



Committee report

Committee	ANNUAL COUNCIL
Date	17 MAY 2017
Title	APPOINTMENTS, COMMITTEE STRUCTURE AND CONSTITUTIONAL ISSUES
Report of	HEAD OF LEGAL SERVICES AND MONITORING OFFICER

EXECUTIVE SUMMARY

1. This report sets out a number of actions required at the annual council following elections in accordance with national legislation and the constitution.
2. Additionally this report deals with the further matters that follow from previous Council decisions:
 - (a) A revised constitution to reflect a number of administrative adjustments recommended by a cross party group of leading members but was adjourned at the March meeting.
 - (b) Consideration of further constitutional changes arising from the more significant issues which the working party have identified should be considered by the new administration after the election and others as identified subsequently.
3. Any further proposed changes arising as the result of the elections will be sent in advance of the meeting or tabled at the meeting.

BACKGROUND

4. In accordance with the constitution full council is required to :
 - (a) *Elect a person to preside if the chairman of the council is not present;*
 - (b) *Elect the chairman of the council;*
 - (c) *Elect the vice chairman of the council;*
 - (d) *Approve the minutes of the last meeting;*
 - (e) *Receive any declarations of interest from members;*
 - (f) *Receive any announcements from the chairman and/or head of paid service;*
 - (g) *Elect the Leader;*

- (h) Appoint at least one scrutiny committee and other such committees as the council considers appropriate;
 - (i) Decide upon the size and terms of reference for those committees;
 - (j) To appoint the chairman of the scrutiny committee and the chairman and vice chairman of any other committees or sub committees appointed by council;
 - (k) Receive nominations of councillors to serve on outside bodies that are required to be re-appointed by the council (if any);
 - (l) Re-affirm the scheme of delegation;
 - (m) *Approve a programme of ordinary meetings of the council for the year; and*
 - (n) *Consider any business set out in the notice convening the meeting.*
5. Items (a) to (g) and (m) and (n) above (in italics) are dealt with elsewhere on the agenda for this annual meeting. This report covers items (h) to (l)

THE COMMITTEE STRUCTURE

6. In accordance with various legislative requirements the council is currently required to appoint ;
- (a) A cabinet of the leader and no more than nine other members;
 - (b) At least one Overview and Scrutiny Committee;
 - (c) One or more committees of the council to deal with the regulatory functions (ie planning and licensing).
7. The Council's current list of committees is set out in appendix A.
8. Dealing with these in turn :-

Executive

9. Under the legislation, whilst full Council sets the budget and policy framework the vast majority of decisions are a matter for the Executive and not Full Council. The Full Council appoint the Leader (see earlier agenda item) and under the constitution it is for the Leader of the Council to appoint the other members of the Executive (up to a maximum of 9).

Overview and Scrutiny

10. While the Executive undertakes the vast majority decisions of the Council (the executive business), the overview and scrutiny committee arrangements have an important role in scrutinising the decisions and assisting in policy development. The legislation states that there must be at least one overview and scrutiny committee. The council is free to determine any arrangements, as it sees fit, to discharge this function taking into account the resources available.
11. The proposed arrangements for Overview and Scrutiny combine the previous role of the Select committees, thereby removing the Select committees and are as follows:-

- (a) A Scrutiny committee of 8 members (appointed on a reverse politically proportionate basis). The chairman to be a member who is not from the majority political group to consider the budget and policy strategy.

Council may disapply the rules of proportionality across this committee if it so wishes. If this is the case this can only be carried out if no member votes against it.

- (b) A Policy and Scrutiny Committee for Children's Services of 7 members (appointed on a politically proportionate basis), with some statutory voting co-opted representatives, that supports policy development and scrutinises matters relating to children's services.
- (c) A Policy and Scrutiny Committee for Adult Social Care and Health of 7 members (appointed on a politically proportionate basis), that supports policy development and scrutinises the adult social care function and also provide the statutory health scrutiny function.
- (d) A Policy and Scrutiny Committee for Regeneration, Housing, Planning and the Environment of 7 members (appointed on a politically proportionate basis), that supports policy development and scrutinises matters relating to Regeneration, Planning, Housing and Environment.
- (e) To change the call-in provision so that this now requires the support of the Chairman of the Scrutiny Committee in addition to the current requirement for 2 members from the Scrutiny Committee plus any other member.
- (f) **No Executive member can be a member of any of the above committees.**

- 12. Council will need to agree to a temporary SRA for the additional Policy and Scrutiny Committees, which it is proposed be the same as the SRA for the current Children's Committee. This will be the subject of consideration by the IRP who will make a recommendation to the Council later in the year, which may result in the SRA payment adjusting upwards or downwards.

Other Constitution issues

- 13. The Constitution working Party identified for consideration the future of the Employment Committee. Council can consider whether to continue with the Employment Committee, or replace it with an Appointments Committee, responsible for arranging the appointment of the Head of Paid Service, s.151 Officer and Monitoring Officer subject to the approval of Full Council, for the appointment of Directors and for related dismissal, disciplinary, capability and other issues. Proposed terms of reference are attached at appendix E to include the Leader being the Chairman. The proposed terms of reference also address another identified item, namely whether member involvement in appeals by officers in respect of disciplinary and capability dismissals should continue. The proposed terms of reference provide for the appointment, dismissal and taking of disciplinary action against any officer (other than the s.151 Officer, MO or Director) be discharged by the Chief Executive or

appropriate officer of the council. All other matters presently dealt with by the Employment Committee would become the responsibility of the Cabinet. The Committee to meet as and when required.

14. Also identified was the number of full council meetings in any year. Currently there are 9. Many other councils operate successfully with less. A significant resource in terms of both officer and member time is taken up and it could be said that regard should be had to ensuring that the meetings are cost effective and efficient in their use of resources and that fewer meetings could still deal with the necessary reports that Full Council has to consider. It is proposed that the council move to have 6 meetings of Full Council, to take place in the following months January, February, May, July, September and November.
15. Following discussions with the largest group the following further suggestions have also been made:-
16. Council could consider would be whether to continue with Executive reports at Full Council, which with fewer meetings would ensure sufficient time on Agenda's to deal with the business on the agenda. This could be on the basis that any member can ask a question of any cabinet member on budget and policy at any time and will receive a response within 5 working days, the number of questions allowed per member to be reasonable and proportionate. The response to be published on the council's website on a regular basis thereby providing the public the opportunity to review the questions and answers.
17. That Executive member delegated decisions be re-instated. This could provide for all delegated member decisions to be included on the forward plan for transparency in the same way as any decision to be taken by the Cabinet. A formal report would be prepared, which would be published by the council at least 5 clear working days before a member takes a decision. The decision would itself be subject to call-in. The decision would be published on the council's website.
18. That the requirement for named votes set out in the procedure rules for Full council and all decision making committee's be removed. The opportunity for 4 members present at the meeting to request names be recorded to remain.
19. The "Executive" will be known as the Cabinet.
20. To update the Policy framework referred to in Article 4 of the constitution so as to update the list of plans and strategies to reflect those relevant but continue to enable any other plans required by law to be determined by the Council – to read as follows:-

Policy framework. The Full Council will be responsible for adopting or approving the following plans and strategies:

- (i) The Council's Corporate Plan;
- (ii) Sustainable Community Strategy;

- (iii) The Children's and Young People's Plan;
- (iv) The Local Plan;
- (v) Local Transport Plan;
- (vi) The Fire and Rescue Authority Integrated Risk Management Plan;
- (vii) Gambling Act: Statement of Licensing Policy;

Any other plan or strategy that is required by law or which the Council determines should be designated as a Policy Framework Document and adopted or approved by Full Council.

Other Committees

21. There are no changes proposed to any other committees as listed below –

- (a) Planning Committee
- (b) Licensing Committee
- (c) Appeals Committee
- (d) Audit Committee
- (e) Isle of Wight Pension Fund Committee
- (f) Isle of Wight Pension Board
- (g) Fire Pension Board

Political proportionality

- 22. Following the elections on 4 May 2017 various political groups will be established in accordance with the legislative requirements.
- 23. Once council has agreed the committee structure and the size of the various committees then seats on those will, in accordance with the delegated powers of the Head of Legal Services and Monitoring Officer, be filled on a politically proportionate basis in accordance with the wishes of the group leaders. Group leaders will be advised of the numbers as soon as the calculations have been completed.

Appointment of chairmen and vice chairmen

- 24. It is for council to approve the chairmen of committees. Included at appendix A is a list of the available positions of the proposed committees mentioned above. All committees and panels can appoint their own vice chairman unless the council so chooses to appoint a vice chairman.

Nominations to outside bodies

- 25. A review of outside bodies to which the council appoints representatives was undertaken in 2010. This resulted in a framework being agreed by Full Council on 21 April 2010. As the result of this a list is maintained to which appointments are to be made.

26. As part of the framework all members are consulted on the vacancies and these are then filled by the Head of Legal Services and Monitoring Officer in consultation with the relevant executive member. Attached at appendix B is the current list of outside bodies to which the council appoints.
27. The only appointment that needs to be made by Full Council is to the Police and Crime Panel. In addition to agreeing to the council's appointed member to the panel it will also be necessary to identify a member to act as a "Deputy Member" where the Appointed Member is temporarily unable to attend a meeting or panel business.
28. All other appointments will be dealt with by members being advised of each of these so that nominations can be submitted and dealt with in accordance with the constitution.

Scheme of delegation

29. The council is asked to affirm the scheme of delegation of powers (to both executive members and officers) as set out at pages 73 to 84 in Appendix C.

Wider Review of the Constitution

30. Over the last year of the previous administration a small group made up of the leaders (or their representatives) of each of the then political groups on the council looked at, in some detail, the current constitution with the intention of reducing its size, removing duplication, simplifying some of the wording, and resolving some administrative points that were identified during the review.
31. The version of the constitution that the informal group recommended to the Council in March is attached at Appendix C and Appendix D sets out the changes requested by the informal group.
32. At the March meeting the Council decided to adjourn any decision on the new format of the constitution and hence it is open to the Council at this meeting to agree the revised format constitution as set out at appendix C.

STRATEGIC CONTEXT

33. Good governance arrangements are essential to the delivery of the council's services and the decision making process that supports this.

CONSULTATION

34. The proposed new format constitution was developed in consultation with a group made up of all the then group leaders (or their nominee).

FINANCIAL / BUDGET IMPLICATIONS

35. There are no additional costs associated with the proposals contained in this report. The recommendations accord with the resources available within the overall budget agreed by full council in February 2017.

36. Under the member's allowance scheme (as set out in the constitution) a number of council appointments are entitled to receive a special responsibility allowance (SRA) in recognition of undertaking a role. The council is free to determine if any of the posts should have a SRA but any changes outside of the existing scheme will need to be on the basis that they are subject to consideration by the Independent Remuneration Panel, a panel of independent external people appointed by the Council who make recommendations on members' remuneration. Any expenditure on members' allowances must be met from within the existing budget.
37. The Independent Remuneration Panel review (in the autumn) the allowances scheme on an annual basis and it is recommended that Council asks the Independent Remuneration Panel to undertake this year's review taking into account any changes to the members' roles etc that may be agreed at this meeting.
38. If council wish to agree to additional meetings or change the committee structure or limit existing delegations to officers significantly, the resource implications will have to be assessed to be taken into account before any final decision on implementation can be taken.

LEGAL IMPLICATIONS

39. All the above are requirements specified within the council's constitution and the Local Government Act 2000 and subsequent legislation.

EQUALITY AND DIVERSITY

40. The rules around political proportionality ensure that the council's decision making structure reflects the make up of the democratically elected representative of the Island's voting population.

OPTIONS

41. Overview and scrutiny functions

- (a) To change the overview and scrutiny arrangements to provide for:-
- (i) A Scrutiny committee to address the wider budget and policy strategy;
 - (ii) Policy and Scrutiny Committee for Children's Services.;
 - (iii) Policy and Scrutiny Committee for Adult Social Care and Health;
 - (iv) Policy and Scrutiny Committee for Regeneration, Planning, Housing and the Environment;
 - (v) To approve the terms of reference for the Overview and Scrutiny functions attached at appendix E;
 - (vi) To remove the Select committee's;
 - (vii) To change the call-in provision so that this now requires the support of the Chairman of the Scrutiny Committee in addition to the current requirements for 2 members of the Scrutiny committee plus any other member.

- (b) To leave the overview and scrutiny arrangements as they currently are.
42. Employment Committee
- (a) To replace the Employment Committee with an Appointment's Panel on the terms of reference attached at appendix F, the Head of Legal Services and Monitoring Officer to adjust the constitution as necessary.
 - (b) To leave the Employment Committee as it currently is.
43. Other Committees and Political proportionality
- (a) To approve the committee structure and size of the various committees and that the seats be filled in accordance with the wishes of the group leaders and in accordance with the delegated powers given to the Head of Legal Services and Monitoring Officer.
 - (b) To approve an amended committee structure and size of the various committees and that the seats be filled in accordance with the wishes of the group leaders and in accordance with the delegated powers given to the Head of Legal Services and Monitoring Officer.
44. Appointment of chairman and vice chairman of Committees
- (a) To appoint the chairmen, and where required, vice chairmen to the positions contained in appendix A.
 - (b) Not to appoint to these positions which would create difficulties in the calling of meetings.
45. Nominations to outside bodies
- (a) To appoint a member as the Council's Appointed Member to the Police and Crime Panel together with a member to act as "Deputy Member".
 - (b) Not to appoint to the Police and Crime Panel at this stage.
46. Scheme of delegation
- (a) To agree the scheme of delegation as set out at pages 73-84 of Appendix C.
 - (b) To agree an amended scheme of delegation.
47. Constitution
- (a) That the reformatted and revised constitution as attached at appendix C to this report be approved subject to such further amendments as may be made arising from this report.

- (b) That no alterations following the review by the working group be made to the current constitution.

48. Council Meetings

- (a) To reduce the number of council meetings to 6 – in January, February, May, July, September and November.
- (b) Not to reduce the number of Council meetings.

49. Executive Reports

- (a) To remove Executive reports from Full Council Agenda and to amend the Procedure Rules accordingly.
- (b) Not to remove Executive reports from Full Council Agenda.

50. Delegated Member Decisions

- (a) To re-instate Delegated Member decisions as set out in this report.
- (b) Not to re-instate Delegated Member decisions.

51. Cabinet

- (a) The Executive be known as the Cabinet, and the constitution to be amended accordingly.
- (b) The Executive to continue to be known as the Executive.

52. Named Votes

- (a) That the requirement for named votes set out in the procedure rules for Full council and all decision making committee's be removed.
- (b) That the requirement for named votes remain.

53. Policy Framework – Article 4

- (a) To update the Policy framework referred to in Article 4 – to read as follows:-

Policy framework. The Full Council will be responsible for adopting or approving the following plans and strategies:

- (i) The Council's Corporate Plan;
- (ii) Sustainable Community Strategy;
- (iii) The Children's and Young People's Plan;
- (iv) The Local Plan;

- (v) Local Transport Plan;
- (vi) The Fire and Rescue Authority Integrated Risk Management Plan;
- (vii) Gambling Act: Statement of Licensing Policy;

Any other plan or strategy that is required by law or which the Council determines should be designated as a Policy Framework Document and adopted or approved by Full Council

- (b) Not to update the Policy Framework in Article 4.

- 54. That the Independent Remuneration Panel be asked to consider the impact of the changes agreed by this meeting of the council and to report back before the end of the year on any adjustments that need to be made to the members allowances scheme.
- 55. THAT the Monitoring Officer be authorised to amend the constitution to reflect any agreed changes.

RISK MANAGEMENT

- 56. All 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.

EVALUATION


- 57. The majority of the recommendations are required under the council's constitution. However an effective governance system for the council is essential to enable business to be transacted openly and in a timely manner. The appointment of the various committees and the implementation of the supporting processes seeks to do this.

RECOMMENDATION

- 58. That council considers the options available on each issue and approves the necessary action to implement these where appropriate.

APPENDICES ATTACHED

- 59. [Appendix A](#) – List of council committees, sizes and chairman
- 60. [Appendix B](#) – List of outside bodies
- 61. [Appendix C](#) – Revised reformatted constitution (as a separate document)
- 62. [Appendix D](#) – Changes included in the reformatted constitution
- 63. Appendix E – Terms of reference for Overview and Scrutiny Committees (To follow)
- 64. [Appendix F](#) – Terms of reference for the Appointments Committee

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