

# Bath & North East Somerset Council

MEETING:	Council
MEETING DATE:	21 <sup>st</sup> May 2019
TITLE:	<b>Appointment of Committees and Panels and other Annual Business</b>
WARD:	ALL
<b>AN OPEN PUBLIC ITEM</b>	
<b>List of attachments to this report:</b>  Appendix 1 - Political proportionality and committee chairing arrangements structure <i>(a working version of this document containing figures is circulating within Groups.)</i>  Appendix 2 Terms of Reference of Panels and Committees in the Council's Constitution	

## 1 THE ISSUE

1.1 This report invites the Council to consider its non-executive and regulatory committee arrangements for the Council Year May 2019 to May 2020 and associated annual business. It is anticipated that an update report will be issued prior to the meeting in the light of discussions underway between political groups.

## 2 RECOMMENDATION

Council is asked to:

- 2.1 Approve a structure for non-executive and regulatory decision making, and the scrutiny function as set out in the Constitution and attached at Appendix 1, incorporating any amendments arising following the formation of political groups and arising from this meeting;
- 2.2 Approve the terms of reference for Committees and Panels etc as set out in Appendix 2 to the report and constitute those bodies accordingly, with any necessary revisions arising from this meeting;
- 2.3 Approve the appointment of Members to the Committees and Panels in accordance with the requirements of political proportionality and the nominations made by the political groups (whilst affirming the non-proportional basis of operating for the Licensing Sub-Committee as explained in paragraph 5.3);
- 2.4 With regard to the Avon Pension Fund Committee, to agree;
  - a) A reduction in Bath and North East Somerset Council representation from 5 to 3 members;

- b) The addition of a further Independent Member to the Committee;
  - c) The addition of an Academy Representative to the Committee;
  - d) The establishment of a Brunel Working Group as a sub group of the Committee;
  - e) And consequent amendments to the Terms of Reference to incorporate these changes;
- 2.5 Appoint as Chairs of such bodies, those Councillors as may from time to time be nominated by the political group to whom the chairmanship of the body is allocated;
- 2.6 Authorise the Monitoring Officer to fill any casual vacancies in membership of all the bodies constituted and vacancy in the office of Chair of such bodies in accordance with the wishes of the political groups and the allocation of chairing entitlements made at this meeting;
- 2.7 Determine the bodies on which independent members (if any) are to have seats as either voting or non-voting members and appoint such members accordingly;
- 2.8 Authorise the Monitoring Officer, in consultation with the Chairs of the Policy Development & Scrutiny Panels, to constitute and support any required Panel joint working as outlined in paragraph 6.1;
- 2.9 Appoint members to Avon Fire Authority on a proportionality basis to be determined;
- 2.10 Determine if it wishes to make an allocation of Political Assistants to eligible groups as set out in Section 8, and if so approve those allocations;
- 2.11 Note, in light of the decision taken earlier on the agenda to appoint a Leader, that the Leader will publish in due course, a scheme of delegation of executive functions;
- 2.12 Note the urgent executive decisions that have been taken in the last municipal year, as set out in paragraph 9.2;
- 2.13 Note the position regarding the frequency of meetings (as set out in Section 10) as the basis for enabling the diary of meetings to be prepared, and to authorise the Monitoring Officer to project dates forward and prepare the diary on this basis;
- 2.14 Note that an Independent Panel to consider members' allowances will be convened and will report its recommendations in due course;
- 2.15 Instruct the Monitoring Officer, in consultation with Group Leaders, to make appointments on non-executive outside bodies and note that the Leader or Cabinet Members will do so for executive outside bodies;
- 2.16 Authorise the Monitoring Officer to make and publicise any amendment to the Council's Constitution required, or take any other necessary action, as a result of decisions taken at this meeting on this and other reports within the agenda, or otherwise as required by law.

### **3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

3.1 Any financial implications will depend upon the number and nature of allowances payable under the decision making structure, and number of meetings to support, and the meeting will be updated as necessary.

### **4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL**

4.1 The Council is required to put in place arrangements for the effective discharge of its business.

### **5 APPOINTMENT OF COMMITTEES AND PANELS AND THEIR CHAIRS AND MEMBERS**

5.1 The Council's Constitution sets out the approved executive, non-executive and regulatory decision making structure and the Council's policy development and scrutiny arrangements. The size, terms of reference and delegated powers of those bodies are set out in the Constitution and attached as Appendix 2 to this report.

5.2 Nominations are invited from the political groups for the appointment by the Council of Members to the bodies listed in Appendix 2 and for the Chairs of the Overview and Scrutiny Panels and the Regulatory and Non-Executive Committees (excluding the Standards Committee).

5.3 The Licensing Sub-Committee has operated a degree of flexibility with regard to seeking substitute members from other political groups if necessary, in recognition of the statutory timescales in which decisions must be made, and the small pool of Councillors concerned. It is hoped this arrangement will continue.

#### Avon Pension Fund

5.4 The Avon Pension Fund Committee has undertaken a review of its governance structure following changes to its employer composition, legal requirements relating to investor status and arrangements for managing the relationship with Brunel Partnership following the implementation of Local Government Pension Fund Pooling of assets.

5.5 The recommendations of the Committee have been agreed for submission to Council following consultations with Employers and the Avon Pension Fund Board. The changes are designed to ensure the Committee remains representative of its Employers, retains its status as a Professional investor whilst still enabling it to operate efficiently. Further the governance in respect of the dual accountability of Brunel Partnership to the Council as Shareholder and the Avon Pension Fund as client will be strengthened with a sub group overseeing this important relationship.

[The Terms of Reference attached in Appendix 2 contain the amended recommendations from the Committee.]

Further information is contained in the following background Committee papers:  
**December 2018 Committee – Item 48 – Review of Governance arrangements**  
<https://democracy.bathnes.gov.uk/ieListDocuments.aspx?CId=212&MId=4263&Ver=4>

## **6 ARRANGEMENTS CONCERNING OVERVIEW AND SCRUTINY BUSINESS**

- 6.1 The attached terms of reference and remits reflect the proposed Policy Development and Scrutiny panel structure which was developed during 2018, following a consultation which explored whether the previous model, number and structure for scrutiny was working, and the different options for future change: the underlying objective being to ensure that the Council is delivering good scrutiny. The proposed 3 panel model was widely discussed and agreed in principle by political groups.
- 6.2 The trend towards collective scrutiny by West of England Councils and participation in a wider range of scrutiny activity on a regional basis is likely to continue. For this reason, it is proposed that any Panel should be able to participate in informal joint working with other Councils when it is expedient and cost-effective for there to be a collective approach.

## **7 PROPORTIONALITY**

- 7.1 At the time of preparation and despatch of this report, no notification had been received of the formation of political groups such as to trigger the requirement to review. It is anticipated that notification will be received prior to the 21st May, in which case an update report will be prepared for Council incorporating revised proportionality figures and consequent allocation of seats based on the existing number of seats on each committee.
- 7.2 The law gives detailed guidance on the principles to be applied in calculating the allocation of seats on Committees and Sub Committees but the basic principles are:-
- a) not all the seats on the body shall be allocated to one particular party;
  - b) the majority of the seats on the body shall be 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, the number of seats on the ordinary Committees of the Authority which are allocated to a political group shall bear 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 that Authority;
  - d) subject to paragraphs (a) to (c) above, the number of 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.
- 7.3 Notwithstanding (a) to (d) above the Act does not restrict the ability of the Council, or Committees where they are authorised by the Council, to decide on the size and number of seats on Committees and Sub Committees, and to make the actual appointments. A Committee or Sub Committee must, however comprise at least two voting members.

- 7.4 The law also deals with the allocation of committee places to members who do not belong to any political group. It indicates that, where there are members of the Council who do not belong to a political group, a proportion of seats on each body to which appointments are made, equal to the proportion of authority members who do not belong to a political group, will be allocated to the Member(s) concerned. Thus, if there were fifty nine seats on Committee/Panels and two independent members, two seats would be available to them. Council will decide which of the available seats will be so allocated and to whom.
- 7.5 Discussions are in hand between political groups as to the number and remit of decision making bodies and the consequent allocation of nomination rights to groups.
- 7.6 A revised political proportionality table will be issued as soon as practicable.
- 7.7 The allocation of seats will be based on the rules set out in paragraphs 7.2 and 7.3 above, with Liberal Democrats having 63%, Conservatives 19%, Independent 10% and Labour 8% of the total number of Councillors. This is currently under discussion.

## **8 POLITICAL ASSISTANTS**

- 8.1 Since its inception, this Council has offered to each of the qualifying Political Groups, the support of a Political Assistant. These are officers who are specifically recruited to give political support and advice directly to members of the group. They hold fixed term contracts and their terms of office expire on the day of the Annual General Meeting of the Council in a year of ordinary election (ie the date of this meeting).
- 8.2 The Local Government and Housing Act, 1989 is the legislation governing such appointments. That legislation sets down eligibility criteria for a Political Assistant, on the basis that the Council first agrees to allocate such posts to all eligible political groups. The criteria are:
- the political group must have at least 10% of the total Council membership;
  - no more than 3 x Political Groups with 10% or more seats to qualify;
  - where there is only one Political Group with 10% or more seats, then that group and one other only shall qualify.
- 8.3 The Council will need to determine therefore (a) whether it wishes to make an allocation of Political Assistants to eligible groups and (b) if it does, then to which groups will such an allocation be made.

## **9 CABINET WORKING AND REPORT OF SPECIAL URGENT DECISIONS**

- 9.1 Council is reminded that the arrangements for the discharge of executive (Cabinet) functions are the sole responsibility of the Leader of Council. The arrangements she approves will be incorporated within the Council's Constitution and the Leader may address the Council if she so wishes in respect of any implemented or proposed changes to the arrangements.
- 9.2 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 require any decisions taken by the

Cabinet or single Cabinet Member under special urgency provisions in the previous year to be reported to Council (Constitution part 4b, rule 16 refers). This Council has decided that will happen on an annual basis.

The following such decisions were made and published;

**Decision E3087 – Acquisition of income generating investments to incorporate within the Commercial Estate to move to full approval from provisional**

Date of decision: 11<sup>th</sup> September 2018

Decision Maker: Leader of the Council (Tim Warren)

The Leader agreed to;

1. The acquisition of two investment properties which are in accordance with external legal advice but noting that the purchase of one of the properties does not meet with MHCLG guidelines as it is outside of the Bath and North East Somerset boundary; and
2. Capital expenditure on the acquisition of the properties and any necessary adjustments to the 2018/2019 capital budget to reflect this approval.

**Decision E3134 – Acquisition of income generating investment to incorporate within the Commercial Estate to move to full approval from provisional**

Date of decision: 18<sup>th</sup> February 2019

Decision Maker: Leader of the Council (Tim Warren)

The Leader agreed to;

1. The acquisition of an investment property which is in line with MHCLG guidelines as it is within the Bath and North East Somerset boundary; and
2. Capital expenditure on the acquisition of the property and any necessary adjustments to the 2018/2019 capital budget to reflect this approval.

**Decision – Mental Health Review**

Date of decision: 6<sup>th</sup> March 2019

Decision Maker: Leader (Tim Warren), Cabinet Member for Finance & Efficiency (Charles Gerrish), Cabinet Member for Children & Young People (Paul May), Cabinet Member for Adult Care, Health & Wellbeing (Vic Pritchard) – serving on the Health & Care Board

The Board agreed to;

1. Health and Care Board agreed that the Clinical and Commissioning Group and the Council work with existing system leaders to deliver the new Thrive model of Mental Health provision in B&NES.

**10 COUNCIL MEETING SCHEDULE**

10.1 The frequency of Full Council, Committee and Panel meetings is decided by the Council. The pattern of meetings previously approved was based on the Full Council meeting six times a year (in May, July, September, November, February and March). The general pattern of Committee and Policy Development & Scrutiny Panel meetings was based on a meeting cycle of once every two months. The Development Management Committee meets on a monthly cycle. The Licensing Sub-Committee meets as required to deal with the applications. Committees and Panels have discretion to vary their schedule of meetings according to workload, but Members need to be aware that there are resource and workload implications if there are significant changes made to the overall frequency of meetings.

10.2 Once meeting dates are arranged, they will be available online and can be downloaded by Members.

## **11 RISK MANAGEMENT**

11.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

## **12 EQUALITIES**

12.1 Equalities Impact Assessments have been carried out on the Access to the Democratic process and the Overview & Scrutiny Strategic and Democratic function and are available for public inspection.

## **13 ADVICE SOUGHT AND CONSULTATION**

13.1 The Council's Chief Executive, Monitoring Officer (Director – Legal and Democratic Services) and Section 151 Officer (Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

13.2 Group Leaders have been consulted on relevant aspects of this report.

<b>Contact person</b>	Jo Morrison, Democratic Services Manager, ext 4358
<b>Background papers</b>	The Council's Constitution
<b>Please contact the report author if you need to access this report in an alternative format</b>	