

Title of report: Appointments to Council Committees and Outside Bodies

Meeting: Council

Meeting date: 20 May 2022

Report by: The Director of Governance and Law

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

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 review the representation and determine the allocation of seats on committees and relevant outside bodies to political groups for the 2022/23 municipal year;
- (c) To make appointments to the positions of chairpersons and vice-chairpersons 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 10 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 10, and the allocation of those seats to political groups as set out at paragraph 11 be approved;**
- c) the allocation of seats on outside bodies to political groups as set out at paragraph 13 be approved;**
- d) the appointment of five co-opted members of children and young people scrutiny committee be approved as follows:**
 - one representative as nominated by the diocese of Hereford**
 - one representative as nominated by the archdiocese of Cardiff**
 - one parent governor as elected from the primary school sector**
 - one parent governor as elected by the secondary school sector**
 - one parent governor as elected by the special school sector;**
- e) the suspension of the rules of proportionality in respect of the standards panel, the River Lugg Drainage Board and the Wye Valley AONB Joint Advisory Committee be approved;**
- f) the appointment of committee chairpersons and vice chairpersons as outlined in the table of committee membership in Appendix 1 be approved; and**
- g) the size and the allocation of seats on the scrutiny management board be agreed.**

Alternative options

1. To draw up a different set of committees of a different size and composition with different terms of reference.
2. Council could decide to not suspend the rules of proportionality with respect to the outside bodies; the River Lugg Drainage Board and the Wye Valley AONB Joint Advisory Committee. This may result in those members with a local interest in the work of these bodies being unable to contribute to their discussions and decision-making. If the rules of proportionality were not suspended for the standards panel then only members of the largest political groupings would be eligible to sit on the panel or the size of the panel would need to increase to ensure that political proportionality could be achieved.
3. 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.

Key considerations

4. 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.
5. The membership of the respective political groups at the council is shown in the table below:

Group	Number
Conservative group	14
Independents for Herefordshire	18
Liberal Democrats	7
The Green Party	7
True Independents	6
Not aligned	1
<i>Total</i>	<i>53</i>

6. 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. Detail of the latest allocation together with recommended chairpersons and vice chairpersons and current vacancies are contained in Appendix 1. 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.
7. Any member who is not aligned to a group is not entitled to an allocation of seats within these rules. It is only where the proportionality calculations have been made and if any seats remain unallocated that Council may determine to appoint a member that is not a member of one of the political groups on the Council.
8. These rules of political proportionality should also be applied when allocating seats on outside bodies to which the council makes three or more appointments.
9. 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.

10. 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 currently published on the Council's website (link below) and in the constitution to take effect from the annual Council meeting: <http://councillors.herefordshire.gov.uk/ieListDocuments.aspx?CId=332&MIId=6384&Ver=4&Info=1>

Committee	Seats
Audit and governance	7
Children and young people scrutiny	7
Connected communities scrutiny	7
Employment panel	6
Environment and sustainability scrutiny	7
Health, care and wellbeing scrutiny	7
Planning and regulatory	15
Scrutiny management board	TBD
<i>Total seats</i>	<i>TBD</i>

11. The table below details the allocation of seats on the existing committees based on the political composition of the Council set out in paragraph 5 above. The political composition of the Council has changed since the previous calculation of proportionality on 28 May 2021: a by-election has taken place for the electoral ward of Bromyard West which resulted in an additional member for the True Independents.

	Conservatives	Independents for Herefordshire	Liberal Democrats	The Green Party	True Independents	Not aligned	Total committee seats
Audit and governance	2	3	0	1	1	0	7
Children and young people scrutiny	1	3	1	1	1	0 (Non-voting member)	7
Connected communities scrutiny	2	3	1	0	1	0	7
Employment panel	1	2	1	1	1	0	6
Environment and sustainability scrutiny	2	2	1	1	1	0	7
Health, care and wellbeing scrutiny	2	2	1	1	1	0	7
Planning and regulatory	4	5	2	2	2	0	15
<i>Total</i>	14	19	7	8	8	0	56

12. At the previous ordinary meeting of Council on 4 March 2022 changes to the council's constitution were agreed including the increase in the number of scrutiny committees from three to five. The two new scrutiny committees are the environment and sustainability scrutiny committee and the scrutiny management board. The scrutiny management board has been established to oversee the co-ordination and work programming of the four other scrutiny committees. The composition of the scrutiny management board is outlined under paragraph 2.6.4 of the new constitution; its membership consists of the other four scrutiny committee chairpersons and other elected members as required to ensure the committee is politically balanced. Recommendation (f) in this report will determine the appointment of the other four scrutiny committee chairpersons and the chairperson and vice chairperson of the scrutiny management board. Following the appointment of chairpersons and vice chairpersons a calculation of the necessary size of the board can be undertaken and the allocation of seats to ensure that it is politically proportionate. This calculation will be tabled at the annual meeting and Council will be asked to consider recommendation (g); to agree the size of the board and the allocation of seats on the board to ensure political balance. Appendix 2 provides the blank table of the size and allocation of seats on the scrutiny management board to be completed and tabled for agreement following the agreement of recommendation (f).
13. 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 composition of the council as set out in paragraph 5 above.

	Conservatives	Independents for Herefordshire	Liberal Democrats	The Green Party	True Independents	Not aligned	Total seats on body
Fire authority	1	2	1	1	1	0	6
Standing advisory council for religious education	1	2	0	0	0	0	3
<i>Total</i>	2	4	1	1	1	0	9

14. The council is required to appoint certain education representatives onto the scrutiny committee at which educational matters are considered; in the council'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 is asked to nominate a diocesan representative. All appointments of co optees follows the council's appointment process set out in the co optee protocol.
15. At the previous annual Council meeting on 28 May 2021 seats for the five statutory education co-optees were agreed. In addition it was also resolved that Councillor Jim Kenyon would become a non-voting member of the children and young people scrutiny committee. Councillor Kenyon can continue to attend meetings of the children and young people scrutiny committee as a member in attendance and may speak at the discretion of the chairperson of the committee; there is no formal decision of the Council necessary for this arrangement to continue. At the previous annual meeting it was also resolved that one representative from the teaching sector would be co-opted onto the committee. During 2021/22 a recruitment exercise was undertaken; no candidates were forthcoming for this role. As it is intended that this co-optee is a non-voting member of the children and young people scrutiny committee, the committee can make the appointment in accordance with paragraph 4.5.6 of the constitution and no further decision is

required of the full Council.

16. 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 suspension
Standards panel	Up to 3 seats	This panel is formed on an as required basis; its elected 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.

17. Council is required to appoint the chairpersons and vice chairpersons of committees listed at paragraph 10 above. The Leader of the Council has delegated authority to appoint the Chairperson of the Health and Wellbeing Board. Proposed committee chairpersons and vice chairpersons are contained in the Appendix 1 to this report which provides the membership of each committee. Group leaders have been consulted on the proposed chairpersons and vice chairpersons contained in Appendix 1. In the event that any of the proposed chairpersons and vice chairpersons are contested, the Council Chairperson will call for nominations to that post and a vote will be held in accordance with council procedure rules.
18. 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 schedule 1 disclosable pecuniary interest in that item. As a result the members may not participate in any discussion or vote on the matter.
19. However 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 schedule 1 interest.
20. 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.
21. 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 (f) where they are nominated.

Community impact

22. In accordance with the council's adopted code of corporate governance, the 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.

Environmental Impact

23. Whilst this is a decision on back office functions and will have minimal environmental impacts, consideration has been made to how it is in line with the council's Environmental Policy.

Equality duty

24. 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.
25. 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 however the council will seek to ensure that all appointments are made fairly (i.e. no discrimination on the basis of protected characteristics) and that committee meetings are physically accessible to all.

Resource implications

26. Budgets are in place to cover allowances for any appointments made. In the event that Council decides on the establishment of additional committees a budget will need to be identified to meet the cost of any special responsibility allowance associated with the new committee. If Council agrees additional committees, appointments to the position of chairperson and vice chairperson will be agreed, if appropriate, during consideration of this report. All members appointed to positions of special responsibility and to committees are provided with training to enable them to fulfil their duties.

Legal implications

27. 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.
28. 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.
29. The proposals in this report comply with these requirements. Once the proportionate allocation of seats has been made in accordance with the above principles, if any seats remain unallocated Council may determine to appoint a not aligned grouped member to fill the seat.
30. Alternative arrangements not complying with these requirements as set out in paragraph 9 may be made so long as no member of the council votes against it.

Risk management

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

31. No consultees.

Appendices

Appendix 1: Committee memberships and proposed chairpersons and vice chairpersons

Appendix 2: Paper to table – scrutiny management board – size and allocation of seats

Background papers

None identified

Report Reviewers Used for appraising this report:

Please note this section must be completed before the report can be published		
Governance	Sarah Buffrey	Date 03/05/2022
Finance	Louise Devlin	Date 03/05/2022
Legal	Alice McAlpine	Date 03/05/2022
Communications	Luenne Featherstone	Date 03/05/2022
Equality Duty	Harriet Yellin	Date 03/05/2022

Procurement	Mark Cage	Date 03/05/2022
Risk	Kevin Lloyd	Date 03/05/2022

Approved by	Claire Porter	Date 16/05/2022
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Please include a glossary of terms, abbreviations and acronyms used in this report.