

## **Annual Meeting of the Council – 5<sup>th</sup> June, 2014**

### **Report of the Director of Corporate Resources**

### **Appointment and Membership of the Cabinet, Committees and Community Forums for 2014/15 and Related Matters**

#### **Purpose of Report**

1. To receive a report of the Leader 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 2014/15 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 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.
3. The Leader is proposing that the Cabinet comprises of 10 members (including himself) with the designations shown on the lists to be circulated at the meeting. The list of responsibilities and executive functions allocated to Cabinet Members is set out under Part 3 of the Constitution and these will be updated accordingly.
4. The Leader will report at the meeting on the appointment of the Deputy Leader and the designation of Cabinet Members for the 2014/15 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 no longer Councillors; or
  - (c) they are suspended from being councillors (although they may resume office at the end of the period of suspension); or
  - (d) they are removed from office, either individually or collectively, by the Leader.

5. 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.

### **Appointment and Membership of Committees**

6. 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.

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.

7. There are currently three political groups represented on the Council:-

Labour (40 seats)

Conservative (20 seats)

UKIP (9 seats)

(NB: There are 2 Independent Conservative Councillors and 1 Councillor representing the Green Party)

The 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.

8. Under Sections 15 and 16 of the Local Government and Housing Act 1989, the Council is required to provide for political balance on Committees. It is proposed that the composition of the following Committees be determined in accordance with political balance:

Overview and Scrutiny Management Board

Scrutiny Committees (x5)

Appeals Committee

Appointments Committee

Audit and Standards Committee

Development Control Committee

Ernest Stevens Trusts Management Committee

Licensing and Safety Committee

Taxis Committee

9. 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.

10. 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**

11. The terms of reference and onward delegation of functions are set out in Part 3 of the Constitution.

### **Appointment of Co-opted Representatives to Serve on the Children's Services Scrutiny Committee and the Health Scrutiny Committee**

12. The Council has previously appointed co-opted representatives to serve on the Children's Services Scrutiny Committee. The persons appointed in 2013/14 were as follows:-

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

Parent Governor Representatives  
Secondary Schools - Vacancy  
Primary Schools - Vacancy  
Special Schools - Vacancy

#### Church Representatives

Worcester Diocesan Board of Education – Revd Wickens  
Archdiocese of Birmingham – Mrs Ward

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

Teacher Representatives:  
Primary Education – Mrs Verdegem or Ms Sinden  
Secondary/Special Education – Mr Lynch or Mr Nesbitt

#### Church Representative:

Free Churches – Mr Taylor

#### Persons with experience of and interest in Education in the Borough:

Mrs Coulter  
Mr Ridley

13. On 29<sup>th</sup> April, 2014, the Overview and Scrutiny Management Board considered the composition and membership of the Children's Services Scrutiny Committee with particular reference to the need to reflect the wider remit of the Scrutiny Committee in future. The Board noted the existing provisions in the Council's Constitution and the statutory regulations that remain in force concerning the appointment of co-opted members for education issues. The Board resolved that a further report be submitted to its next meeting to review the composition and membership of the Children's Services Scrutiny Committee. Pending such consideration, the Council is recommended to re-appoint the existing co-opted members. The statutory co-opted members will also be required to serve on any meetings of the Overview and Scrutiny Management Board that may be necessary to determine scrutiny 'call ins', insofar as they concern education issues.

14. The Health Scrutiny Committee assists the Council to fulfil statutory scrutiny functions and respond to the provisions of the Health and Social Care Act 2012. The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 make provision for greater flexibilities for local authorities in discharging health scrutiny functions. These include obligations on NHS bodies, relevant health service providers and local authorities concerning consultation on substantial developments or variations to services to aid transparency and local agreement. The requirements of the Regulations are reflected in the functions of the Health Scrutiny Committee. A co-opted member representing Healthwatch was co-opted onto the Committee in the last municipal year and it is proposed that this should continue for 2014/15.
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 2014/15.

### **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 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 2013/14. In practice, the majority of licensing applications are dealt with by the Licensing Sub-Committees. For 2014/15, 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 2014/15 municipal year.
17. The Council has previously decided to waive the proportionality requirement in respect of the Licensing Sub-Committees. It is proposed that the waiver be re-affirmed for 2014/15.

### **Appeals Committee**

18. The Appeals Committee has delegated powers to determine all appeals in cases where a right of appeal to elected members exists under any of the Council's policies or procedures.
19. The Appeals Committee comprises 9 elected members in total. It is proposed that for 2014/15, the Director of Corporate Resources be authorised, in consultation with the Chair, to select 3 or 5 elected Members from the 'pool' of 9 Members to serve as appropriate to the individual appeal case being determined (eg: 3 Members for school transport appeals or 5 Members for employment related disciplinary appeals). The selection of members will be done in line with overall political proportionality. Training will be provided to Members prior to their hearing any individual appeals.

## **West Midlands Police and Crime Panel**

20. The West Midlands Police and Crime Panel is established as a joint Committee of the 7 West Midlands District Councils, with a membership of 12 elected members and 2 co-opted members . The membership of the Panel comprises a Councillor from each of the 7 West Midlands Councils plus 5 additional elected members to be appointed on the basis of 2 from Birmingham City Council; 2 to be jointly nominated by the Black Country Councils and 1 member to be jointly nominated by Coventry City Council and Solihull Metropolitan Borough Council. As in 2013/14, the Council is requested to endorse the establishment of the West Midlands Police and Crime Panel as a joint Committee on the basis outlined above. A report elsewhere on the agenda deals with the appointment of this Council's representative to this body (and a named substitute) for the 2014/15 municipal year.

## **Integrated Transport Authority (ITA)**

21. Changes to the terms of reference for the West Midlands Joint Committee, including the creation of an interim Shadow ITA were approved by the Council on 2<sup>nd</sup> December, 2013. Approval of the Secretary of State for Transport has now been given to the revised future governance arrangements in relation to the ITA. The Membership of the new ITA will comprise 7 members nominated by the individual authorities forming the geographic area of the ITA, who will lead on strategy, prioritisation, commissioning and seeking new investment on transport for the area. Each authority in the West Midlands is recommended to appoint its Leader to reflect the greater use of West Midlands Leaders to assist with effective regional decision-making.
22. The new ITA and the 7 Metropolitan Districts also need to form a Joint Committee called 'Centro Members'. This will initially have a membership of 27 appointed in the same way as previously done for the former ITA. This Joint Committee will take responsibility for operational transport matters and, as required, advise the new ITA on matters referred to them. They will form appropriate sub-committees as necessary to direct Centro's delivery role. Assurance has been given to the Secretary of State that the new ITA will conduct a review of the membership of Centro Members in the coming year and this will be carried out.
23. The Terms of Reference for the new ITA and for Centro Members are available on the Council's Internet site (via the Committee Management Information System) and copies are available from Democratic Services (Tel: 01384 815235). The Council is recommended to note the governance arrangements of the ITA and to endorse the establishment of the Joint Committee to be known as Centro Members. The appointment of this Council's representative(s) is dealt with under a separate agenda item. It is also recommended that the Director of Corporate Resources be authorised to take any consequential action that is required, including agreeing and entering into any such documentation, as may be necessary in connection with this matter.

## **Substitute Members of Committees**

24. 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 2014/15.

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 Appeals Committee), that the Member concerned has undertaken any necessary training as required by the Council.

## **Changes in Committee Memberships**

25. 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. 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.

## **Dudley Health and Wellbeing Board**

26. 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.
27. The Dudley Health and Wellbeing Board is established under Section 194 of the Health and Social Care Act 2013. It is recommended that the Board be established in 2014/15 on the same basis as in the previous municipal year. The elected Members nominated to serve on the Board for 2014/15 will, therefore, be as follows:

Cabinet Member for Health and Wellbeing  
Cabinet Member for Adult and Community Services  
Cabinet Member for Children's Services and Lifelong Learning  
Main Opposition Spokesperson for Health and Wellbeing

## **Community Forums**

28. During the previous municipal year, the Council established 10 Community Forums. In 2013/14, the Community Forums comprised the elected representatives of the following wards:-

- Amblecote/ Cradley and Wollescote/ Lye and Stourbridge North
  - Belle Vale/ Hayley Green and Cradley South
  - Brierley Hill/Brockmoor and Pensnett
  - Castle and Priory/ St James's/ St Thomas's
  - Coseley East/ Sedgley
  - Gornal/ Upper Gornal and Woodsetton
  - Halesowen North/Halesowen South
  - Kingswinford North and Wall Heath/Kingswinford South/Wordsley
  - Netherton, Woodside and St Andrew's/ Quarry Bank and Dudley Wood
  - Norton/Pedmore and Stourbridge East/Wollaston and Stourbridge Town
29. The political balance rules do not apply to Community Forums as these are not Committees of the Council and comprise all the ward Councillors for the areas concerned.
30. The appointment of the Chairs and Vice-Chairs of Community Forums will be considered at the first meeting of each Forum in the municipal year.
31. The Community Forums have been, and will continue to be, the subject of an ongoing review process. The Overview and Scrutiny Management Board considered a full review report on 29<sup>th</sup> April, 2014. The Board approved various proposals to build on successes to date and improve the Community Forums for the future. In particular, the Chairs and Lead Officers are being asked to establish priorities and an improvement agenda for individual Forums at the start of the municipal year. To facilitate this process, and to allow a discussion on the future of Community Forum grants, a meeting of Chairs/Vice-Chairs and Lead Officers will shortly be arranged.

### **Finance**

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

### **Law**

33. 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 are contained in the Local Government and Housing Act 1989 and associated regulations.

34. 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.
35. 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.
36. 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).
37. The rules on proportionality do not apply to Community Forums because the Forums are not Committees of the Council and they comprise all the ward councillors for the areas concerned.
38. 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.
39. 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. It is recommended that this should also apply to any Sub-Committee established by the Audit and Standards Committee to consider complaints against Members under the Council's standards arrangements.
40. 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 2013. 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.
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 and principles contained in 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 current appointment of co-opted representatives to serve on the Children's Services Scrutiny Committee.
43. The provisions relating to the establishment of the Police and Crime Panel are contained in the Police Reform and Social Responsibility Act 2011. The West Midlands Police and Crime Panel is established as a joint Committee of the 7 West Midlands District Councils.



44. Changes to the governance arrangements in respect of the Integrated Transport Authority were confirmed by the Secretary of State for Transport in the West Midlands Integrated Transport Authority (Decrease in Number of Members) Order 2014. The body to be known as 'Centro Members' will be established as a joint Committee of the 7 West Midlands District Councils.

### **Equality Impact**

45. The requirements to consider the Council's policies with regard to equality, 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 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.

### **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 2014/15 municipal year, as set out in the list circulated at the meeting, together with the designations of Cabinet Members.
47. That the structure of Committees be approved on the basis set out in this report and the lists circulated at the meeting.
48. That the terms of reference and functions of Committees, as set out in Part 3 of the Constitution, be approved.
49. That, with the exceptions referred to in this report, the composition and Membership of Committees for the 2014/15 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.
50. That with regard to the Children's Services Scrutiny Committee and the Health Scrutiny Committee, the proposals in relation to co-opted representatives and the arrangements for the filling of vacancies for co-opted Members as referred to in paragraphs 12 to 15, be approved.
51. That the statutory co-opted representatives serving on the Children's Services Scrutiny Committee be appointed to serve on the Overview and Scrutiny Management Board for the duration of any meetings that are necessary to determine any scrutiny 'call ins', insofar as they concern education issues only.
52. That the Licensing and Safety Committee be appointed in 2014/15 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 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.
54. That the Council endorse the continued establishment of the West Midlands Police and Crime Panel as a joint Committee of the 7 West Midlands District Councils on the basis referred to in paragraph 20.
55. That the governance arrangements of the Integrated Transport Authority be noted; that the establishment of the Joint Committee to be known as Centro Members be approved on the basis set out in paragraphs 22 and 23; and that the Director of Corporate Resources be authorised to take any necessary and consequential actions that may be required in connection with this matter.
56. That the arrangements for substitutes on Committees, as set out in Council Procedure Rules 5.2 to 5.4, be reaffirmed for the 2014/15 municipal year.
57. That the Director of Corporate Resources be authorised to make any necessary changes to the appointments to Committees that might arise from time to time during the 2014/15 municipal year in accordance with the instructions of the political groups.
58. That Community Forums be established, on the basis outlined in paragraphs 28 to 31.
59. That the Dudley Health and Wellbeing Board be established in 2014/15 on the same basis as in the previous municipal year, as set out in paragraph 27.
60. That the appointment of Chairs and Vice-Chairs be approved in accordance with the list to be circulated at the meeting (with the exception of Community Forums and the Dudley Health and Wellbeing Board who appoint their own).
61. That the Director of Corporate Resources be authorised to take any necessary and consequential actions that are required to implement the proposals contained in this report.



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**Philip Tart**  
**Director of Corporate Resources**