

Supplement to the agenda for

Council

Friday 25 May 2018

10.30 am

**The Council Chamber - The Shire Hall, St. Peter's Square,
Hereford, HR1 2HX**

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Supplement – ITEM 8 - Appointments to Council Committees and Outside Bodies

A new version of the report for agenda item 8, appointments to council committees and outside bodies, is contained in this supplement including the following changes:

- Removal of licensing sub-committee from the list of bodies concerned with the suspension of the rules of political proportionality.
- Addition of appointment to chairman of licensing sub committee.

Changes to the report are:

Recommendation f – removal of the licensing sub-committee.

Paragraph 12 – removal of the licensing sub-committee from the table in this paragraph.

Appendix A – inclusion of the appointment of the chairman of the licensing sub committee, as below:

Committee	Post
Licensing sub committee	Chairman

Legal implications

The licensing sub-committee is not an ordinary committee of the council. It is a statutory committee. Therefore the rules of political proportionality do not apply and there is no need to suspend the rules of proportionality for these bodies.

The chairman of the licensing sub committee will be a member of the planning and regulatory committee. The vice chairman of the planning and regulatory committee is not the necessarily the standing chairman of the licensing sub committee. Whilst the two posts may be held by the same member this is not a constitutional requirement.

Background papers – none identified.

Meeting:	Council
Meeting date:	Friday 25 May 2018
Title of report:	Appointment to Council committees and outside bodies
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 at its annual meeting:

- (a) To confirm its committees and the number of seats on each, including terms of reference and functions of those committees;
- (b) To approve the allocation of seats to political groups for the coming year;
- (c) To make appointments to the positions of chairmen and vice-chairmen of committees; and
- (d) To make arrangements for such appointments to committees and other bodies as may be necessary, including co-optees.

Recommendation(s)

THAT:

- (a) **the list of ordinary committees listed at paragraph 8 be confirmed with their terms of reference as set out in the council's constitution;**
- (b) **the number of seats on each committee as set out at paragraph 8, and**

the allocation of those seats to political groups as set out at paragraph 9 be approved;

- (c) the allocation of seats on outside bodies to political groups as set out at paragraph 10 be approved;
- (d) it be noted that all other representation on outside bodies be decided by the chief executive, following consultation with the group leaders, in accordance with the provisions of the constitution;
- (e) the Leader of the Council be delegated authority to annually appoint a chairman of the health and wellbeing board from those members of the executive appointed to the board, in accordance with the terms of reference agreed by Council;
- (f) the suspension of the rules of proportionality in respect of the standards panel, the River Lugg Internal Drainage Board, the Wye Valley AONB Joint Advisory Committee be approved; and
- (g) the appointment of committee chairmen and vice chairmen of the committees listed at appendix 1 be approved.

Alternative options

1. To draw up a different set of committees of a different size and composition with different terms of reference. The Audit and Governance Committee has reviewed the constitution introduced in May 2017 and has not recommended any changes to the committee structure of the Council.

Key considerations

2. Council is required to review its political composition and how this is applied to appointments to committees and sub-committees of the council at each annual meeting of Council. Similarly, the constitution requires Council to review its ordinary committees at the annual meeting and make appointments to them.
3. Following a change in the membership of It's Our County on 9 May 2018 the membership of the respective political groups is shown in the table below.

Group	Number
Conservative group	28
Green group	4
Herefordshire Independents	8
It's Our County	9
Liberal Democrats	2
Not aligned	2
<i>Total</i>	<i>53</i>

4. Council is under a duty to ensure membership of those committees and outside bodies 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),

the licensing sub committee (a statutory committee) and the health and wellbeing board (with a membership set out by statute) are exempt from the requirements of political proportionality. Any member who is not aligned is not entitled to an allocation of seats within these rules.

5. These rules of political proportionality should also be applied when allocating seats on outside bodies to which the council makes three or more appointments.
6. It is open to Council to suspend the rules of political proportionality in relation to allocation of seats on any particular body. To do so requires approval by Council with no member voting against the proposal; this is known as a *nem con* vote. Abstentions do not invalidate such a vote.
7. 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>

8. The minimum membership of the health and wellbeing board is prescribed by statute. Political proportionality rules are also disapplied by statute. The recent review of the constitution included a focus on the operation and membership of the health and wellbeing board. The recommendations arising from the review form part of the business on the agenda of this annual Council meeting. To ensure that the appointment of a chairman of the health and wellbeing board takes account of the changes proposed under the constitutional review a delegation to the Leader is recommended. The delegation to the Leader provides authority to appoint each year an eligible candidate to the position of chairman of the health and wellbeing board, in accordance with the terms of reference agreed by Council.
9. 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 4 above.

	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	1	1	1	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>4</i>	<i>7</i>	<i>8</i>	<i>2</i>	<i>48</i>

10. Those outside bodies to which three or more appointments are currently made on a politically proportionate basis are detailed in the table below, with the allocation of seats based on the political proportionality of the council as set out in paragraph 4 above. During the course of the 2018/19 municipal year governance arrangements for the Hereford and Worcestershire Fire and Rescue Service will transfer from the current Fire Authority to the West Mercia Police and Crime Commissioner. Once the transfer has been completed the Fire Authority will be abolished and there will no longer be a requirement to appoint members to the body. The transfer of responsibilities is currently scheduled for 1 June 2018 with the final meeting of the Fire Authority on 30 May 2018.

	Conservative	Green	Herefordshire Independents	Its Our County	Liberal Democrats	Total seats on body
Fire authority	4	0	1	1	0	6
Standing advisory council for religious education	2	0	0	1	0	3
<i>Total</i>	<i>6</i>	<i>0</i>	<i>1</i>	<i>2</i>	<i>0</i>	<i>9</i>

11. The council is required to appoint certain education representatives onto the scrutiny committee at which educational matters are considered; in Herefordshire's case this is the children and young people scrutiny committee. Specifically the council must co-opt representatives from parent governors and relevant diocesan representatives (Church of England and Roman Catholic). There is a statutory election process by which the parent governor representatives are selected, with one representative being sought from each of the primary, secondary and special school sectors. Each relevant diocese has been asked to nominate their diocesan representative.
12. In line with previous practice, it is proposed to suspend the rules of political proportionality in relation to a small number of specified bodies. These are detailed in the table below together with the reason for seeking the suspension.

Body	Seats	Reason for exemption
Standards panel	1	This panel is formed on an ad hoc basis as and when needed; its Herefordshire council membership is drawn from the membership of the audit and governance committee which is itself politically proportionate.
River Lugg Internal Drainage Board	7	This is a geographically focused body therefore it is appropriate to nominate members from relevant wards.
Wye Valley AONB Joint Advisory Committee	4	This is a geographically focused body therefore it is appropriate to nominate members from relevant wards.

13. Council is required to appoint the chairmen and vice chairmen of committees listed at paragraph 8 above, and of the health and wellbeing board. The vice chairman of planning and regulatory committee can fulfil the role of standing chairman of licensing sub-committee. The chairman will call for nominations to each post in turn and in the event of

there being more than one nominee for any one post a vote will be held in accordance with council procedure rules.

14. Under section 30 and 31 of the Localism Act 2011 ('the Act'), any members who are nominated for positions which attract a special responsibility allowance under the councillors' allowances scheme have a pecuniary interest in that item. As a result the members may not participate in any discussion or vote on the matter.
15. The monitoring officer, having received a written request on behalf of all members affected by the preceding paragraph, has granted a dispensation to all members who have a pecuniary interest.
16. The dispensation is granted under section 33 (2)(a) of the Act, as it is considered that without the dispensations the number of persons prohibited by section 31(4) from participating in the item in question would be so great a proportion of the members of Council as to impede the transaction of the business. This dispensation is from both section 31(4)(a) and section 31(4)(b) of the Act.
17. Those members affected may therefore participate in the discussion and vote on all of the recommendations, although individual members should refrain from voting in respect of recommendation (g) where they are nominated.

Community impact

18. In accordance with the council's adopted code of corporate governance, Herefordshire Council is accountable for how it uses the resources under its stewardship, including accountability for outputs and outcomes achieved. In addition the council has an overarching responsibility to serve the public interest in adhering to the requirements of legislation and government policies. The report and the decisions it enjoins enables the council to meet its statutory duties and fulfil the objective in the corporate plan to secure better services, quality of life and value for money.

Equality duty

19. 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.
20. 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 the administrative functions of the Council, we do not believe that it will have an impact on our equality duty.

Resource implications

21. Budgets are in place to cover allowances for any appointments made.

Legal implications

22. 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.

23. 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.

24. The proposals in this report comply with these requirements.

25. Alternative arrangements not complying with these requirements as set out in paragraph 12 may be made so long as no member of the council votes against it.

Risk management

26.

Risk / opportunity	Mitigation
Failure to appoint to committees and outside bodies could render them inquorate or unlawful	The recommendations in this report mitigate these risks
Failure to obey the rules of political proportionality could similarly render a committee or body unlawful	The recommendations in this report mitigate these risks

Consultees

27. None

Appendices

Appendix 1: Chairman/vice chairman posts

Background papers

None identified

Appendix 1: Committee chairman and vice chairman posts May 2018

Committee	Post
Adults and wellbeing scrutiny	Chairman
	Vice chairman
Audit and governance	Chairman
	Vice chairman
Children and young people scrutiny	Chairman
	Vice chairman
Employment panel	Chairman
	Vice chairman
General scrutiny	Chairman
	Vice chairman
Planning and regulatory	Chairman
	Vice chairman
Licensing sub-committee	Chairman

