

<b>MEETING:</b>	<b>COUNCIL</b>
<b>DATE:</b>	<b>27 MAY 2011</b>
<b>TITLE OF REPORT:</b>	<b>COMMITTEES AND OUTSIDE BODIES 2011/2012</b>
<b>REPORT BY:</b>	<b>ASSISTANT DIRECTOR LAW, GOVERNANCE AND RESILIENCE</b>

**CLASSIFICATION: OPEN**

## **Purpose**

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 and to received nominations from those groups.
- (c) To make appointments to the positions of Chairmen and Vice-Chairmen of committees.
- (d) To make arrangements for such appointments to committees and other bodies as may be necessary, including co-optees
- (e) To adopt terms of reference and functions for the committees

## **Recommendation(s)**

**THAT:**

- (a) **the list of ordinary committees be confirmed and the allocation of seats on those committees to political groups be made as indicated in the table below paragraph 16;**
- (b) **the seats on other bodies to which the allocation of seats to groups falls to be made by this Council be as indicated in the table below paragraph 18 and all other representation on outside bodies in accordance with the Appendix be decided by the Chief Executive in consultation with the Group Leaders;**
- (c) **the allocation of seats (if any) to the ungrouped member be agreed at the meeting;**
- (d) **the wishes of the political groups as to filling their respective allocations of seats be noted;**

- (e) **the appointments of Chairmen and Vice-Chairmen be confirmed in accordance with the list tabled at the meeting;**
- (f) **the terms of reference and functions of committees be adopted as detailed in the report and the Monitoring Officer be authorised to make these and any other consequential amendments to the Constitution;**
- (g) **that the partial suspension of the rules of proportionality, in respect of the Regulatory Sub-Committee, the River Lugg Internal Drainage Board and the Wye Valley AONB Joint Advisory Committee, be approved.**

## **Key Points Summary**

- It is a legal requirement for the Council 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, or as soon as practicable after that meeting.
- In determining the allocation of seats the Council must apply four principles as set out in paragraph 6 of this report as far as reasonably practicable.
- Certain committees are exempt from the rules of proportionality.
- -Should Council wish to allocate seats on a different basis from that of political proportion, this can only be made where they are approved by Council without any Member voting against (known as a nem con vote by Council). In this report it is proposed to take a nem con vote in respect of the Regulatory Sub-Committee the River Lugg Internal Drainage Board and the Wye Valley AONB Joint Advisory Committee.
- Options relating to the allocation of seats are outlined in paragraphs 16 – 21.
- The Constitution (at Part 4.5.3) provides that co-optees are appointed by the Council annually.
- The Constitution (at Part 4.1.5.2) requires that the Annual Council Meeting decides the terms of reference for Committees and agrees the functions of those committees set out in Part 3 (Sections 5 and 6) of the Constitution.

## **Alternative Options**

- 1 The report outlines the options available to Council on the allocation of seats.

## **Reasons for Recommendations**

- 2 It is a requirement for the Council 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, or as soon as practicable after that meeting.

## **Introduction and Background**

- 3 The Local Government and Housing Act 1989 requires that the Council reviews the political composition of the Council and how this is applied to appointments to committees and sub-committees of the Council at each Annual Meeting of Council, or as soon as practicable after that meeting.

- 4 The rules for securing political balance on committees and sub-committees appointed by local authorities are contained in sections 15 and 16 of the 1989 Act, and the Local Government (Committees and Political Groups) Regulations 1990. The total number of members of each group, expressed as a proportion of the total membership of the Council, is as follows:-

	Numbers in Group	percentage of 58 seats on Council
Conservative	30	51.7
Independent	14	24.1
It's Our County	10	17.2
Liberal Democrat	3	5.2
Total	57	96.5

One Councillor is not in a political group.

- 5 The Council is under a duty to:
- Ensure membership of those committees and sub committees covered by the rules reflect the political composition of the Council as far as practicable;
  - Review the allocation of seats to political groups at or as soon as practical after the Annual Council meeting (and in other certain circumstances e.g. change in political balance or number of committees established);
  - Allocate seats on the committees to the political groups in proportion to their numerical strength on the Council in accordance with the statutory rules in paragraph 6 below;
  - Accept nominations made by the groups for filling of seats allocated to them.
- 6 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.

7 An arithmetic calculation of the number of seats allocated to a particular group is unlikely to result in a set of whole numbers. The 1989 Act gives no guidance on the correct approach in these circumstances, leaving authorities to follow the principles “as far as reasonably practicable”. For the purposes of this report, it is assumed that part numbers of 0.5 and above will be rounded up, while part numbers below 0.5 will be rounded down.

8 Certain committees are exempt from the rules of proportionality. These are:

- Cabinet
- Standards Committee

This does not prevent Council from allocating seats to Standards Committee on a proportional basis if it so wishes: but this must be done outside the calculation in paragraph 6 above. Also the Shadow Health and Wellbeing Board relies on membership of relevant Cabinet Members and is also exempt.

9 Should Council wish to allocate seats to a particular body on a different basis from that of political proportion, such arrangements can only be made where they are approved by Council without any Member voting against (known as a nem con vote by Council). Abstentions from voting do not invalidate the nem con vote. If such arrangements are to be made then it is necessary to give notice of such a possibility under Regulation 20 of the Local Government (Committees and Political Groups) Regulations 1990. Notice is, therefore, formally given on the agenda so that Council is not denied that opportunity. A previous example of such an arrangement was the practice of exempting the Overview and Scrutiny Committee, to enable the Committee to comprise the Chairmen and Vice Chairmen of the five Scrutiny Committees as specified within the Constitution of the Council. However, this should be done after the initial allocation in paragraph 6 above, since to do so before would distort the calculation for other committees

10 This report deals only with committees or other bodies whose creation derives directly from a decision of full Council. Such bodies may from time to time create sub-committees (if so empowered) and the body in question must apply these rules to ensure that the allocation of seats on any sub-committees also complies with the provisions of the 1989 Act.

11 Whilst the Regulatory Committee is constituted proportionately, under the Constitution the Sub-Committee comprises 3 Members who are drawn from the membership of the Committee. When the Sub-Committee deals solely with 2003 Licensing Act matters the Licensing Act does not require the Sub-Committee to be proportionate.

12 However, the Sub-Committee is now authorised to deal with a number of other matters (eg Hackney carriage and private hire licensing which would require it to be politically proportionate. Some Authorities appoint two sub-committees to overcome this technicality.

13 Given the need to call and hold Sub-Committee meetings within tight timeframes the need to constitute the Sub-Committee proportionately could prove problematic. It is therefore proposed that Council approves the suspension of the application of the proportionality rules to the Regulatory Sub-Committee with immediate effect to facilitate the continued smooth operation of the Sub-Committee.

## Key Considerations

### Constitution of Committees

- 14 Council is requested to approve the overall constitution of committees as set out below, and requiring a total of 53 seats to be allocated proportionately across all committees as follows:

Overview and Scrutiny Committee	17
Planning Committee	19
Regulatory Committee	10
Audit and Governance Committee	7
<b>Total seats</b>	<b>(53)</b>

- 15 Any other bodies to which Council makes allocations are listed in the table below paragraph 18.
- 16 The application of the proportionality rules results in the following seats being available to each Group. The figures in the totals line are the total seats allocated to each Group with the figures in brackets being the strict entitlements to the number of seats overall.

Committee	No of Seats	Con	Ind	LibDem	IOC	Other
Overview and Scrutiny	17	9	4	1	3	0
Planning	19	10	5	1	3	0
Regulatory	10	5	2	1	2	0
Audit and Governance	7	4	2	0	1	0
<b>TOTAL SEATS</b>	<b>53</b>	<b>28 (27)</b>	<b>13 (13)</b>	<b>3 (3)</b>	<b>9 (9)</b>	<b>0 (1)</b>

- 17 The table below shows the allocation of seats to Outside Bodies to which 3 or more appointments are made and which in practice cannot be delegated to the Chief Executive (because he cannot approve departures from the proportionality rules). Because of the effect of rounding on the application of proportionality it can be seen that the number of seats allocated to Groups either exceeds the number of seats available on the bodies or does not meet the required total. This can only be resolved in discussions between Group Leaders. The result of these discussions is reflected in the table below. The figures in brackets are the strict entitlements to seats.
- 18 However, it is proposed to suspend the application of the proportionality rules to the River Lugg Internal Drainage Board and the Wye Valley AONB Joint Advisory Committee and for these appointments then to be determined by Group Leaders.

<b>Outside Body</b>	<b>Number of appointments</b>	<b>Seats Proposed to be allocated to Groups on each body based on calculation by each body individually and providing a majority to the majority Group</b>
<i>Hereford and Worcester Fire and Rescue Service</i>	6	Con 3 (3) Ind 2 (1) IOC 1 (1)
<i>Herefordshire Local Access Forum</i>	3	Con 2 (2) Ind 0 (1) IOC 1 (1)
<i>Local Admissions Forum</i>	3	Con 2 (2) Ind 1 (1) IOC 0 (1)
<i>River Lugg Internal Drainage Board</i>	7	(proposed not to apply proportionality) Con (4) Ind (2) IOC (1)
<i>Standing Advisory Council For Religious Education (SACRE)</i>	3	Con 2 (2) Ind 1 (1) IOC 0 (1)
<i>Wye Valley AONB joint Advisory Committee</i>	4	(proposed not to apply proportionality) Con (3) Ind (1)

- 19 Nominations to Outside Bodies to which less than 3 appointments are made and which can be delegated to the Chief Executive in consultation with the group leaders are set out in Appendix 1.
- 20 Group Leaders' nominations of members to fill their Group's respective allocations will then be put into effect. Members will be aware that the wishes of a political group must be conveyed

by the Group Leader (or other person nominated by the group). Any nominations received will be tabled at the meeting.

- 21 In the event that there are any members who are ungrouped, their allocation to ordinary committees and other bodies must be made by Council.

## **Appointment of Offices Reserved to Council**

### **Appointment of Chairmen of Committees and other bodies**

- 22 Details of the proposed appointments to Chairmen and Vice Chairmen positions are contained in Appendix 2 which will be distributed at the meeting.

### **Appointment of co-opted Members onto Scrutiny Committees**

- 23 The new Constitution (Part 4.5.3) provides that co-optees are appointed by the Council annually, rather than by individual scrutiny committees.
- 24 In addition to the statutory co-optees (diocesan and parent governor representatives with voting powers) there are a range of other non-voting co-optees currently appointed to the scrutiny committees. Formal co-option provides for co-optees to attend every meeting of the relevant Scrutiny Committee and participate in its work in the same way as Councillors, except that under the Council's arrangements (unless statutorily required) they are non-voting. Because of the proposed change to one Overview and Scrutiny Committee and ad hoc task and finish groups, it would be impractical to bring appointments to Council each time. It is suggested that the power to co-opt be delegated to the Overview and Scrutiny Committee.

## **Terms of References for Committees and Functions of Committees**

- 25 The constitution at 4.1.5.2 requires that the Annual Council Meeting decide the terms of reference for Committees and agrees the functions of those committees set out in Part 3 (Sections 5 and 6) of the Constitution. It is proposed that the existing terms of reference and functions be confirmed with the following changes:-

### **Overview and Scrutiny Committee**

- 26 The existing arrangements in the Constitution provide that Overview and Scrutiny is undertaken by the Overview and Scrutiny Committee, supported by a number of themed Scrutiny Committees. It is proposed to implement the results of an independent review of the scrutiny function. There will in future be one Overview and Scrutiny Committee with the power to set up task and finish groups (including co-opted members) and the roles of the themed scrutiny committees will be merged therein. All non-executive members will be eligible to serve on such groups provided they have undergone the necessary training. These changes will require some consequential amendments to the Constitution, which could be delegated to the Monitoring Officer.

## **Community Impact**

- 27 The Council needs to ensure that it complies with its statutory duties and the requirements as outlined in the Constitution.

## **Financial Implications**

- 28 There are no financial implications

## **Legal Implications**

- 29 The Council is required to ensure that the allocation of seats to committees are compliant with relevant rules contained in the Local Government and Housing Act 1989 and regulations made under this act

## **Risk Management**

- 30 The Council is required to ensure that the correct legal processes are adhered to.

## **Consultees**

- 31 The Group Leaders have been consulted on the contents of this report

## **Appendices**

Appendix 1 – List of Outside Bodies

Appendix 2 – Appointments of Chairmen and Vice-Chairmen of Committees (To be tabled)

## **Background Papers**

- None identified.