

Allocation of seats to Committees and Sub-Committees for 2022/23 and constitutional amendments

Annual Council Thursday, 26 May 2022

Report of: Head of Legal Services & Monitoring Officer

Purpose: For decision

Publication status: Open

Wards affected: All

Executive summary:

This report has been prepared to enable the Council to appoint its Committees and Sub-Committees for the forthcoming municipal year, including the allocation of seats in accordance with political balance requirements.

The report also proposes four associated amendments to the Constitution, namely:

- (i) the transfer of 'crime & disorder' and 'Community Safety Partnership' matters from the Audit & Scrutiny Committee to the Community Services Committee;
- (ii) changes to the delegation arrangements for the Chief Officer Sub-Committee;
- (iii) subject to (ii) above, amendments to Section 8 of the Pay Policy Statement to state that the following must be authorised by the Chief Officer Sub-Committee, as opposed to the Strategy & Resources Committee:
 - discretionary payments to Officers on senior management grades (SM1 and above) in addition to which they are contractually entitled, upon their ceasing to hold office or to be employed by the authority; and
 - proposals to grant early retirement with no actuarial reduction in pension to Officers on senior management grades; and
- (iv) changes to Standing Orders 21 and 22 to enable substitutes for Sub-Committees to be drawn from the parent Committee, or the wider Council membership (this would reflect the current practice for the Licensing, Regulatory and Chief Officer Sub-Committees, but would also provide flexibility for others if required).

This report supports the Council's priority of: Building a better Council

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Recommendations to Council:

- A. the Council's Committees for 2022/23, and the number of seats allocated to each Committee, be as per the tables in paragraphs 3.3 (ordinary committees) and 3.5 (Licensing Committee);
- B. notwithstanding the discretion provided to Committees to appoint further Sub-Committees, those Sub-Committees shown in the table in paragraph 4.1, and the number of seats allocated to each, be agreed;
- C. the following amendments be made to the scheme of delegation to Committees (Part E of the Council's constitution) so that responsibility for crime & disorder and community safety matters is transferred from the Audit & Scrutiny Committee to the Community Services Committee:

Audit & Scrutiny Committee – text to be deleted (shown by strikethroughs)

Terms of Reference

- (xi) Calling upon representatives of outside organisations to present information about services which have a significant impact upon local residents ~~including measures to minimise crime & disorder delivered via the Community Safety Partnership.~~
- ~~(xii) Exercise the Council's scrutiny and review functions in relation to local crime and disorder matters and act as the local Crime & Disorder Committee.~~

Powers to recommend

- (iii) Matters with significant budgetary and/or policy implications arising from presentations by representatives of outside organisations about services which have a significant impact upon local residents, ~~including measures to minimise crime & disorder delivered via the Community Safety Partnership.~~

Community Services Committee – text to be added

Terms of Reference

A(viii) Exercise the Council's scrutiny and review functions in relation to local crime and disorder matters and act as the local Crime & Disorder Committee

Powers to resolve

- (ix) Measures to reduce crime & disorder and to promote community safety, including those delivered via the local Community Safety Partnership
- D. the delegation arrangements regarding the Chief Officer Sub-Committee (Part E of the Constitution / matters relating to the Strategy & Resources Committee / Section 4) be amended as follows:
- (i) the current section 4.2 (which defines the membership of the Sub-Committee for 2021/22) be deleted on the basis that the membership is, in any event, determined as part of the committee meetings immediately following Annual Council and does not need to be replicated and updated each year within the Constitution
- (ii) the following clauses be added to the Sub-Committee's terms of reference and powers 'to resolve':
- to determine discretionary payments to Officers on senior management grades (SM1 and above) in addition to which they are contractually entitled; and
 - to consider and determine proposals to grant early retirement with no actuarial reduction in pension to officers on senior management grades;
- E. subject to recommendation D (ii) above being approved, paragraphs 8.2 and 8.3 of the Pay Policy Statement be amended as follows:
- "8.2 Discretionary payments made to Officers on senior management grades (SM1 and above) to which they are contractually entitled must be authorised by the ~~Strategy and Resources Committee~~ Chief Officer Sub-Committee.*
- 8.3 TDC Management of Organisational Change and Retirement Policies set out how we will calculate any payments made to support early retirement in the efficiency of the service. Where it is proposed to grant early retirement with no actuarial reduction in the pension payable in respect of a person on a senior management grade, this must be authorised by the ~~Strategy and Resources Committee~~ Chief Officer Sub-Committee. Staff on all other grades must be authorised by the Chief Executive."*

- F. Standing Orders 21 and 22 be amended as follows to reflect current practice regarding the appointment of substitute members to Sub-Committees:

Standing Order 21 – Sub-Committees

- (3) Political Group Leaders may, from time to time, change their principal Members ~~(including substitutes)~~ in respect of the Sub-Committee seats allocated to their Groups by submitting written notice to the Chief Executive or nominated representative. Such changes will become effective for the next meeting of the respective Sub-Committee, provided that the required notice is received at least seven clear working days prior to the meeting in question.

Standing Order 22 – Committees and Sub-Committees – Substitutes and Quorum

- (1) Every Political Group may appoint a substitute Member for each ~~Committee and Sub-Committee~~ by submitting written notice to the Chief Executive or nominated representative. Such appointments, or changes to existing appointments, will become effective for the next meeting of the respective ~~Committee or Sub-Committee~~, provided that the required notice is received at least 7 clear working days prior to the meeting in question.
- (2) Committees may allow for more than one substitute to be appointed (by Political Groups) to their Sub-Committees, including arrangements where a principal Member can be replaced, at any time prior to a meeting, by any Councillor serving on the parent Committee or any Councillor from the wider Council membership if deemed appropriate.

(existing clauses (2) and (3) to be renumbered (3) and (4)).

Introduction and background

- 1 The Council is required to review its political composition and how this relates to appointments to Committees and Sub-Committees. Standing Order 14 states that, "*the Council shall, at the Annual Meeting, appoint Committees which it is deemed necessary to appoint*".
- 2 The Council currently has eight Committees and four Sub-Committees, identified within the Constitution as follows (it is proposed that these be retained for 2022/23):

Policy Committees:

- Community Services
 - Regulatory Sub-Committee
- Housing
- Planning Policy
- Strategy & Resources
 - Chief Officer Sub-Committee
 - Investment Sub-Committee

Regulatory / Statutory / Other Committees:

- Audit & Scrutiny
- Licensing
 - Licensing Sub-Committee
- Planning
- Standards

3. Political balance requirements of the Local Government & Housing Act 1989

3.1 As a result of the 2022 District elections, the political composition of the Council is as follows:

Political Groups	No of Councillors	% of available Committee seats which the Council should aim to allocate (No. of Cllrs in previous col. ÷ 42) x 100 rounded to nearest percentage point
Independents and OLRG Alliance	18	42.9%
Liberal Democrats	11	26.2%
Conservatives	10	23.8%
Independent Group	3	7.1%

3.2 Section 15 of the Act deals with the duty to allocate seats on Committees to political groups. Such allocations, so far as is reasonably practicable, must be made in accordance with the following four principles:

- (a) not all the seats on an ordinary Committee should be allocated to the same political group;
- (b) a political group with an overall council majority should receive a majority of the allocated seats;
- (c) subject to (a) and (b) above, the number of seats on the total of all the ordinary Committees allocated to each political group should bear the same proportion as that for the full Council; and
- (d) subject to (a) to (c) above, the number of seats on each ordinary Committee allocated to each political group should bear the same proportion as that for the full Council.

3.3 The statutory duty to allocate seats to political groups applies to so called 'ordinary committees' as defined by the Local Government & Housing Act 1989 (the Licensing Committees does not fall within this category – paragraph 3.6 refers). Applying these rules, the table below sets out a proposed allocation of seats for 2022/23:

'Ordinary' Committees:	Political Groups (allocations for 21/22 are shown in brackets)				Total membership
	Independents and OLRG Alliance	Liberal Democrat	Conservative	Independent Group	
Community Services	5 (4)	3 (3)	3 (4)	1 (1)	12 (12)
Housing	5 (5)	3 (2)	2 (4)	1 (1)	11 (12)
Planning Policy	5 (4)	3 (3)	3 (4)	0 (0)	11 (11)
Strategy & Resources	5 (5)	3 (2)	3 (4)	1 (1)	12 (12)
Planning	5 (5)	3 (3)	2 (4)	1 (1)	11 (13)
Standards	3 (3)	2 (1)	2 (3)	0 (0)	7 (7)
Audit & Scrutiny	4 (4)	3 (2)	3 (3)	1 (1)	11 (10)
Total seats on 'Ordinary' Committees	32 (30)	20 (16)	18 (26)	5 (5)	75 (77)

3.4 The 'target' and 'actual' percentage distribution of the proposed 75 committee seats is shown below:

Target distribution:			
IOLRGA	Lib Dem	Con	IG
42.9%	26.2%	23.8%	7.1%

Actual distribution:			
IOLRGA	Lib Dem	Con	IG
42.7%	26.7%	24.0%	6.6%

3.5 Pursuant to Section 6 of the Licensing Act 2003, the Licensing Committee must have at least ten, but no more than fifteen, members. Although there is no statutory obligation, the Council has applied politically balance principles to the composition of this Committee in previous years. It is suggested that this should continue to be the case and the proposed allocation of seats to the Licensing Committee for 2022/23 is:

Licensing Committee seats		
IOLRGA	Lib Dem	Con
5	3	3

4. Sub-Committees

4.1 Sub-Committees have not formed part of the calculations referred to in 3.2 above and the following allocation of seats is proposed:

Sub-Committees	Political Groups (allocations for 21/22 are shown in brackets)				Total membership
	IOLRGA	Lib Dem	Con	Independent Group	
Chief Officer	2 (2)	1 (1)	1 (2)		4 (5)
Investment	3 (2)	2 (1)	2 (2)		7 (5)
Licensing	1 (1)	1 (1)	1 (1)		3 (3)
Regulatory	1 (1)	1 (1)	1 (1)		3 (3)

4.2 Committees have discretion to appoint further Sub-Committees during the course of the year if they so wish.

4.3 It is proposed that the size of the Investment Sub-Committee be increased from 5 to 7 members to reduce the potential for meetings being inquorate.

4.4 Licensing Sub-Committees conduct hearings regarding proposals to grant, vary or revoke licenses for alcohol & entertainment or gambling activities. By convention, they comprise three principal members. In the event of one or more of the three principal members being unable to attend a

hearing, their places shall be filled by selecting substitutes from the main Licensing Committee.

- 4.5 Regulatory Sub-Committees conduct hearings regarding proposals to grant or revoke licenses for purposes other than alcohol, entertainment or gambling. By convention, they comprise three principal members. In the event of one or more of the three principal members being unable to attend a hearing, their places shall be filled by selecting substitutes from the Community Services Committee.

5. Membership of Committees and Sub-Committees

- 5.1 Group Leaders have been contacted and have been asked to provide the names of members that they wish to nominate to sit on the Council's Committees and Sub-Committees in accordance with their allocations. This information will be circulated prior to the meeting.

6. Proposed constitutional amendments regarding the terms of reference of committees and other matters are presented in sections 7 and 8 below.

7. Responsibility for crime & disorder / community safety matters

- 7.1 This function currently falls within the remit of the Audit & Scrutiny (previously the Overview & Scrutiny) Committee, the original rationale for which was to comply with the Police and Justice Act 2006 and subsequent Crime and Disorder (Overview and Scrutiny) Regulations 2009. A report to the former O&S Committee in September 2009 advised that:

"All local authorities ... need to create, or designate, a crime and disorder committee to deal with crime and disorder scrutiny ... It is up to each authority to decide on the best way to put procedures in place for this new scrutiny power. The Act does not require Councils to alter existing Committee structures but there must be a formal place where community safety matters can be discussed. This means that an existing Committee can take on the responsibility."

- 7.2 It is now considered more appropriate for crime & disorder functions to be transferred to the Community Services Committee, hence Recommendation C above.

8. Chief Officer Sub-Committee (COSC) functions

8.1 The role of COSC (a Sub-Committee of Strategy & Resources) is set out within the within Part E of the Constitution (delegation to committees etc) as per the current extract at **Appendix A**. The following revisions to those delegation arrangements are proposed:

- (i) Delete section 4.2 which specifies the membership of the Sub-Committee for the current year. This will avoid the need to review the text each year. In any event, the memberships of all Sub-Committees are determined by parent committees which meet immediately after Annual Council. In this case, the Strategy & Resources Committee has discretion to determine the composition of COSC each year and a separate definition of the membership within the constitution is unnecessary.
- (ii) Add two clauses to COSC's terms of reference. Its current terms of reference are to:
 - short list and interview candidates for the post of Chief Executive and to recommend such appointments to the Council
 - interview shortlisted candidates for other Chief Officer posts and to determine such appointments
 - consider disciplinary matters in respect of the Chief Executive and other Chief Officers, including the appointment of independent panels ...

The first proposed additional clause is to reflect recent practice where COSC has determined discretionary payments to departing Chief Officers in addition to contractual entitlements. The second is to enable COSC to determine early retirement requests with no actuarial reduction in pension. Both matters are currently referred to in the Council's Pay Policy Statement as having to be resolved by the Strategy & Resources Committee. It is considered more efficient and effective for them to be dealt with by COSC (as is already the case in practice for non-contractual payments). So, the two additional clauses would be to:

- determine discretionary payments to Officers on senior management grades (SM1 and above) in addition to which they are contractually entitled; and
- consider and determine proposals to grant early retirement with no actuarial reduction in pension to officers on senior management grades.

8.2 Subject to (ii) above being approved, it is proposed that Section 8 of the Pay Policy Statement be amended as follows:

“8. The approach to the payment of Chief Officers on their ceasing to hold office or to be employed by the authority

8.1 *TDC Management of Organisational Change Policy sets out a consistent method of calculating redundancy pay which is applied to all redundant employees. The current level of enhanced redundancy pay is calculated using the statutory system with a multiplier of 1.5 and no cap on weekly earnings. The payment is intended to recompense employees for the loss of their livelihood and provide financial support whilst they seek alternative employment and may be reviewed and adjusted at any time.*

8.2 *Discretionary payments made to Officers on senior management grades (SM1 and above) to which they are contractually entitled must be authorised by the ~~Strategy and Resources Committee~~ Chief Officer Sub-Committee.*

8.3 *TDC Management of Organisational Change and Retirement Policies set out how we will calculate any payments made to support early retirement in the efficiency of the service. Where it is proposed to grant early retirement with no actuarial reduction in the pension payable in respect of a person on a senior management grade, this must be authorised by the ~~Strategy and Resources Committee~~ Chief Officer Sub-Committee. Staff on all other grades must be authorised by the Chief Executive.”*

9. Standing Orders 21 and 22 – appointment of substitutes to Sub-Committees

9.1 As per Recommendation F, changes to these Standing Orders are proposed regarding the appointment of substitute members to Sub-Committees. As opposed to Group Leaders having to nominate named substitutes in all cases, the suggested new clause provides discretion for parent Committees to agree that, in the event of principal members being unable to attend a meeting, their places can be filled by selecting substitutes from the parent committee, or the wider Council membership as deemed appropriate.

9.2 The purpose of this revision is to reflect current practice for:

- the Licensing and Regulatory Sub-Committees (substitutes can be drawn from the parent Committees, i.e. Licensing and Community Services respectively); and
- the Chief Officer Sub-Committee (substitutes can be drawn from the wider Council membership).

Key implications

Comments of the Chief Finance Officer

There are no financial implications associated with this report.

Comments of the Head of Legal Services

Section 15 of the Local Government and Housing Act 1989('the Act') places a duty on the Council to review the representation of political groups on its committee where the members of the Committees are split into different political groups.

The Act requires that the Council should allocate seats on committees in accordance with the principles set out in section 3 of this report.

Once political group allocations have been determined, it is the duty of the Council to exercise the power to make appointments to Committees to give effect to the nominations of the political groups concerned.

There is no legal requirement for the Chairs or Vice Chairs of any committee to be reserved for Members of any particular group.

Failure to allocate seats in line with these principles would be in breach of statutory requirements and may result in error or legal challenge.

Equality

There are no equality implications associated with this report.

Climate change

There are no climate change implications associated with this report.

Appendices

Appendix A – current extract from Part E of the Constitution - delegation of powers to the Chief Officer Sub-Committee

Background papers

None

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