

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: APPOINTING THE COMMITTEES OF THE COUNCIL

- 1 In accordance with the Constitution, the Council appoints its Committees at the Annual Meeting.
- 2 This report deals with the appointment and sizes of Committees, the co-opted members and observers etc and recommends such appointments consistent with previous decisions of the Council. As agreed at the last meeting, following the repeal effective on 30 June 2012 of the statutory requirement to appoint a Standards Committee, the Committee is to be abolished once it has finally disposed of any complaints' investigation uncompleted when the new legislation takes effect. Fortunately, for the purpose of determining political balance etc, the abolition of the Standards Committee does not have an impact.
- 3 There are no additional financial implications or risks arising from this report. Any allowances payable to Members resulting from the proposed appointments will be in accordance with the current approved Members' Allowances scheme and will be contained within the relevant budgetary provision.
- 4 There are no legal, human resources or equalities and social inclusion implications or risks attached to this report.

RECOMMENDATIONS

That:

- (1) The Committees listed in Appendix 1 be appointed for the 2011/12 Municipal Year.
- (2) Those Committees be appointed with:
 - (a) the membership sizes and
 - (b) the political balanceindicated in Appendix 2 and its annexes (including the notes to the table in annex B)
- (3) The voting co-optees, the two representing Church of England and Roman Catholic interests and the three parent governor co-optees selected in accordance with the appropriate Regulations, be appointed to the Children's Services Overview and Scrutiny Committee.

Annual Council, 23 May 2012

- (4) The other non-elected member “appointments” and invitations to attend shown in Appendix 1 be confirmed.
- (5) The Standards Committee (including the three Independent Members appointed to it [Jack Knowles, Tracey Moran and Kevin Madden], notwithstanding the expiration of their original terms of office) continue in existence beyond 30 June 2012 for so long only as is necessary to deal with any investigation then incomplete and
 - (a) that the current Chairman (Jack Knowles) and Vice-Chairman (Tracey Moran), both Independent Members, continue in office until its abolition is effected and
 - (b) that the Monitoring Officer be authorised to take all steps necessary to complete its abolition once all outstanding cases within its jurisdiction have been disposed of.

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Background Papers List

None

APPOINTMENT OF COMMITTEES AND SUB-COMMITTEES

Audit Committee

Governance Committee

Adjudication and Review Sub-Committee *See annex 1*

Appointments Sub-Committee

Licensing Committee *See annex 2*

Pensions Committee *See annex 3*

Regulatory Services Committee

Standards Committee (for so long beyond 30 June 2012 only as is necessary to deal with any incomplete investigation) *See annex 4*

Children's Overview & Scrutiny Committee *See annex 5*

Crime & Disorder Committee *See annex 6*

Environment Overview & Scrutiny Committee

Health Overview and Scrutiny Committee

Individuals Overview & Scrutiny Committee

Towns & Communities Overview & Scrutiny Committee

Value Overview & Scrutiny Committee

Annex 1

Adjudication and Review Sub-Committee

- 1.1 The major part of the work of this Sub-Committee is carried out through Hearings Panels. The composition of Hearings Panels varies according to the nature of the issue adjudicated – as indicated in the following table:

| Type of hearing | Membership of Panel |
|--|--|
| Corporate complaints procedure (including housing tenants' complaints) | Three Members and a non-voting independent person |
| Children Act complaints | Three independent persons (one as chairman) with voting rights (<i>to accord with legal requirements, elected Members may no longer serve on this type of Panel</i>) |
| Adult Care complaints | Two independent persons (one as chairman) with voting rights and one Member (<i>but the Committee may be revising this in due course</i>) |
| Housing tenancy appeals | Three Members |
| Hearings into allegations of breaches of the Members' Code of Conduct (for cases referred on or after 1 July 2012) | Three Members |

1.2 The independent persons used for such hearings are taken from a pool of such people appointed on behalf the Adjudication & Review Committee, managed by Democratic Services, who have received training appropriate to that role.

1.3 The substitute rule does not apply to Hearings Panels nor are they required to be politically balanced.

Annex 2

Licensing Committee

2.1 Most of the work of this Committee is carried out through Licensing Sub-Committees comprising a Chairman and two other Members, all drawn from the main Committee. In general, Sub-Committees will be chaired either by the Chairman of the main Committee, or one of the three Vice-Chairmen.

2.2 The substitute rule does not apply to Licensing Sub-Committees nor are they required to be politically balanced.

Pensions Committee

- 3.1 The Pensions Committee is responsible for the management of the Council's Pension Fund investment portfolio.
- 3.2 The Admitted and Scheduled Bodies who are members of the pension fund jointly appoint a representative as a voting co-opted Member of the Committee.
- 3.3 Although not strictly Members of the Committee, in accordance with the Constitution, two representatives of the staff are appointed by the unions to attend and contribute to meetings of the Committee. These appointees have no voting rights but are present during the discussion of any exempt business.

Standards Committee

- 4.1 The Localism Act 2011 repeals the requirement for the appointment of a Standards Committee, save in respect of complaints made before the repeal will become effective, with effect from 1 July 2012. There continues to be a need, therefore, for a Standards Committee until any outstanding business has been dealt with. New arrangements for dealing with complaints in accordance with the Act's provisions are being introduced.
- 4.2 While the Standards Committee remains in existence, there are three Independent Members on it, one of whom is Chairman and another Vice-Chairman, as required by law.
- 4.2 In accordance with legal provisions for the work of Standards Committees, the Committee has established three Sub-Committees that consider individual complaints:
 - The Assessment Sub-Committee: to carry out an initial assessment of a complaint and to determine the response to it;
 - The Review Sub-Committee: to review decisions of the Assessment Sub-Committee if so requested by a complainant
 - The Hearings Sub-Committee: to consider the outcome of investigations into complaints
- 4.3 The substitute rule does not apply to these Sub-Committees nor are they required to be politically balanced.

Children's Overview & Scrutiny Committee

- 5.1 The law requires that the Council co-opt to this Overview & Scrutiny Committee one representative of each of the Anglican and Roman Catholic Churches, **with voting rights**, to attend when issues relating to Education are being discussed and have call-in rights in relation to executive decisions. In practice, they are also able to contribute to other discussions.
- 5.2 In addition, there are three co-opted members, **also with voting rights**, representing governors of schools in the three sectors of education, primary, secondary and special. Again, they may attend when issues relating to Education are being discussed and have call-in rights in relation to executive decisions. They are also able to contribute to other discussions.
- 5.3 Finally, there are three **non-voting** representatives of local teacher unions and professional associations, nominated by those organisations.
- 5.4 The Councillor Members of the Committee are also automatically Members of the Council's Corporate Parenting Panel.

Crime & Disorder Committee

- 6.1 The Crime and Disorder (Overview and Scrutiny) Regulations 2009 confer on the Committee an ability to co-opt certain members or employees of crime and disorder partner bodies. It is for the Committee to determine whether such co-optees are to have voting rights and the issues in respect of which they may attend meetings as co-optees.
- 6.2 There are no present proposals for the Committee to exercise its rights to co-opt but that is reviewed from time-to-time and co-options may be made as need arises.

POLITICAL BALANCE

- 1 **The Local Government (Committees and Political Groups) Regulations 1990** require that, so far as practicable, the membership of Committees – both overall, and of individual bodies – must reflect the division of the overall membership of the Council into the various Groups. The Regulations set out the parameters within which such balance is to be achieved.
- 2 The proposed allocation of seats in **Annex A** has been prepared accordingly and *is considered to represent the default position*.
- 3 **Annex B** sets out in detail the principles of political balance that the law requires the Council to conform to, and discusses the application of those rules to the current political make-up of the Council.
- 4 In broad terms, each Group of members is entitled to take seats on Committees in proportion to the total number of Members that belong to it. There is discretion as to the size of Committees and thus the total number of places available for allocation, although for reasons of practicality – not least ensuring that sufficient Members are available from each Group to cover its meeting obligations – the total number of seats (assuming that the number of Committees does not change) within the current structure of Committees is always likely to be in the range 108-120 with individual Committee sizes varying from 6 to a maximum of 15.
- 5 Within the overall number of seats available, some adjustment is needed to ensure, so far as practicable, that each Group has its due share of seats and that the allocation of seats between the Groups on each Committee reflects their respective proportions of the Council's membership.
- 6 ***There is no perfect answer.***
- 7 The first step is to agree the sizes of the individual Committees; the allocation of seats to each Group then follows the formula referred to in Annex B; then finally, adjustments are required to the outcome to ensure that, overall, each Group receives its appropriate share of the total number of seats to be allocated.
- 8 The Council is free to agree different arrangements from those prescribed by law, so long as no Member votes against them. Should any such “different arrangements” be voted against, however, then the “default” position would need to be applied.
- 9 The forthcoming abolition of the Standards Committee will not affect the current political balance of the Council and its Committees.

RECOMMENDED SEAT ALLOCATION

Having regard to the principles of political balance and of seat allocation referred to in Appendix 1, the following allocation of seats is recommended on the basis that, taking all factors into account, it shows a “reasonably practicable” allocation of seats and is therefore the default position.

| | | CONSERVATIVE | RESIDENTS | LABOUR | IND LOCAL RESIDENTS |
|------------------------------|------------|---------------------|------------------|---------------|----------------------------|
| Governance | 13 | 8 | 2 | 2 | 1 |
| Licensing | 11 | 7 | 2 | 1 | 1 |
| Regulatory Services | 11 | 7 | 2 | 1 | 1 |
| Highways Advisory | 9 | 5 | 2 | 1 | 1 |
| Standards (until abolished) | 9 | 5 | 2 | 1 | 1 |
| Pensions | 7 | 4 | 1 | 1 | 1 |
| Audit | 6 | 4 | 1 | 1 | 0 |
| Children's OSC | 9 | 6 | 2 | 1 | 0 |
| Crime & Disorder OSC | 9 | 5 | 2 | 1 | 1 |
| Towns & Communities OSC | 9 | 5 | 2 | 1 | 1 |
| Environment OSC | 7 | 4 | 2 | 0 | 1 |
| Health OSC | 6 | 4 | 2 | 0 | 0 |
| Individuals OSC | 6 | 4 | 2 | 0 | 0 |
| Value OSC | 6 | 4 | 2 | 0 | 0 |
| Total seats allocated | 118 | 72 | 26 | 11 | 9 |

- All Groups are represented on the Governance, Highways Advisory, Licensing, Pensions, Regulatory Services and Standards Committees, and on the Children’s Overview & Scrutiny Committee and the Crime & Disorder Committee.
- Committee seats are allocated, and each Committee is balanced, as “reasonably practicably” as possible

POLITICAL BALANCE PRINCIPLES

- 1.1 In allocating seats on Committees to the Groups, the Council has a duty to make only such decisions as give effect, **so far as reasonably practicable**, to certain principles set out in the relevant legislation. As the current situation at Havering is that one Group (the Conservative Group) has an overall majority but there are several Groups and two Members who are not in any Group (and disregarding for now the vacant seat), the relevant principles are, in order of priority:
1. Not all of the seats on any Committee may be allocated to only one Group (note - the Cabinet is not a Committee).
 2. The majority of seats on each Committee must be allocated to the Group having a majority of Members of the Council.
 3. The total share of all the seats available for all of the Council main Committees allocated to each political Group must be proportionate to that Group's share of the total Council membership.
 4. So far as can be done without conflicting with the other principles, the total number of seats on each Committee allocated to a political Group must be proportionate to that Group's share of total Council membership.
- 1.2 Moreover, in determining entitlements to seats, members who are not in a Group are disregarded, as they are not entitled to a seat on any Committee; but the proportions on which entitlements are calculated must relate to the total number of Councillors.
- 1.3 **In practice, Committees are balanced against the overall total of Committee places and then, so far as that overall total allows, each Committee is balanced on its own.** With the distribution of seats on the Council that results from the election, it is inevitable (a) that the smaller Groups will not be able to be represented on every Committee, (b) that one Group's representation on some Committees will be at the expense of another's and (c) that, with calculations made as accurately as possible, one or more Groups may have actual seat numbers that differ from their entitlements.
- 2.1 The Council may make arrangements different from those prescribed **provided that no Member of the Council votes against** those different arrangements.
- 2.2 To make such a decision each member of the Council must at least be sent an agenda indicating that the approval of alternative arrangements is to be considered. The agenda for this Annual Council meeting meets this requirement. To accommodate this requirement this report should be treated as giving due notice so that there is no impediment to such a proposal being made.

- 3.1 Once the allocation of seats to Groups in accordance with the statutory procedure is undertaken, the Council is under a duty to make appointments to each Committee so as to give effect to the wishes expressed by that Group about who is to be appointed to their allocated seats.
- 3.2 The “wishes of the Group” may be communicated to the Chief Executive (or the Committee Administration & Member Support Manager [CAMSM] on her behalf) by notice in writing by the Group Leader (or on his/her behalf by a recognised deputy) and will be implemented forthwith. Changes may be effected at any time by notice to the Chief Executive (or CAMSM) and will be notified to all Members in the next available edition of the weekly Calendar Brief.
- 3.3 It should be noted that the Chairmen and Vice-Chairmen of Committees are appointed by Council and any change in membership affecting a Chairman or Vice-Chairman will therefore require consideration by Council, and be dealt with by formal motion.

PRINCIPLES FOR ALLOCATION OF SEATS ON COMMITTEES

- 4.1 The principles of seat allocation follow the requirements of the political balance principles, using a formula that takes account of the respective sizes of the Groups and the number of seats on Committees available for distribution among the Groups.

Basic allocation of seats

- 5.1 The seat entitlements of the Groups are determined by a formula using the percentage of seats held by each Group, operating through a sequence of stages as follows:

- **First**, the percentage of each Group’s membership of the Council is calculated.
- **Next**, that percentage is then applied to the number of seats available on each Committee to determine each Group’s potential entitlement to seats on that Committee (rounded to the nearest whole number following the mathematical convention that numbers below 0.5 are rounded down, and those 0.5 or more are rounded up).

In some cases, a Group may be entitled to a seat even though, rounded down, its potential entitlement appears nil (i.e. less than 0.5), as there is a specific number of seats available on each Committee and no Group may have more seats on any Committee than its entitlement.

Those figures are then applied to the total number of seats available on each Committee, the seats being allocated in order, highest entitlement first, until all seats have been allocated.

- **Finally**, fine adjustment is required to ensure that, so far as reasonably practicable, the total of seats allocated reflects the overall proportion of Council membership held by each Group and the numerical strength of its entitlement to seats on particular

Committees. For that purpose, at this stage the seat allocation of particular Committees will be adjusted from the ideally-balanced number reached in earlier stages of the process. This can result in a group being allocated more seats than appears to be its strict entitlement: this is the inevitable result of tensions within the political balance rules, which require different balancing arrangements as between the overall number of seats available, and the number of seats on each Committee.

Specific allocations

- 6.1 For the allocation of seats on specific Committees, several permutations are possible. Although the Council’s Constitution does specify particular numbers of seats to each Committee, it is expressed as being “or such other number as the Council may agree”, so there is discretion as to Committee sizes.
- 6.2 Once the number of seats available on each Committee has been determined, the allocation of seats to the individual Groups would then need to be adjusted between the Groups to achieve, so far as possible and practicable, an allocation that gives each Group its proportionate share of seats overall while ensuring that each Committee is proportionately balanced. In practice, it will be impossible to achieve both aims without enlarging Committee memberships to an unworkable size, so a degree of compromise is required.

Sub-Committees of the Governance Committees

- 7.1 The Adjudication & Review and Appointments Sub-Committees do not count for the purpose of determining the overall political balance but must nevertheless be politically balanced themselves:

| Sub-Committee | CONSERVATIVE | RESIDENTS | LABOUR | IND LOCAL RESIDENTS |
|-----------------------|---------------------|------------------|---------------|----------------------------|
| Adjudication & Review | 10 | 6 | 2 | 1 |
| Appointments | 7 | 4 | 2 | 1 |

- 7.2 Members of either Sub-Committee do not have to be Members of the Governance Committee, though some overlapping membership is desirable.