

FLINTSHIRE COUNTY COUNCIL

Date of Meeting	Thursday 4 th May 2023
Report Subject	Constitutional Issues including Committees
Report Author	Chief Officer (Governance)

EXECUTIVE SUMMARY

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

This report deals with the appointment of other Committees and Chairs and other issues such as allocation of seats, under political balance.

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 must be considered and voted on in turn at the AGM. Therefore, it is not possible to move these recommendations 'en bloc'.

RECOMMENDATIONS

1	<p>That Council appoints the following Committees:</p> <ul style="list-style-type: none"> • Appeals Committee • Climate Change Committee • Clwyd Pension Fund Committee • Constitution and Democratic Services Committee • Governance & Audit Committee • Grievance Committee • Grievance Appeals Committee • Investigation and Disciplinary Committee • Joint Governance Committee (for pensions) • Licensing Committee • Overview and Scrutiny Committees as follows: <ul style="list-style-type: none"> • Community & Housing • Corporate Resources • Education, Youth & Culture
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	<ul style="list-style-type: none"> • Environment & Economy • Social & Healthcare • Planning Committee • Standards Committee
2	It is recommended that the size of each Committee should be as set out in paragraph 1.03 of this report.
3	It is recommended that the Terms of Reference for each Committee as set out in the Constitution should be approved.
4	<p>a) That seats be allocated in accordance with political balance as set out in Appendix 1 (to follow) and the rules on membership of the Committees as set out within the report; and</p> <p>b) that the seats on the Grievance, Grievance Appeals and Investigation and Disciplinary Committees be allocated to give a broad political spread of membership.</p>
5	That Council determines which group will appoint the chair for each of the five Overview and Scrutiny Committees.
6	<p>That Council appoints a Chair of the following Committees (noting any restrictions on eligibility):</p> <ul style="list-style-type: none"> • Climate Change Committee • Clwyd Pension Fund • Constitution & Democratic Services • Licensing • Planning
7	That the Grievance Committee, the Grievance Appeal Committee and the Investigation and Disciplinary Committee should each appoint their own Chairs from amongst their Membership.
8	That the rules, procedures, delegations and codes/protocols within the Constitution be approved.
9	That the make-up of the Appointments Committee be approved.
10	That Council notes the three Councillors already appointed to serve on the Standards Committee for this term.
11	That Council delegates authority to the Chief Executive, in consultation with Group Leaders, to make any amendments to appointments to outside bodies as required.

REPORT DETAILS

1.00	EXPLAINING THE COMMITTEE STRUCTURE
1.01	<p>The Constitution presently provides for the appointment of the following:-</p> <ul style="list-style-type: none">• Appeals Committee• Climate Change Committee• Clwyd Pension Fund Committee• Constitution and Democratic Services Committee• Governance & Audit Committee• Grievance Committee• Grievance Appeals Committee• Investigation and Disciplinary Committee• Joint Governance Committee (for pensions)• Licensing Committee• Overview and Scrutiny Committees as follows:<ul style="list-style-type: none">▪ Community & Housing▪ Corporate Resources▪ Education, Youth & Culture▪ Environment & Economy▪ Social & Healthcare• Planning Committee• Standards Committee
1.02	<p>It is recommended that :That Council appoints the following Committees for 2022/23:</p> <ul style="list-style-type: none">• Appeals Committee• Clwyd Pension Fund Committee• Constitution and Democratic Services Committee• Governance and Audit Committee• Grievance Committee• Grievance Appeals Committee• Investigation and Disciplinary Committee• Joint Governance Committee (for pensions)• Licensing Committee• Overview and Scrutiny Committees as follows:<ul style="list-style-type: none">▪ Community & Housing▪ Corporate Resources▪ Education, Youth and Culture▪ Environment and Economy▪ Social and Healthcare• Planning Committee• Standards Committee

DETERMINATION OF THE SIZE OF COMMITTEES			
1.03	<p>The Annual Meeting must decide upon the size of each of the Committees it has appointed. Council has previously agreed that the major Committees should be large enough for all political groups to be represented without being so large that it is difficult for groups to fill the places. During the review of Committees carried out in the last Council term it was agreed that 12 was an appropriate size for most Committees with the Planning and Constitution & Democratic Services Committees being slightly larger.</p> <p>The table below shows the size of each Committee and whether it includes any members who are appointed by the Council rather than being elected (“co-optees”).</p>		
	Committee	Councillors	Co-Optees
	Climate Change	12	None
	Constitution and Democratic Services	16	None
	Governance & Audit Committee	6	3
	Grievance Committee	12	None
	Grievance Appeals	12	None
	Investigation and Disciplinary	12	None
	Joint Governance Committee (Pensions) – 1 representative	The Chair	None
	Licensing	12	None
	Each Overview & Scrutiny	12	
	Pension Committee	5	4
	Planning	17	None
	Standards	3	6
1.04	<p>The size and composition of the Planning Committee is regulated by legislation. Under regulations made in 2017 the Planning Committee must be between 11 and 21 Members in size and can be no larger than 50% of the total Membership of the Council.</p> <p>The composition of the Governance and Audit Committee and the Standards Committee is also controlled by legislation. The governance and Audit Committee must consist of 1/3 co-optees. It therefore consists of 6 elected Councillors and three co-optees.</p>		

	<p>The Standards Committee is highly regulated. It may have no more than nine members in total and must have</p> <ol style="list-style-type: none"> 1) At least 50% co-optees (called Independent Members) – the Committee has five 2) One Town and Community representative who is appointed by the Town and Community Councils themselves; and 3) No more than three County Councillors
1.05	<p>It is recommended that: The size of each Committee should be as set out in paragraph 1.03 of this report.</p>
<p>TERMS OF REFERENCE OF COMMITTEES</p>	
1.06	<p>The Annual General Meeting is required to decide the terms of reference of the Committees which it appoints. These are set out in the Constitution. They are reviewed periodically to ensure that they remain pertinent, accurate and up to date.</p>
1.07	<p>It is recommended that: The terms of reference for each Committee as set out in the Constitution should be approved.</p>
<p>POLITICAL BALANCE</p>	
1.08	<p>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).</p> <p>Members are advised that these rules do not apply to the Cabinet nor to the Standards Committee.</p>
1.09	<p>The basis of the statutory requirement is that Committee seats are allocated to a political group (as far as is practicable) in the same proportion as that group has to the total membership of the County Council.</p> <p>So, a group with 50% of the Councillors should have 50% of the overall number of seats and 50% of the seats on each Committee (provided that doesn't give it too many seats overall).</p> <p>The allocation of seats on Committees to the political groups must be in accordance with the rules which are listed below in order of importance :-</p> <ol style="list-style-type: none"> (i) No Committee may consist of only one group; (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); (iii) As far as possible, each group should receive a share of the total number of seats (across all Committees) equal to its share of the number of members on the Council; (iv) As far as possible each group should receive a share of the seats on each Committee equal to its share of the number of members on Council;

	<p>(v) Where some Councillors are not in a political group then the Council must ensure that a proportion of seats are allocated to those Councillors.</p> <p>The spreadsheet at Appendix 1 shows the size of each group, its percentage of the total number of Councillors and a suggested allocation of seats on Committees. Other lawful allocations may be possible provided no group ends up with too many seats on each Committee or too many seats overall.</p>
1.10	<p>Members will be aware that, within the constraints of the above rules, we also try to allocate seats on Committees based on the expressed preference of Councillors. Some Committees are “oversubscribed”, so it is not always possible to accommodate every Councillor who wishes to serve on a particular Committee.</p>
1.11	<p>To achieve political balance, it has been necessary to separate out the ‘employment’ Committees which are the Grievance, Grievance Appeals and Investigation and Disciplinary Committees. Otherwise, the smaller groups would be disadvantaged by having to use part of their seat allocation on Committees which seldom, if ever, meet. This separation requires a specific agreement from all Members of Council. If one Member objects to it, then it cannot be implemented.</p>
1.12	<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"> • Should not include any substitutes; and • May only include one Member from a multiple Member ward. <p>In making nominations to the Planning Committee, the groups will need to follow these rules:</p> <ol style="list-style-type: none"> 1) Only one Councillor from a multi-member ward may serve on the Planning Committee 2) If 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. 3) In the first instance the two respective Group Leaders should seek to reach agreement about who will represent the ward. 4) If that is not possible then the first nomination received by the proper officer will be accepted.
1.13	<p>For the Governance & Audit and the Constitution & Democratic Services Committees, the Local Government (Wales) Measure limits the number of Cabinet Members on each Committee to a maximum of one, this cannot be the Leader. The Constitution has extended this so that no Cabinet Member may be a Member of the Governance & Audit Committee. The Constitution also requires that Governance & Audit Committee members are appointed for the whole of the Council term, if possible, to build up expertise.</p>

1.14	Section 11 of the Constitution requires that the Investigation and Disciplinary Committee should include at least one Cabinet Member but that Cabinet members should make up no more than 50% of that Committee. So, it is proposed that in selecting who will serve on this Committee, the Leader should appoint only one Cabinet Member.																																
1.15	There are a total of 135 seats for Councillors across all the Council Committees based on the current group membership. The entitlement of each group to seats is set out in the table below:																																
	<table border="1"> <thead> <tr> <th>Group</th> <th>Group size</th> <th>% of total Councillors</th> <th>Entitlement to seats</th> </tr> </thead> <tbody> <tr> <td>Conservative</td> <td>2</td> <td>2.99</td> <td>4</td> </tr> <tr> <td>Eagle</td> <td>3</td> <td>4.48</td> <td>6</td> </tr> <tr> <td>Independents</td> <td>26</td> <td>38.81</td> <td>52</td> </tr> <tr> <td>Labour</td> <td>31</td> <td>46.27</td> <td>63</td> </tr> <tr> <td>Liberal Democrats</td> <td>4</td> <td>5.97</td> <td>8</td> </tr> <tr> <td>Non-aligned</td> <td>1</td> <td>1.49</td> <td>2</td> </tr> <tr> <td>Total</td> <td>67</td> <td>100%</td> <td>135</td> </tr> </tbody> </table>	Group	Group size	% of total Councillors	Entitlement to seats	Conservative	2	2.99	4	Eagle	3	4.48	6	Independents	26	38.81	52	Labour	31	46.27	63	Liberal Democrats	4	5.97	8	Non-aligned	1	1.49	2	Total	67	100%	135
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1.16	<p>It is recommended that:</p> <p>a) Seats be allocated in accordance with political balance as set out in Appendix 1 and the rules on membership of the Committees as set out in the paragraphs above; and</p> <p>b) Of the seats on the Grievance, Grievance Appeals and Investigation and Disciplinary Committees be allocated to give a broad political spread of membership.</p>																																
	DETERMINATION OF GROUPS TO APPOINT OSC CHAIRS																																
1.17	<p>Under the Local Government Measure 2011 the allocation of scrutiny chairs is also undertaken on the basis of group size (though the rules are not the exactly the same as “political balance”). Scrutiny chairs are allocated to political groups, who then appoint the chair of that committee. Broadly, a larger group can appoint more chairs but the actual number depends on whether the group has a seat on Cabinet or not. Where a group has a seat on Cabinet then its entitlement to appoint chairs is rounded down to the nearest whole number whilst the entitlement of a group without a seat on Cabinet is rounded up to the next whole number.</p> <p>The notional entitlement of each group to appoint an OSC chair is set out in Appendix 1, immediately below the political balance calculations.</p>																																
1.18	It is recommended that: Council determines which group will appoint the chair each of the five Overview and Scrutiny Committees.																																
	APPOINTMENT OF CHAIRS OF STANDING COMMITTEES																																
1.19	The Committee Chairs of standing committees 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.																																

Committee	Who appoints the Chair?	Any restrictions?
Climate Change	Council	None
Clwyd Pension Fund	Council	The chair and vice-chair must be Flintshire County Councillors
Constitution & Democratic Services	Council	Cannot be a member of a group represented on the Cabinet - Local Government (Wales) Measure 2011
Governance & Audit	The Committee appoints its own	The chair must be a lay person not an elected councillor
Grievance	The Committee appoints its own	None
Grievance Appeals	The Committee appoints its own	None
Investigation & Disciplinary	The Committee appoints its own	None
Licensing	Council	None
Planning	Council	None
Recovery	Council	None
Standards	The Committee appoints its own	Must be an Independent Member - Standards Committees (Wales) Regulations 2001
1.20	<p>It is recommended that: Council appoints the Chair of the following Committees (noting any restrictions on eligibility):</p> <ul style="list-style-type: none"> • Climate Change • Clwyd Pension Fund • Constitution and Democratic Services • Licensing • Planning 	
1.21	<p>It is recommended that: The Grievance Committee, the Grievance Appeals Committee and Investigation & Disciplinary Committee should each appoint their own Chairs from amongst their respective memberships.</p>	
1.22	<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. The remaining Chairs are then allocated to groups without a seat on Cabinet (rounding up to the nearest whole number).</p>	

APPROVAL OF THE CONSTITUTION	
1.23	<p>The Constitution sets out how the Council functions and contains within it:</p> <ul style="list-style-type: none"> • rules and procedures for managing meetings and Council business; • delegations to the Cabinet (including the choice of what is to be and what is not to be an executive function); • delegations to Committees and advisory groups in line with their terms of reference; • delegations to officers; • codes and protocols to support high standards of ethical behaviour and governance. <p>The Constitution is based on a national a model which was updated in 2022. Adoption of the updated model is due for consideration at the meeting immediately preceding the Annual Meeting.</p>
1.24	<p>The codes and protocols in the Constitution are kept under rolling review to ensure that they remain up to date and pertinent. Every code/protocol will be reviewed at least once over the term of this Council as part of that review. Changes are also made as and when required if a scheduled review has already taken place or is not due for some time. The Standards Committee had agreed a programme for reviewing the Constitution.</p>
1.25	<p>It is recommended that: The rules, procedures, delegations, and codes/protocols within the Constitution be approved.</p>
NOMINATIONS TO INTERNAL BODIES	
1.26	<p>The existing Scheme of Delegation provides for an Appointments Committee for first and second tier officers comprising seven 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 drawn from all groups, albeit not formally politically balanced, including the relevant Cabinet Member.</p>
1.27	<p>It is recommended that: The make-up of the Appointments Committee be approved.</p>
STANDARDS COMMITTEE	
1.28	<p>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 County Councillors must be appointed for the life of this Council (i.e. five years) and can serve a maximum of two terms.</p> <p>Councillors Carberry, Parkhurst and Wren were appointed to the Standards Committee last year.</p>
1.29	<p>It is recommended that: Council notes the three Councillors already appointed to serve on the Standards Committee for this term</p>

	APPOINTMENTS TO OUTSIDE BODIES
1.30	The Council nominates Councillors to serve on different bodies such as the fire authority, police and crime panel plus local charities and organisations (collectively called “outside bodies”). Appointments were made at the last Annual Meeting for the whole Council term. Clearly, changes may be needed over the next four years so delegated authority is given to the Chief Executive, in consultation with Group Leaders, to make any amendments to those appointments as required.
1.31	It is recommended that: Council delegates authority to the Chief Executive, in consultation with Group Leaders, to make any amendments to appointments to outside bodies as required.

2.00	RESOURCE IMPLICATIONS
2.01	None as a result of this report.

3.00	RISK MANAGEMENT
3.01	None as a result of this report.

4.00	CONSULTATIONS REQUIRED/CARRIED OUT
4.01	Group Leaders.

5.00	APPENDICES
5.01	Appendix 1 - 2022 Political Balance calculation

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	None

7.00	CONTACT OFFICER DETAILS
7.01	Contact Officer: Gareth Owens, Chief Officer (Governance) Telephone: 01352 702344 E-mail: gareth.legal@flintshire.gov.uk

8.00	GLOSSARY OF TERMS
8.01	Proper Officer – the Council employee who is nominated to perform a specific statutory task, for example receipt of nominations to serve on the Planning Committee.