling of vacancies for co-opted Members, be approved.
52. That the Licensing and Safety Committee be appointed in 2010/11 to undertake the statutory Committee functions in accordance with the Licensing Act 2003 and that the Committee comprise 12 Members.
53. 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.
54. That the composition and membership of the Standards Committee for the 2010/11 municipal year be as shown on the lists to be circulated at the meeting.

55. That, subject to the amendment referred to in paragraph 49 above, the terms of reference of the Standards Committee, as set out in the Council's Constitution, be reaffirmed for the 2010/11 municipal year.
56. That the arrangements for substitutes on Committees, as set out in Council Procedure Rules 5.2 to 5.4, be reaffirmed for the 2010/11 municipal year.
57. 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 2010/11 municipal year in accordance with the instructions of the political groups.
58. That the proposed designation of Member Champions for 2010/11, as nominated by the Leader of the Council, be as set out in the lists to be circulated at the meeting.
59. That Area Committees be appointed for the 2010/11 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.
60. That the appointment of 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.
61. That Ron Sims, Assistant Director of Adult, Community and Housing Services (Housing Strategy and Private Sector), be designated as the Council's Scrutiny Officer in accordance with Section 31 of the Local Democracy, Economic Development and Construction Act 2009.
62. That the Director of Corporate Resources be authorised to make the necessary amendments to the Constitution to include the designation and duties of the Scrutiny Officer.



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Philip Tart
Director of Corporate Resources