

**FLINTSHIRE COUNTY COUNCIL**

<b>Date of Meeting</b>	Tuesday 7 <sup>th</sup> May 2019
<b>Report Subject</b>	Constitutional Matters: Committees
<b>Report Author</b>	Chief Officer (Governance)

**EXECUTIVE SUMMARY**

Every year the Council must agree what arrangements it will make to carry out its functions, such as its Committee structure and delegation to Officers. These matters are set out in Council Procedure Rule 1.1 (vii)-(xiv) and are determined at the Annual Meeting.

The report is split into sections, each one dealing with one decision that needs to be made and the relevant issues to consider. Each section will need to be considered and voted on in turn at the meeting.

**RECOMMENDATIONS**

1	<p>That Council appoints the following Committees:</p> <ul style="list-style-type: none"> <li>• Audit</li> <li>• Clwyd Pension Fund</li> <li>• Constitution and Democratic Services Committee</li> <li>• Joint Governance Committee (for pensions)</li> <li>• Licensing</li> <li>• Planning</li> <li>• Standards</li> <li>• The Six Overview and Scrutiny Committees listed in paragraph 1.01</li> <li>• Grievance Committee (appointed on 9 April 2019)</li> <li>• Investigation and Disciplinary Committee</li> </ul>
2	<p>It is recommended that the terms of reference for each Committee in the Constitution should be approved with the addition of the Grievance Committee appointed at the last meeting and the Investigation and Disciplinary Committee as set out in this report.</p>

3	That the size of each Committee should be as set out in paragraph 1.03 and that an additional lay Member should be recruited to the Audit Committee as set out in this report.
4	That seats be allocated in accordance with political balance (and the rules on Membership of the Planning Committee) as set out in one of the options at Appendix 1.
5	That Council appoints the Chair of the following Committees (noting any restrictions on eligibility): <ul style="list-style-type: none"> <li>• Clwyd Pension Fund</li> <li>• Constitution and Democratic Services</li> <li>• Licensing</li> <li>• Planning</li> </ul>
6	That the Grievance Committee and Investigation & Disciplinary Committee should each appoint its own Chair from amongst its Membership.
7	That Council decides which group will chair each Overview and Scrutiny Committee.
8	That Local Choice Functions as set out in the Constitution be approved.
9	That the make-up of the Appointments Committee be approved.
10	That the composition and Membership of the Standards Committee be noted.
11	That Council notes that nominees to Outside Bodies have been appointed for the whole Council term and the Chief Executive's power to vary those nominations (in consultation with Group Leaders).

## **REPORT DETAILS**

<b>1.00</b>	<b>CONSTITUTIONAL MATTERS</b>
	<b><u>APPOINTMENT OF COMMITTEES</u></b>
1.01	The Constitution presently provides for the appointment of the following Committees:- <ul style="list-style-type: none"> <li>• Audit</li> <li>• Clwyd Pension Fund Committee</li> <li>• Constitution and Democratic Services Committee</li> <li>• Joint Governance Committee (for Pensions)</li> <li>• Licensing Committee</li> <li>• Planning and Development Control</li> <li>• Standards Committee</li> </ul>

	<p>Plus six Overview and Scrutiny Committees (OSCs) which will be as shown below –</p> <ul style="list-style-type: none"> <li>• Community and Enterprise</li> <li>• Corporate Resources</li> <li>• Education and Youth</li> <li>• Environment</li> <li>• Organisational Change</li> <li>• Social and Healthcare</li> </ul> <p>In addition, the Council agreed at its meeting on 9 April 2019 to form a Grievance Committee.</p>
1.02	<p>As mentioned at the meeting on 9<sup>th</sup> April 2019 there is also a need to establish an Investigation and Disciplinary Committee now, not least because this is another standing committee recommended by the JNC Terms and Conditions for Chief Officers. Suggested terms of reference are set out below. It will be convened only if it is required.</p> <p>“To be the Disciplinary Committee in respect of the Head of Paid Service/Chief Executive, the Section 151 Officer, the Monitoring Officer and the Head of Democratic Services in accordance with Section 11.19 of the Officer Employment Rules.</p> <p>To be the Investigation Committee for the conduct of disciplinary matters relating to the Head of Paid Service/Chief Executive, the Section 151 Officer, the Monitoring Officer and the Head of Democratic Services in accordance with Section 11.19 of the Officer Employment Rules i.e. to consider any allegation of misconduct and decide whether it should be investigated further.”</p>
1.03	<p><b>It is recommended that Council appoint the following Committees:</b></p> <ul style="list-style-type: none"> <li>• <b>Audit</b></li> <li>• <b>Clwyd Pension Fund</b></li> <li>• <b>Constitution and Democratic Services Committee</b></li> <li>• <b>Joint Governance Committee (for pensions)</b></li> <li>• <b>Licensing</b></li> <li>• <b>Planning</b></li> <li>• <b>Standards</b></li> <li>• <b>The six Overview and Scrutiny Committees listed above</b></li> <li>• <b>The Grievance Committee (agreed 9<sup>th</sup> April 2019)</b></li> <li>• <b>An Investigation and Disciplinary Committee</b></li> </ul>

	<b><u>DETERMINATION OF THE SIZE OF COMMITTEES</u></b>																				
1.04	<p>The Annual Meeting must decide upon the size of each of the Committees it has appointed. The Constitution presently makes provision for the size of those Committees as set out below:-</p> <table border="0"> <tr> <td>Audit Committee</td> <td style="text-align: right;">7</td> </tr> <tr> <td>Constitution and Democratic Services Committee</td> <td style="text-align: right;">21</td> </tr> <tr> <td>Joint Governance Committee (Pensions) (this is the Chair of the Pensions Committee)</td> <td style="text-align: right;">1 representative</td> </tr> <tr> <td>Licensing Committee</td> <td style="text-align: right;">12</td> </tr> <tr> <td>Each of the Overview &amp; Scrutiny Committees</td> <td style="text-align: right;">15</td> </tr> <tr> <td>Pensions Committee* (*please note in addition to the places listed there are 4 places for co-optees)</td> <td style="text-align: right;">5</td> </tr> <tr> <td>Planning Committee (see below)</td> <td style="text-align: right;">21</td> </tr> <tr> <td>Standards Committee** (** there are 3 places for County Councillors plus 6 co-optees)</td> <td style="text-align: right;">9</td> </tr> <tr> <td>Grievance Committee</td> <td style="text-align: right;">11</td> </tr> <tr> <td>Investigation and Disciplinary Committee</td> <td style="text-align: right;">11</td> </tr> </table>	Audit Committee	7	Constitution and Democratic Services Committee	21	Joint Governance Committee (Pensions) (this is the Chair of the Pensions Committee)	1 representative	Licensing Committee	12	Each of the Overview & Scrutiny Committees	15	Pensions Committee* (*please note in addition to the places listed there are 4 places for co-optees)	5	Planning Committee (see below)	21	Standards Committee** (** there are 3 places for County Councillors plus 6 co-optees)	9	Grievance Committee	11	Investigation and Disciplinary Committee	11
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1.05	<p>The size and composition of the Planning Committee is regulated by legislation. The Planning Committee must be between 11 and 21 Members in size and no larger than 50% of the total Membership of the Council. The proposed (current) size of Committee meets these requirements.</p>																				
1.06	<p>At its meeting on 27 March 2019 the Audit Committee considered a report on the size of the Committee. It considered whether to increase its size. It considered that the number of seats available for Elected Members should not be increased but that the seat available to the smallest group(s) should be rotated so that within a Council term every group has the opportunity to serve on the Committee. This is reflected in the political balance table below.</p>																				
1.07	<p>The Audit Committee includes a lay Member who is recruited on the basis of their skills and experience. Both the current and previous lay Members have added greatly to the work of the Committee. The Committee therefore also resolved that it would seek an additional lay Member.</p>																				
1.08	<p>The criteria for lay Members were approved by Council in 2012 as follows:</p> <ul style="list-style-type: none"> <li>• Experience and/or understanding of audit, accounting practice and/or financial procedures;</li> </ul>																				

	<ul style="list-style-type: none"> <li>• Knowledge and/or experience of local government;</li> <li>• Perceived political and operational independence;</li> <li>• Has not been a councillor or officer of Flintshire County Council (or its predecessors); and</li> <li>• Has not been an officer or member of another council for at least 12 months.</li> </ul> <p>It is proposed that advertisements be placed in the press (as required by the legislation) but also online and on social media. The applicants will be shortlisted by the s.151 Officer and Monitoring Officer prior to interview by a panel. I would recommend that the panel consist of:</p> <ul style="list-style-type: none"> <li>• The Chair of Council;</li> <li>• The Cabinet Member with responsibility for Finance;</li> <li>• The Chair of the Audit Committee;</li> <li>• Plus 2 other Councillors (based on political balance).</li> </ul>
1.09	<b>It is recommended that the size of each Committee should be as set out in paragraph 1.03 and that an additional lay Member is recruited to the Audit Committee as set out in this report.</b>
	<b><u>TERMS OF REFERENCE OF COMMITTEES</u></b>
1.10	The Annual Meeting is required to decide the terms of reference of the Committees that it appoints. The existing terms of reference of the existing Committees are set out in the Constitution. The terms of reference for the Grievance Committee were agreed at the last Council meeting.
1.11	<b>It is recommended that the terms of reference for each Committee in the Constitution should be approved with the addition of the Grievance Committee appointed at the last meeting and the Investigation and Disciplinary Committee as set out in this report.</b>
	<b><u>POLITICAL BALANCE</u></b>
1.12	The Council is required at, or as soon as practicable after the Annual Meeting, to decide the allocation of seats to political groups in accordance with the Political Balance Rules contained in the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990 as amended. These rules do not apply to the Cabinet nor to the Standards Committee.
1.13	<p>The basis of the statutory requirement is that Committee seats should be allocated to political groups (so far as is practicable) in the same proportion as those groups have to the total Membership of the County Council.</p> <p>The allocation of seats on Committees to the political groups must recognise that:-</p> <ul style="list-style-type: none"> <li>(i) There must be no Committees whereby only one group has all the seat;</li> <li>(ii) Where there is a majority group it is entitled to a majority upon every Committee. (This does not apply where the largest group does not have an overall majority);</li> </ul>

	<p>(iii) The total number of seats allocated to each political group should be (in so far as is practicable) in the same proportion as those groups' strengths upon the full Council;</p> <p>(iv) Each Committee should (so far as is practicable) have the same proportional division between political groups as is represented upon the full Council.</p> <p>Thus if a group holds 25% of the total number of Councillors they should have 25% of the overall number of seats on the Council and 25% seats on each Committee.</p>
1.14	<p>The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 also require that a Planning Committee:</p> <ul style="list-style-type: none"> <li>• Should not include any substitutes; and</li> <li>• Must have a quorum of 50% of the Members of Committee;</li> <li>• May only include 1 Member from a multiple Member ward.</li> </ul> <p>In making nominations to the Planning Committee the groups will need to follow these rules. Where a multiple Member ward is represented by Councillors who are not in the same group (and both wish to be on the Planning Committee), then there will need to be a means of deciding which Councillor can take up the place. In the first instance the two respective Group Leaders should seek to reach agreement. If that is not possible then the first nomination received by the proper officer should be accepted.</p>
1.15	<p>For the Audit and the Constitution and Democratic Services Committees, the Local Government (Wales) Measure limits the number of Cabinet Members on each Committee to a maximum of one who cannot be the Leader. The Constitution has extended this so that no Cabinet Member may be a Member of the Audit Committee.</p>
1.16	<p>Section 11 of the Constitution requires that the Investigation and Disciplinary Committee should include at least 1 Cabinet Member. It also requires that Cabinet Members should make up no more than 50% of the Committee. So, it is proposed that in selecting the Members of his/her group to serve on this Committee, the Leader should appoint only 1 Cabinet Member.</p>

1.17 There are a total of 178 seats for Councillors across all of the Council Committees based on the current group Membership. Since the last Council meeting there has been a change in the size of groups which means that the allocation of seat to groups have changed. The entitlement of each group to seats is set out in the table below.

<b>Group</b>	<b>Size of group</b>	<b>% of total Councillors</b>	<b>Entitlement to seats</b>
<b>Labour</b>	34	48.57	87
<b>Independent Alliance</b>	13	18.57	33
<b>Conservative</b>	6	8.57	15
<b>Independent</b>	6	8.57	15
<b>Liberal Democrats</b>	6	8.57	15
<b>New Independent</b>	5	7.14	13
<b>Total</b>	70	100%	178

1.18 Those seats could be divided across the different Committees in a number of possible configurations. Allowing for the change in group Membership and assuming that Council would wish to rotate the seat on the Audit Committee a number of possible options have been circulated to Group Leaders prior to the meeting. These are attached at Appendix 1.

1.19 **It is recommended that seats be allocated in accordance with political balance (and the rules on Membership of the Planning Committee) as set out in one of the options at Appendix 1.**

**APPOINTMENT OF CHAIRS OF STANDING COMMITTEES**

1.20 The Committee Chairs are appointed by different bodies and some are subject to restrictions. A table showing which body appoints which Chair and what restrictions (if any) apply is set out below. It was resolved that the Grievance Committee would elect its own Chair from amongst its Members, and the same is recommended for the Investigation and Disciplinary Committee.

	<b>Committee</b>	<b>Who Appoints the Chair?</b>	<b>Any Restrictions?</b>
	Audit Committee	Audit Committee	Cannot be a Member of a group represented on the Cabinet (Local Government Wales Measure 2011)
	Clwyd Pension Fund Committee	Council	The Chair and Vice Chair must be a Flintshire County Councillor
	Constitution and Democratic Services Committee	Council	Cannot be a Cabinet Member (LGW Measure 2011)
	Overview & Scrutiny Committees	Council decides from which group the Chair comes	Council must allocate Chairs based on the size of each group (LGW Measure 2011)
	Licensing Committee	Council	None
	Planning Committee	Council	None
	Standards Committee	Standards Committee	Must be an independent Member (Standards Committees (Wales) Regulations 2001)
1.21	<p><b>It is recommended that Council appoints the Chair of the following Committees (noting any restrictions on eligibility):</b></p> <ul style="list-style-type: none"> <li>• <b>Clwyd Pension Fund</b></li> <li>• <b>Constitution and Democratic Services</b></li> <li>• <b>Licensing</b></li> <li>• <b>Planning</b></li> </ul>		
1.22	<p><b>It is recommended that the Grievance Committee and Investigation &amp; Disciplinary Committee should each appoint its own Chair from amongst its Membership.</b></p>		
1.23	<p>Under the Local Government Measure 2011 the Chairs of Overview and Scrutiny are chosen by the political groups based on the strength of the various groups and which have seats on the Cabinet. Chairs are allocated to groups with a place on Cabinet first and any entitlement is rounded down to the nearest whole number. The remaining Chairs are then allocated to groups without a seat on Cabinet (rounding up to the nearest whole number).</p>		

1.24	Full Council appoints the Leader at the Annual General Meeting and the Leader will then announce the Cabinet. When the Membership of the Cabinet is known it will be possible to formally allocate the correct number of Chair(s) to each group. Possible allocations of Chairs are set out in Appendix 1 alongside the political balance calculations.
1.25	<b>It is recommended that Council decides which group will chair each Overview and Scrutiny Committee.</b>
	<b><u>LOCAL CHOICE FUNCTIONS</u></b>
1.26	The Council is also required to agree such part of the Scheme of Delegation as the Council determines it is for the Council to agree. This relates to those local choice functions which can be decided either by the Council or the Cabinet and/or delegated to officers. The table of Local Choice Functions is included in the Constitution. Members are recommended to confirm or otherwise the existing Local Choice Functions.
1.27	<b>It is recommended that local choice functions as set out in the Constitution are approved.</b>
	<b><u>NOMINATIONS TO INTERNAL BODIES</u></b>
1.28	The existing Scheme of Delegation provides for an Appointments Committee for first and second tier officers comprising 7 Members. This is not a standing Committee and is convened when required by seeking nominations from Group Leaders. In the past it has been usual for Committee Members to be politically balanced including the relevant Cabinet Member. The Council has previously agreed that the Chair or Vice-Chair of the relevant Overview and Scrutiny Committee be one of the Members of the Committee. It is recommended Council continues the previous practice.
1.29	<b>It is recommended that the make-up of the Appointments Committee be approved.</b>
	<b><u>STANDARDS COMMITTEE</u></b>
1.30	The Standards Committee includes five independent Members, a Town and Community Council representative and three Councillors (who cannot also be the Leader or Cabinet Members). The three Members (Cllrs Heesom, Johnson and Woolley) have been appointed for the whole term of this Council. There is a separate report about independent Members of the Committee on this agenda.
1.31	<b>It is recommended that that the composition and Membership of the Standards Committee be noted.</b>

	<b><u>APPOINTMENTS TO OUTSIDE BODIES</u></b>
1.32	At the Annual Meeting in 2017 Council appointed Members to outside bodies for the whole term of the Council. It also gave the Chief Executive, in consultation with Group Leaders, the power to make changes to those nominations as required.
1.33	<b>It is recommended that Council notes that nominees to Outside Bodies have been appointed for the whole Council term and the Chief Executive's power to vary those nominations (in consultation with Group Leaders).</b>

<b>2.00</b>	<b>RESOURCE IMPLICATIONS</b>
2.01	None as a result of this report.

<b>3.00</b>	<b>CONSULTATIONS REQUIRED / CARRIED OUT</b>
3.01	Audit Committee.

<b>4.00</b>	<b>RISK MANAGEMENT</b>
4.01	None as a result of this report.

<b>5.00</b>	<b>APPENDICES</b>
5.01	Appendix 1 – Political Balance Allocation on Committees and Entitlement to Scrutiny Chairs

<b>6.00</b>	<b>LIST OF ACCESSIBLE BACKGROUND DOCUMENTS</b>
6.01	None <b>Contact Officer:</b> Gareth Owens, Chief Officer (Governance) <b>Telephone:</b> 01352 702344 <b>E-mail:</b> <a href="mailto:gareth.legal@flintshire.gov.uk">gareth.legal@flintshire.gov.uk</a>

<b>7.00</b>	<b>GLOSSARY OF TERMS</b>
7.01	<b>JNC Terms and Conditions for Chief Officers</b> – conditions of employment negotiated nationally which are automatically incorporated into chief officers' contracts of employment.