

Title of report: Appointments to Council Committees and Outside Bodies

Meeting: Council

Meeting date: Friday 3 March 2023

Report by: Director 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:

(a) To confirm its committees and the number of seats on each, including terms of reference and functions of those committees; and

(b) To review the representation and determine the allocation of seats on committees and relevant outside bodies to political groups.

Recommendation(s)

That:

- a) the allocation of seats on each committee to political groups as set out at paragraph 8 be approved; and**
- b) the number of seats on the scrutiny management board and the allocation of those seats to political groups as set out at paragraph 9 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.

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. Council is required to undertake this review when there is a change to the political composition of the Council.
3. The political composition of the Council has changed since the previous calculation of proportionality on 21 October 2022: one member has become 'not aligned' which has reduced the number of seats held by the Independents for Herefordshire Group by one. Councillor Kath Hey identifies as a Labour councillor but for the purposes of the political proportionality calculations is not aligned to any political group; under the rules concerning political groups in the constitution (section 2.2.23) a political group must have two or more members. The current political composition of the Council is provided below:

Group	Number
Conservative group	14
Independents for Herefordshire	18
Liberal Democrats	6
The Green Party	7
True Independents	6
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 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.
5. 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.
6. The rules of political proportionality should also be applied when allocating seats on outside bodies to which the council makes three or more appointments. The recent change in the political composition of the Council has no impact on the allocation of seats on those outside bodies to which politically proportionate appointments are made, as agreed at the annual meeting of Council on 20 May 2022. The allocation of seats to political groups on the Fire Authority and the Standing Advisory Council for Religious Education remain unchanged.

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. The table below details the allocation of seats on the council's committees based on the political composition of the council as set out in the table in paragraph 3 above. The Group Leaders have been consulted by email on the allocation of seats and due to the minor change to the political composition of the Council it is recommended that the proportionality calculation/allocation of seats agreed at the meeting of Council on 21 October 2022 is reaffirmed at this meeting. The allocation below: reflects the political composition of the council; is proportionate to the numerical strength of the political groups; and maintains a proportional balance of overall seat numbers. The recommended allocation of seats is contained in the table below:

	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	2	2	1	1	1	0	7
Connected communities scrutiny	2	3	0	1	0	1	7
Employment panel	1	2	1	1	1	0	6
Environment and sustainability scrutiny	2	3	1	1	0	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>	15	20	6	8	6	1	56

9. The scrutiny management board (SMB) was 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 constitution; its membership consists of the other four scrutiny committee chairpersons and other elected members as required to ensure the committee is politically balanced. Following the minor change in the political composition of the Council it is recommended that the SMB retain the allocation of seats agreed at the October meeting and presented in the table below:

	Conservatives	Independents for Herefordshire	Liberal Democrats	The Green Party	True Independents	Not aligned	Total committee seats
Scrutiny Management Board	4	5	2	2	2	0	15

Community impact

10. 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

11. 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

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 however the council will seek to ensure that all appointments are made fairly (i.e. no discrimination on the basis of protected characteristics and through a vote of full Council) and that committee meetings are physically accessible and remote participation is offered to non-voting members in attendance..

Resource implications

14. 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

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. 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.
18. Alternative arrangements not complying with these requirements as set out in paragraph 1 may be made so long as no member of the council votes against it.

Risk management

19.

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

20. No consultees.

Appendices

None

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	Matthew Evans	Date 20/02/2023
Finance	Karen Morris	Date 20/02/2023
Legal	Click or tap here to enter text.	Date Click or tap to enter a date.
Communications	Luenne Featherstone	Date 20/02/2023
Equality Duty	Harriett Yellin	Date 20/02/2023
Procurement	Click or tap here to enter text.	Date Click or tap to enter a date.
Risk	Kevin Lloyd	Date 20/02/2023
Approved by	Claire Porter	Date 21/02/2023

Please include a glossary of terms, abbreviations and acronyms used in this report.