

Title of report: Co-optee membership of scrutiny committees

Meeting: Children and young people scrutiny committee

Meeting date: Thursday 5 August 2021

Report by: Solicitor to the council (monitoring officer);

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To advise on the current co optee membership. To highlight the changes being proposed, following the annual council meeting and to seek approval to appoint a representative from the teaching sector following a resolution of Council.

Recommendation(s)

That:

- a) The process for the appointment of co optees set out in appendix one is adopted; and**
- b) The process is used to appoint one representative from the teaching sector.**

Alternative options

1. To not review the process or appoint a further co optee, this is not recommended as it is contradictory to the resolution of council

Key considerations

2. The Local Government Act 2000 provides the ability for a scrutiny committee to include persons who are not members of the council. This is known as a co optee.
3. There are two types of co optee - statutory and other.
4. Prior to the annual council meeting in 2021 the constitution (at sections 4.5.6 to 7) set out the following:
 - I. A scrutiny committee may co-opt a maximum of two non-voting people as and when required, for example for a particular meeting or to join a task and finish group. Any such co-optees will be agreed by the committee having reference to the agreed workplan and/or task and finish group membership.
 - II. The committee with responsibility for education shall include the following coopted education representatives, as appointed by Council:
 - a) one representative as nominated by the diocese of Hereford
 - b) one representative as nominated by the archdiocese of Cardiff
 - c) one parent governor as elected from the primary school sector
 - d) one parent governor as elected by the secondary school sector
 - e) one parent governor as elected by the special school sector

These education co-optees may vote on items relating to education; on other items on the committee agenda they may speak but not vote.

5. The statutory co optees are the Church of England, Roman Catholic and parent governor representatives, who are entitled to vote on matters relating to education functions.
6. The other co optees are chosen by the committee and are only entitled to vote if approved by council in accordance with the council functions.
7. The annual general council meeting in May 2021 resolved for the appointment of five co-opted members of children and young people scrutiny committee as follows:
 - a) one representative as nominated by the diocese of Hereford
 - b) one representative as nominated by the archdiocese of Cardiff
 - c) one parent governor as elected from the primary school sector
 - d) one parent governor as elected by the secondary school sector
 - e) one parent governor as elected by the special school sectorand additionally;
 - f) one representative from the teaching sector.

8. New and established co optees are all required to undergo an annual recruitment and induction process. This is set out in the appendix to the Co-optee protocol (appendix 1). In addition, all voting co-opted members are by law subject to the Councillors' Code of Conduct and requirements to register disclosable pecuniary and non-pecuniary interests and other specified interests as well as to declare any relevant interests at Council meetings. In accordance with the Code of Conduct, co-opted members also have to declare any other relevant interests in the business being discussed at the meeting. The declaration of registrable interests completed by co-optees will be published in the public domain.

9. The new co-optee is for the teaching sector. This is a non-voting co-opted member.
10. It is proposed that this co-optee be appointed following an open expression of interest, and following satisfactory recruitment procedures being completed. The vacancy will be advertised in a similar manner to other independent and voluntary roles within the council and promoted through existing networks and communications with schools in Herefordshire.
11. Under the current co-optee protocol, individuals who hold any paid office with Herefordshire Council are not able to serve as co-optees on scrutiny committees or task and finish groups. This is to protect their independence. Any teacher currently employed in any capacity by Herefordshire Council would not be able to serve as a scrutiny co-optee.
12. Additionally it should be noted that at the annual meeting Councillor Jim Kenyon was also appointed as a non voting member of the committee, though not as a co optee as he is a member of this authority.

Community impact

13. 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. It is essential that, as a whole, we can demonstrate the appropriateness of all our actions across all our activities and have mechanisms in place to encourage and enforce adherence to ethical values and respect the rule of law. The confidential reporting code is part of the council's governance arrangements. Periodic reviews to ensure the code remains current, fit for purpose and effectively helps the council to meet the principles within its code of corporate governance

Environmental Impact

14. Whilst this is a decision on administrative functions and will have minimal environmental impacts, consideration has been made to minimise waste and resource use in line with the Council's Environmental Policy. All members of the committee receive electronic copies of papers and meetings are usually held in locations that are accessible by sustainable modes of travel. All non-voting co-optee members will be given the option, and encouraged, to attend meetings virtually wherever possible and appropriate given the content of the meeting.

Equality duty

15. 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.
16. 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 administrative functions, we do not believe that it will have an impact on our equality duty.

Resource implications

17. There are no resource implications. Co optees are entitled to claim expenses from the revenue budget for expenses. As it is likely that non-voting co-optees will attend committee meetings virtually for the foreseeable future, it is likely that only very limited new claims will be incurred.
18. The single rate at which travel may be claimed for all vehicles including electric vehicles shall be at the rates used by Her Majesty's Revenues and Customs Service (Members are entitled to choose between claiming mileage allowance for bicycle travel, or claiming for an annual service for their bicycle instead.)

Legal implications

19. Section 9FA of the Local Government Act 2000 provides for an Overview and Scrutiny Committee to include co-optees who are not members of the Council. People who are co-opted to Overview and Scrutiny Committees under this provision are not entitled to vote unless the Council has made a scheme to allow voting (under Section 11 of Schedule A1 to the Local Government Act 2000). Herefordshire Council has not made such a scheme.
20. In respect of Overview and Scrutiny Committees which deal with education functions Section 7 of Schedule A1 to the Local Government Act 2000 requires the appointment of at least one voting co-optee nominated by the Diocesan Board for Education if the area contains at least one Church of England - maintained school and at least one voting co-optee nominated by the Bishop for the Diocese if the area contains at least one Roman Catholic- maintained school. There is also a legal requirement under Section 8 of Schedule A1 to the Local Government Act 2000 (and associated regulations - the Parent Governor Representatives (England) Regulations 2001) to appoint between two and five voting parent governor representatives elected by the parent governors of maintained schools.
21. The church and parent governor voting co-optees are entitled to vote on any question relating to education functions which are the responsibility of Herefordshire Council's Cabinet and which fall to be decided by the CYP Overview and Scrutiny Committee.
22. The majority on the committee is not affected by the number of non-elected members so it is not necessary to consider any changes to ensure political proportionality in order to comply with the requirements in Sections 15 to 17 of the Local Government and Housing Act 1989.

Risk management

23. The following risks and opportunities have been identified:

Risk / opportunity	Mitigation
Appointed co-optees fall short of the expected standards of conduct in public life.	Voting co-opted members are by law subject to the Councillors' Code of Conduct and requirements to register disclosable pecuniary and non-pecuniary interests and other specified interests as well as to declare any relevant interests at Council meetings. In accordance with the Code of Conduct, co-opted members also have to declare any other relevant interests in the business being discussed at the meeting. The declaration of registrable interests completed by co-optees will be published in the public domain.
The Council recognises the valuable input and different perspectives co-opted members bring into the Council's decision-making process. Their role will depend upon what capacity they are appointed, which could be as representatives of an organisation, an interest group or they may be co-opted for their specific expertise or experience.	This proposed process provides a mechanism to enable the scrutiny committee to draw upon a wider pool of appropriate advice, expertise and knowledge during committee deliberations and consideration.

Consultees

None

Appendices

Appendix 1 Scrutiny Co-optee Protocol

Appendix 2 Role description

Background papers

None identified