

Annual Meeting of the Council – 18th May, 2023

Report of the Lead for Law and Governance (Monitoring Officer)

Appointment and Membership of the Cabinet and Committees for 2023/24 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 related matters for the 2023/24 municipal year.

Recommendations

2. That the Council note the report to be circulated at the meeting concerning the appointment of the Deputy Leader and Members of the Cabinet for the 2023/24 municipal year, together with the designation and appointment of Cabinet Members.
3. That the structure of Committees for 2023/24 be approved as set out in the lists to be circulated at the meeting.
4. That the terms of reference and functions of Committees, as set out in Part 3 of the Constitution, be approved subject to any consequential amendments arising from decisions made at this meeting.
5. That, with the exceptions referred to in this report, the composition and membership of Committees for the 2023/24 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.
6. That the proposals for the appointment of co-opted representatives to serve on relevant Committees and the arrangements for the filling of vacancies be approved.

7. That the Licensing and Safety Committee be appointed in 2023/24 to undertake the statutory Committee functions in accordance with the Licensing Act 2003 and that the Committee comprise 12 Members.
8. That the Council confirm that the proportionality requirements of the Local Government and Housing Act 1989 shall not apply to Licensing Sub-Committees established by the Licensing and Safety Committee or to any Sub-Committee established by the Audit and Standards Committee to hear complaints against Members under the Members' Code of Conduct.
9. That the appointment of Chairs and Vice-Chairs be approved in accordance with the lists to be circulated at the meeting.
10. That the arrangements for substitutes on Committees, as set out in Council Procedure Rules, be reaffirmed for the 2023/24 municipal year.
11. That the Planning (Site Visits) Working Group be appointed for the 2023/24 Municipal Year to undertake visits to sites where the Committee has resolved that there should be a site visit and that the Working Group comprise all Members of the Planning Committee.
12. That Working Groups be appointed for the 2023/24 Municipal Year for Scrutiny/Select Committees, as appropriate, and that the membership of the Working Groups comprise all Members of the relevant Committees.
13. That the Dudley Health and Wellbeing Board be re-established in 2023/24 on the basis set out in this report.
14. That the 'Your Home, Your Forums' be re-established in 2023/24 on the basis previously approved by the Council.
15. That Revd Adam Hadley, Richard Phillips and William Read be appointed as Independent Persons for the period ending with the annual meeting of the Council in May, 2027.
16. That the Monitoring Officer be authorised to take any necessary and consequential actions that are required to implement the proposals contained in this report and any other decisions that are taken at this meeting of the Council.

Background

Appointment of the Deputy Leader and Cabinet Members

17. 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 other Councillors appointed to the Cabinet by the Leader. Under Article 7, it is the responsibility of the Leader to maintain the list of responsibilities and executive functions allocated to Cabinet Members.
18. The Cabinet will comprise of 10 members (including the Leader) with the designations shown on the lists to be circulated at the meeting. The list of responsibilities and executive functions allocated to Cabinet Members (and onward delegations to Officers) is set out under Part 3 of the Constitution and will be updated with any consequential changes arising from this meeting.
19. The Leader will report at the meeting concerning the appointment of the Deputy Leader and the designation of Cabinet Members for the 2023/24 municipal year. The Constitution provides that Cabinet Members appointed by the Leader shall hold office until:
 - (a) they resign from office; or
 - (b) they are no longer Councillors; or
 - (c) they are removed from office, either individually or collectively, by the Leader.
20. 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. It is the Council's practice that all Shadow Cabinet Members are invited to attend formal Cabinet meetings.

Appointment and Membership of Committees

21. The Council's Procedure Rules prescribe that the Council, at its Annual Meeting, will appoint at least one Scrutiny 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:

- (a) decide the size and terms of reference for Committees;
- (b) appoint Chairs and Vice-Chairs 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.

Proposals in respect of the above and the nominations of the political groups regarding Members to serve on each Committee will be circulated at the meeting.

22. There are currently 2 political groups represented on the Council:-

Conservative (44 seats)

Labour (26 seats)

There is one independent Member and one vacancy. The proportionality Regulations provide that a political group is constituted where two or more Members of the Council give notice that they wish to be treated as a group.

23. Under Sections 15 and 16 of the Local Government and Housing Act 1989, the Council is required to provide for political balance on Committees. The composition of Committees, in accordance with political balance, will be set out in the lists to be circulated at the meeting.
24. 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.
25. Section 17 of the Local Government and Housing Act 1989 authorises the Council to approve different arrangements (eg: not reflecting political balance) provided that no Member of the Council votes against them.

Scrutiny Arrangements for 2023/24

26. It is proposed to establish Committees for 2023/24 in accordance with the lists to be circulated at the meeting.
27. Ongoing consultation is taking place on items for inclusion in the Annual Scrutiny Programme. Flexibility will be retained to respond to any issues that arise during the year. It is proposed that Working Groups are established for the Committees as appropriate.

Terms of Reference and Onward Delegation of Functions

28. The terms of reference and onward delegation of functions are set out in Part 3 of the Constitution. The Council has previously delegated authority to the Monitoring Officer to make any urgent, necessary or consequential changes to the Constitution arising from Council restructuring and to reflect any changes in legislation or other statutory provisions. It is proposed that this delegation should remain in place for 2023/24.

Appointment of Co-opted Representatives

29. Co-opted Members will be appointed to serve on the relevant Committees in 2023/24 in accordance with the lists circulated at the meeting.
30. To mitigate any delay in their serving, the Council has previously authorised the Monitoring Officer, following 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 2023/24.

Licensing Act 2003 – Statutory Functions

31. 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 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 2022/23. In practice, the majority of licensing applications are dealt with by the Licensing Sub-Committees. For 2023/24, it is proposed to appoint Licensing Sub-Committees on the same basis as the previous year. 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 2023/24 municipal year.
32. The Council has previously decided to waive the proportionality requirements in respect of the Licensing Sub-Committees. It is proposed that the waiver be re-affirmed for 2023/24.

Former Appeals Committee

33. In view of policy changes implemented during 2022/23, it will no longer be necessary to establish a separate Appeals Committee for 2023/24. It is suggested, however, that the residual function to determine any appeals in cases where a right of appeal to elected members exists under any of the Council's policies or procedures be delegated to the Audit and Standards Committee.
34. The Audit and Standards Committee has the discretion to establish a Sub-Committee in the event that any appeals arise during 2023/24 that may require Member determination.

Member Complaints and Standards Matters

35. The Audit and Standards Committee has previously established a Standards Sub-Committee to hear and determine complaints against Members and Co-opted Members. The appointment of the Sub-Committee will be considered at the first meeting of the Audit and Standards Committee in the municipal year.

Substitute Members of Committees

36. Council Procedure Rule 5 provides for the appointment of substitute Members on Committees. The arrangements for the appointment of substitute Members have worked successfully and it is recommended that they be continued in 2023/24.
37. 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 includes a requirement, particularly in the case of quasi-judicial meetings (eg: Planning and Licensing Committees), that the Member concerned has undertaken the necessary training as required by the Council.

Changes to the Composition of Committees

38. 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 Memberships to reflect the wishes of the political groups. Under Article 4.02 of the Constitution, the Monitoring Officer is authorised to make any necessary changes to the

composition of Committees that might arise from time to time in accordance with the requirements of the Leaders of political groups.

Planning Committee

39. A Site Visits Working Group has previously been established to allow for site visits by Members. Site visits are undertaken in appropriate circumstances as provided for in the Code of Conduct for Members and Officers dealing with planning matters (as set out in the Council's Constitution). The Working Group will comprise all Members of the Planning Committee. It is proposed that the Site Visits Working Group be established on the same basis for 2023/24.

Dudley Health and Wellbeing Board

40. The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 make provision for the disapplication and modification of certain enactments relating to local authority committees, including the rules on proportionality. The Regulations aim to provide local areas with the flexibility and freedom to shape health and wellbeing boards to fit local circumstances.
41. The Dudley Health and Wellbeing Board is established under Section 194 of the Health and Social Care Act 2012 and operates within its own terms of reference and associated governance arrangements.
42. The Chair and Vice-Chair are appointed by the Board at its first meeting in the municipal year.

Your Home, Your Forums

43. The Council has previously established 5 Forums. The Forums comprise the elected representatives of the following wards:-

Brierley Hill

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

Dudley North

- Coseley East/Gornal/Sedgley/Upper Gornal and Woodsetton

Dudley

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

Halesowen

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

Stourbridge

- Amblecote/Lye and Stourbridge North/Norton/Pedmore and Stourbridge East/Wollaston and Stourbridge Town

It is proposed that the Forums are re-established for 2023/24 on the same basis as in the previous municipal year.

Appointment of Independent Persons – Member Complaints and Standards Matters

44. Under the Localism Act 2011, the Council is required to appoint an Independent Person (or Persons) to assist the Monitoring Officer in dealing with complaints and related standards matters.
45. The role of an Independent Person is to assist the Council in promoting high standards of conduct by Councillors and Co-opted Members. An Independent Person is consulted on decisions to investigate complaints and before a decision is made on any investigated complaints. They may be consulted on other standards matters.
46. On 7th October, 2019, the Council appointed Revd. Adam Hadley as an Independent Person for a term ending with this Annual Meeting of the Council. The Monitoring Officer has delegated powers to recommend the Council on the appointment of Independent Person(s) required under the Localism Act 2011 and any relevant Regulations.
47. Following a recent public advertisement, three applications were received. More detailed information about the applicants is being circulated to Members. To increase capacity and to deal with situations where any of the Independent Persons are unable to act for any reason, it is recommended that Revd Adam Hadley, Richard Phillips and William Read be appointed as Independent Persons for the period ending with the annual meeting of the Council in May, 2027.

Finance

48. The financial implications arising from the proposals in this report will be met from existing resources.

Law

49. The relevant statutory provisions regarding the Constitution and arrangements with respect to executive functions are contained in Part II of the Local Government Act, 2000, as amended, and the Localism Act 2011, together with Regulations, Orders and Statutory Guidance issued by the Secretary of State.
50. 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.
51. Seats on Committees must be allocated to political groups on a proportional basis in accordance with the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990.
52. 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).
53. The rules on proportionality do not apply to the Your Home Your Forums because the Forums are not Committees of the Council and they comprise all the ward councillors for the areas concerned.
54. The implications of the Localism Act 2011 have been reflected in this report, including the freedoms to consider governance structures and the provisions relating to standards.
55. 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 Licensing Sub-Committees established by the Licensing and Safety Committee, to enable them to deal with all licensing business requiring Member determination. This is also applied to any Sub-Committee established by the Audit and Standards Committee to consider complaints against Members under the Council's standards arrangements.

56. The rules on proportionality do not apply to the Dudley Health and Wellbeing Board established under Section 194 of the Health and Social Care Act 2012. The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 specifically disapply the proportionality rules in respect of Health and Wellbeing Boards.
57. The effects and principles contained in Section 499 of the Education Act 1996, Department for Education and Science 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 relevant Committee(s).

Risk Management

58. This report deals with the Council's governance arrangements, which will ensure that the Council considers any ongoing material risks as part of the Risk Management Framework.

Equality Impact

59. The requirements to consider the Council's policies on equality and diversity, along with duties under the Equality Act 2010, are fully reflected in the Council's governance structures and decision-making processes. Decisions taken by the Council, the Cabinet and Committees during the year on policy issues and the implementation of the Council Plan framework will involve actions to promote equality and diversity and in relation to children and young people.

Human Resources/Organisational Development

60. The Council's governance arrangements will be administered from existing resources.

Commercial/Procurement

61. Decisions taken by the Council, the Cabinet and Committees will reflect the Council Plan objectives to maximise value from procurement, deliver social value and develop a commercial focus as appropriate.

Environment/Climate Change

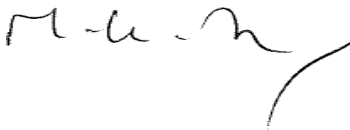
62. Within our governance arrangements, the Council requires that all reports should include an assessment of the impact on the environment. The Council has declared a Climate Emergency and

reports on individual proposals should address the impact on the Council's work to address Climate Change and achieve the Net Zero target by 2041. In addition, individual reports should consider how the proposals support the [United Nations sustainable development goals](#)

63. To reinforce the Council's commitment, the Leader established a specific Cabinet portfolio for Waste Management and Climate Change in May 2022. The Council also established the Climate Change and Environment Scrutiny Committee for the 2022/23 municipal year.

Council Priorities and Projects

64. This report deals with the Council's governance arrangements to underpin the delivery of key Council priorities including the Borough Vision, Council Plan and Future Council Programme. Reports to meetings and decision takers will include details of how proposals impact on or contribute to Council priorities.



Mohammed Farooq
Lead for Law and Governance
(Monitoring Officer)