

Meeting:	Council
Meeting date:	Friday 12 July 2019
Title of report:	Appointments 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 review the representation of political groups on the council and determine the allocation of seats on committees and relevant outside bodies to political groups.

Recommendation(s)

That:

- (a) the allocation of committee seats to political groups as set out at appendix 2 (*to follow*) be approved; and
- (b) the allocation of seats on outside bodies to political groups as set out at appendix 3 (*to follow*) be approved.

Alternative options

1. Council could decide to suspend the rules of proportionality for all committees and establish its own criteria for appointing members to its committees. This would require a vote to do so in respect of each committee to which these rules apply and without any member of the council voting against each proposal. However such a blanket approach is inconsistent with the spirit of political proportionality within the Local Government and Housing Act 1989 and would additionally require Council to approve which councillor would take each individual seat on the relevant committees and outside bodies.
2. Following the changes to the political composition of the council, Council could decide to propose the appointment of committee chairpersons and vice chairpersons of the committees.

Key considerations

3. Following changes to the political composition of the council, full Council is required to review how political proportionality is applied to appointments to committees and sub-committees.
4. The political composition of the council has changed since the annual meeting of the Council on 24 May 2019. This change has resulted from the following: formation of a new political group, the True Independents; formerly ungrouped members joining the Herefordshire Independents; and two by-elections for the Ross North and Whitecross electoral divisions on 6 June 2019 and 11 July 2019 respectively. The current membership of political groups at the council is shown in appendix 1 (*to follow*).
5. 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 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 a member of a group is not entitled to an allocation of seats within these rules.
6. These rules of political proportionality should also be applied when allocating seats on outside bodies to which the council makes three or more appointments.
7. 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.
8. 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:

<http://councillors.herefordshire.gov.uk/ieListDocuments.aspx?CId=332&MId=6384&Ver=4&Info=1>

Committee	Seats
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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>

9. The table in appendix 2 (*to follow*) details the allocation of seats on the above committees based on the political proportionality of the council as set out in appendix 1 (*to follow*).
10. Those outside bodies to which three or more appointments are currently made on a politically proportionate basis are detailed in the table in appendix 3 (*to follow*), with the allocation of seats based on the political proportionality of the council as set out in appendix 1 (*to follow*). The Hereford and Worcester Fire and Rescue Service is in the process of transferring 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 date for the finalisation of the transfer of responsibility is not currently known.

Community impact

11. 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. This 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

12. 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.
13. 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

14. None arising from the recommendations.

Legal implications

15. 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.
16. 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.
17. Alternative arrangements not complying with these requirements as set out in paragraph 7 may be made so long as no member of the council votes against it.

Risk management

18.

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

19. None

Appendices

Appendix 1: Table of membership of respective political groups (*to follow*)

Appendix 2: Table of allocation of seats on committees of council (*to follow*)

Appendix 3: Table of outside bodies with politically proportionate appointments (*to follow*)

Background papers

None identified.