

Meeting:	Council
Meeting date:	Friday 26 January 2018
Title of report:	Appointments to Council committees
Report by:	Solicitor to the Council

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To exercise those powers reserved to Council to:

(a) confirm its committees' terms of reference and the functions of those committees following a recommendation from General Scrutiny Committee in relation to the governance arrangements relating to the council acting as accountable body for public funding to support the establishment of a new university;

(b) approve the allocation of seats to political groups following by elections held since the last meeting of Council; and

(c) appoint to the position of vice-chairmen of Employment Panel following the resignation of Cllr Morgan.

Recommendation(s)

THAT:

- (a) the existing functions of committees be confirmed as sufficient to supervise the discharge of accountable body functions in relation to public funding supporting the establishment of a new university in Hereford;**
- (b) the allocation of committee seats to political groups as set out at paragraph 13 be approved; and**

- (c) **the appointment of a Vice Chairman of the Employment Panel be approved.**

Alternative options

1. It is open to Council to determine which committee or individual should discharge any particular Council function on its behalf; those functions which are executive functions remain a matter for the Cabinet.
2. The council has a statutory responsibility to ensure that appointments to committees are undertaken proportionately in line with the political composition of the council. Following by elections since the annual meeting of council on 19 May 2017 there has been a change in political proportionality necessitating a review of the allocation of seats. There are no alternative options proposed as this report and its recommendations ensures compliance with statutory duties.
3. The appointment of chairmen and vice chairmen of committees is reserved to Council. It is open to Council not to make an appointment to the position of vice chairman of Employment Panel; if that option were chosen, in the event of the chairman of the panel not being present at a panel meeting a vote would be taken to elect a chairman to preside at the meeting in accordance with the council's procedure rules.

Key considerations

Discharge of accountable body functions

4. Following the award of some £22m government funding to support the establishment of a new university in Hereford (NMiTE), the council was asked by the project sponsors to act as accountable body for the funding. Before taking a decision on the matter the cabinet sought the views of the General Scrutiny Committee. The committee were broadly supportive of the request and, taking account of the recommendations of the committee regarding clarification and mitigation of the risk of claw-back of funding, cabinet approved the request.
5. In coming to a view, the General Scrutiny Committee also recommended that Council be asked to "...put in place a robust and appropriate governance framework to supervise the discharge of its responsibility as the accountable body itself, or delegate this role to a committee/sub-committee providing sufficient detail on the mechanism by which this role is to be discharged is provided to any such body to enable it to fulfil its role".
6. It is an executive function to determine whether or not to act as accountable body for a particular funding stream, and how that responsibility is fulfilled remains an executive function. The council acts as accountable body for a number of significant funding streams including the Fastershire broadband project, the Marches Buildings Investment Fund, and the European LEADER programme, and reports on the delivery of these programmes in the normal corporate performance process.
7. In addition, Council has determined that the functions of the Audit and Governance Committee should include to:
 - monitor the effective development and operation of risk management and corporate governance in the council; and
 - review and agree the external auditor's plan.

8. Given the scope of the functions of Cabinet, and the delegations already in place to Audit and Governance it is not recommended that further changes to the committee's terms of reference are required.

Allocation of seats

9. Council is required to review its political composition and allocate seats proportionately to political groups. At the annual meeting of council on 19 May 2017 the following was resolved in respect of political proportionality and appointments to committees: the committees at the council and their terms of reference; the number of seats on each committee and the allocation of seats to political groups; the allocation of seats on outside bodies to political groups; appointments to outside bodies to be determined by the chief executive in consultation with group leaders; the appointment of five co-opted members to the children and young people scrutiny committee; the suspension of the rules of proportionality in respect of the licensing sub-committee, the River Lugg Internal Drainage Board, the Wye Valley AONB Joint Advisory Committee; and the appointment of committee chairman and vice-chairmen.
10. Since the annual meeting of council there have been by elections, most recently in Kings Acre ward on 26 October 2017 and Bishops Frome and Cradley Green ward on 23 November 2017. Following these by elections the current membership of the respective political groups at the council is shown in the table below:

Group	Number
Conservative group	28
Green group	4
Herefordshire Independents	8
It's Our County	10
Liberal Democrats	2
Not aligned	1
<i>Total</i>	<i>53</i>

11. Council is under a duty to ensure membership of its committees covered by the relevant rules reflects the political composition of the council, as far as practicable, by allocating seats on the committees to the political groups in proportion to their numerical strength on the council, whilst also maintaining a similar proportional balance of overall seat numbers. Once Council has approved the allocation of seats to political groups, it is a matter for the relevant political group leaders to confirm which of their members will take up any seats allocated to their group. Cabinet (as the executive) and the health and wellbeing board (with a membership set out by statute) are both exempt from the requirements of political proportionality. Any member who is not aligned is not entitled to an allocation of seats within these rules.
12. In addition to the health and wellbeing board where minimum membership is determined by statute, Council has agreed to establish committees of council as listed in the table below. The terms of reference for these committees are set out within the functions scheme of the constitution.

Committee	Seats
Adults and wellbeing scrutiny	7
Audit and governance	7
Children and young people scrutiny	7

Employment panel	5
General scrutiny	7
Planning and regulatory	15
<i>Total seats</i>	<i>48</i>

13. The following table details the allocation of seats on the above committees based on the political proportionality of the council as set out in paragraph 10 above. The only proposed change in the allocation of seats to political groups since the annual meeting of council on 19 May 2017 concerns the transfer of one seat on the Children and Young People Scrutiny committee from the Its Our County Group to the Herefordshire Independents Group.

	Conservative	Green	Herefordshire Independents	Its Our County	Liberal Democrats	Total committee seats
Adults and wellbeing scrutiny	4	0	1	1	1	7
Audit and governance	4	0	1	2	0	7
Children and young people scrutiny	4	1	1	1	0	7
Employment panel	3	0	1	1	0	5
General scrutiny	4	1	1	1	0	7
Planning and regulatory	8	1	2	3	1	15
<i>Total</i>	<i>27</i>	<i>3</i>	<i>7</i>	<i>9</i>	<i>2</i>	<i>48</i>

14. The changes to the political composition of the council, resulting from recent by elections, is not of sufficient significance to result in a change to the allocation of seats on the outside bodies to which the rules of political proportionality apply.

Appointment of Vice Chairman of Employment Panel

15. On 19 May 2017 Council elected chairmen and vice-chairmen to committees. The position of vice chairman of the Employment Panel has been vacant with effect from 1 August 2017 and a replacement appointment is sought.

Community impact

16. The council's code of corporate governance includes a commitment to the principle of behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law. The allocation of seats as set out in this report reflects adherence to the statutory requirements regarding allocation of seats on committees to political groups.

Equality duty

17. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
18. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.

Resource implications

19. The proposal in this report concerns the exchange of a seat on a committee of the council from one political group to another. There are no resource implications arising from the recommendation relating to political proportionality.
20. There is no special responsibility allowance payable for the vice chairman of the employment panel therefore the decision to appoint a vice chairman has no resource implications.

Legal implications

21. The council is required to ensure that the allocation of seats to committees is compliant with relevant rules contained in the Local Government and Housing Act 1989 and regulations made under that act.
22. In summary these regulations require that in determining the allocation of seats the council must apply the following four principles as far as reasonably practicable:
- a. that not all the seats on the body are allocated to the same political group;
 - b. that the majority of the seats on the body is allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;
 - c. subject to paragraphs (a) and (b) above, that the number of seats on the ordinary committees of a relevant authority which are allocated to each political group bears the same proportion to the total of all the seats on the ordinary committees of that authority as is borne by the number of members of that group to the membership of the authority; and
 - d. subject to paragraphs (a) to (c) above, that the number of the seats on the body which are allocated to each political group bears the same proportion to the number of all the seats on that body as is borne by the number of members of that group to the membership of the authority.
23. The proposals in this report comply with these requirements.
24. The appointment of committee vice chairman and setting the terms of committees is a decision for council.

Risk management

25. If the functions and roles of the committees at the council are not clear there is a risk that the transparency and accountability of governance arrangements could be undermined. The recommendations in this report ensure that this risk is effectively mitigated.
26. Failure to appoint to committees and outside bodies could render them inquorate or unlawful; failure to obey the legislative requirements of political proportionality could similarly render a committee or body unlawful. The recommendations in this report mitigate these risks.
27. Although failure to appoint to vice chairmanships carries minimal risk of challenge it is important to ensure that appointments to the vice chairmanship of the employment panel are made to allow the panel to carry out its functions effectively. The recommendations in this report mitigate the risk involved in the failure to appoint.

Consultees

28. None

Appendices

None

Background papers

None identified