

Bath & North East Somerset Council

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| MEETING: | Council | |
| MEETING DATE: | 25 th May 2023 | |
| TITLE: | APPOINTMENT OF COMMITTEES AND PANELS, PROPORTIONALITY CONSIDERATIONS & OTHER ANNUAL BUSINESS | |
| WARD: | All | |
| AN OPEN PUBLIC ITEM | | |
| List of attachments to this report: Appendix 1 – Political proportionality and committee chairing arrangements structure – <i>to follow</i> Appendix 2 - Terms of Reference of Panels, Committees and other bodies in the Council's Constitution Appendix 3 – Member Advocate Annual Activity reports Appendix 4 – Job description for Cabinet Project Lead | | |

1 THE ISSUE

- 1.1 This report invites the Council to consider its non-executive and regulatory committee arrangements for the Council year May 2023 to May 2024 and other associated annual business. The Council is also required to formally undertake a statutory review of the political proportionality arrangements (as triggered under section 15 of the Local Government and Housing Act 1989) in respect of bodies that are required to be politically proportionate, following the recent local Council elections in May 2023, and this report addresses this.
- 1.2 Due to the Paulton election being delayed to a date in June, this report relates to the current Council of 57 Councillors. The Constitution requires that the matters detailed in section 2 are to be determined at the annual meeting of Council. A revised proportionality table will be brought to the next Council on the 20 July and the decisions taken at the AGM will be reviewed, in light of the revised proportionality table, under paragraph 1 of Council Procedure Rule 3.1.36 being an exception to the SIX MONTH RULE.

2 RECOMMENDATION

The 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 noting the non-proportional basis of operating for the Licensing Sub-Committee as explained in paragraph 3.10);
- 2.4 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;
- 2.5 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;
- 2.6 Determine the bodies on which independent co-opted members (if any) are to have seats as either voting or non-voting members and appoint such members accordingly (Appendix 1);
- 2.7 Expressly disapply the proportionality rule to the Restructuring Implementation Committee (*with no Councillor voting against*), as set out in section 3.9;
- 2.8 Confirm the chairing arrangement for the Standards committee set out in 3.11 should continue (with an independent member taking the chair);
- 2.9 Agree to defer consideration of allocation of Political Assistants until the outcome of the Paulton election is known, and therefore confirm existing appointments until then, on an interim basis;
- 2.10 Appoint 3 members to Avon Fire Authority on a proportionality basis to be determined, noting there is a degree of urgency to these appointments as the AFA Induction and AGM commences in June;
- 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 5.3;
- 2.13 Note the position regarding the frequency of meetings (as set out in Section 6) as the basis for enabling the diary of meetings to be prepared, including a date of 16th May 2024 for the May Council AGM, and to authorise the Monitoring Officer to project dates forward and prepare the diary on this basis;

- 2.14 Re-appoint the existing Independent Remuneration Panel (IRP);
- 2.15 Instruct the IRP to consider a Special Responsibility Allowance for the Cabinet Project Lead role, using the Job Description at Appendix 4;
- 2.16 Note the activity of the Member Advocates, as set out in Appendix 3;
- 2.17 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;
- 2.18 Confirm the scheme of delegations, previously agreed at Council, as set out at Part 2 of the Constitution;
- 2.19 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 THE REPORT

- 3.1 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.
 - e) 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.
- 3.2 As it is only the Council that can make appointments to its committees (and only the Council has the power to remove) the Council must, if it wishes to have any substitutes, appoint substitutes to its committees as political groups have no power to appoint, merely to nominate. The appointment of named substitutes (where such substitution is permitted by law and under the Constitution) has the merit of transparency and openness, and, as the Council has agreed that it is highly desirable (and in the case of the Planning Committee mandatory) that

political groups should only nominate members as substitutes if they have had relevant training in the work of the committee, this approach enables training and resources to be better focussed and better discharges its fiduciary duty to ratepayers.

- 3.3 Under regulation 14 of the Local Government (Committees and Political Groups) Regulations 1990 as amended, the appointed proper officer (the Monitoring Officer) has the duty to notify the relevant leaders of the political groups 'as soon as practicable' after the agreed allocation of seats (or after any vacancies subsequently arising) so that such political groups may nominate members from their groups for appointment by the Council to the seats allocated on its committees to their groups.
- 3.4 Should a political group fail to express its wishes in relation to such appointment within three weeks beginning with the date on which the proper officer gave due written notice, the Council has discretion to make such appointment to that seat as they think fit in accordance with regulation 15 of the same regulations. The seats could be left vacant for a period of time.
- 3.5 Section 15 of the Local Government and Housing Act 1989 (the 1989 Act) details how and when appointments to ordinary committees must be allocated, as applying only to those members who are part of a political group. [The Local Government (Committees and Political Groups) Regulations 1990 Regulation 8 defines political groups as two or more members of the authority who wish to be treated as a political group by giving notice to the Proper Officer].
- 3.6 There are currently no 'unaligned' councillors, as all councillors are part of a political group.

Proportionality - Alternative arrangements

- 3.7 Should the Council wish to make alternative arrangements, the Council may disapply the political balance requirements in whole or in part **provided no Councillor votes against those alternative arrangements** (section 17(1) of the Local Government and Housing Act 1989 and regulation 20 of the Local Government (Committees and Political Groups) Regulations 1990).
- 3.8 These alternative arrangements cease to have effect each time a review is triggered in accordance with section 15 of the Act.
- 3.9 This is specifically requested with regard to the Restructuring Implementation Committee (constituted of the Group Leaders)

Disapplication of proportionality

- 3.10 The following bodies are not required to be politically proportionate; Area Committees, Health and Wellbeing Board, the Cabinet and any Licensing Committee or Sub-Committee appointed by the Licensing Act 2003.

Standards committee chairing arrangement

- 3.11 The Standards committee features in the proportionality table with chairing rights allocated to a political group. This is statutorily required for when a formal vote is needed, as independent members do not have voting rights. However, in order to preserve the non-political nature of the committee and maintain trust

and confidence in its operation, the committee has operated with one of the independent members taking the chair and it is hoped that this arrangement will continue.

4 POLITICAL ASSISTANTS

- 4.1 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).
- 4.2 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:
- a) the political group must have at least 10% of the total Council membership;
 - b) no more than 3 x Political Groups with 10% or more seats to qualify;
 - c) where there is only one Political Group with 10% or more seats, then that group and one other only shall qualify.
 - d) The Council will need to determine therefore (a) whether it wishes to make an allocation of Political Assistants to eligible groups; (b) if it does, then to which groups will such an allocation be made; and c) indicate what arrangements it intends to make to support the remaining groups.
- 4.3 The election in Paulton has been postponed until 22nd June 2023, meaning that the complete political make-up of the Council of 59 Councillors will not be known until after this result. The recommendation in this report (Para 2.9) is that a decision on this matter is deferred until the outcome of the Paulton election is known and in the existing arrangements are confirmed in the interim. An updated political proportionality table will be brought to the next Council following this and any decisions regarding allocation of Political Assistants will be made at that point.

5 CABINET WORKING & REPORT OF SPECIAL URGENT DECISIONS

- 5.1 Council is reminded that the arrangements for the discharge of executive (Cabinet) functions are the sole responsibility of the Leader of Council.
- 5.2 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 3.5.16 refers). This Council has decided that will happen on an annual basis.
- 5.3 There were 2 such decisions taken in the previous municipal year;

RULE 3.5.16 – Two month extension of supported bus service 672

To set out the case for a further 2 month extension to the supported bus service 672.

Decision Maker: Cabinet Member for Climate and Sustainable Travel
Decision published: 17/03/23

Decision: The Cabinet Member agrees to release up to £70,000 from the Council's earmarked public transport reserves to enable a 2 month extension to the 672 supported bus service until 30 July 2023.

Lead officer: Pam Turton

RULE 16 (old Constitution) – Appendix 1 to the Discretionary Rate Relief Policy

To agree the proposal relating to the Discretionary Rate Relief Policy. This gives guidance to officers administering claims for discretionary rate relief under discretionary powers provided by the Local Government Finance Act 1988.

Decision Maker: Cabinet Member for Economic Development and Resources
Decision published: 16/06/2022

Decision: The Cabinet Member agrees to approve the proposal relating to these reliefs as set out in Appendix 1.

Lead officer: Rob Brunton

6 COUNCIL MEETING SCHEDULE

6.1 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 Planning 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.

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

7 MEMBER ADVOCATES

7.1 The Council has appointed a number of Member Advocates to champion the needs of a particular interest;

<https://democracy.bathnes.gov.uk/documents/s74089/Member%20Advocates%20role%20description.pdf>

7.2 The scheme requires a brief annual report to Council about the work the Advocate has done in their role in the preceding year. A summary of these is attached at Appendix 3.

8 APPOINTMENTS ON OUTSIDE BODIES

8.1 Currently, appointments are made by full Council (through delegation to the Monitoring Officer in consultation with Group Leaders) for Council functions, and by the Leader for Cabinet ones.

9 STATUTORY CONSIDERATIONS

9.1 Relevant statutory considerations are addressed in parts 3 to 5 above in relation to the specific recommendations required to be determined in part 2.

10 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

10.1 There are no additional costs associated with the proposals contained in this report.

11 RISK MANAGEMENT

11.1 The recommendations are to ensure that the Council meets its corporate governance requirements and responds to changing requirements and demands. These should lessen the risks arising from any challenge to the decision-making process by way of judicial review or other such legal action.

12 EQUALITIES

12.1 This report deals with the Councils practical arrangements for conducting Council business during the Municipal Year and applies legislation and regulations which are themselves subject to equality Impact assessments.

13 CLIMATE CHANGE

13.1 There are no climate implications arising directly from this report.

14 OTHER OPTIONS CONSIDERED

14.1 None.

15 CONSULTATION

15.1 This report has been cleared by the Chief Executive, S151 Officer, Monitoring Officer and Group Leaders.

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| Contact person | Jo Morrison, Democratic Services Manager |
| Background papers | The Constitution |
| Please contact the report author if you need to access this report in an alternative format | |