

FLINTSHIRE COUNTY COUNCIL

Date of Meeting	Tuesday 25 th May 2021
Report Subject	Constitutional Issues including Committees
Report Author	Chief Officer (Governance)

EXECUTIVE SUMMARY

Each year, at our Annual Meeting, 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).

The report proposes the creation of a new Recovery Committee to oversee the vital work of helping the County to recover from the effects of the pandemic. The report also 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 meeting. 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 • 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:
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	<ul style="list-style-type: none"> • Community, Housing & Assets • Corporate Resources • Education, Youth & Culture • Environment & Economy • Social & Healthcare • Planning Committee • Recovery Committee (terms of reference as set out in Appendix 1) • Standards Committee
2	That it is recommended that the size of each Committee should be as set out in paragraph 1.03 and 1.04 of this report.
3	That it is recommended that the Terms of Reference for each Committee in the Constitution and, for the Recovery Committee set out in Appendix 1, should be approved.
4	That seats be allocated in accordance with political balance as set out in Appendix 2 and the rules on membership of the Committees as set out in paragraphs 1.08 – 1.14, and that the seats on the Grievance, Grievance Appeals and Investigation and Disciplinary Committees be allocated to give a broad political spread of membership.
5	That Council appoints the Chair of the following Committees (noting any restrictions on eligibility): <ul style="list-style-type: none"> • Clwyd Pension Fund • Constitution & Democratic Services • Licensing • Planning • Recovery
6	That the Grievance Committee, the Grievance Appeal Committee and the Investigation & Disciplinary Committee should each appoint their own Chairs from amongst their Membership.
7	That Council decides which group will chair each of the five Overview & Scrutiny Committees.
8	That the rules, procedures, delegations and codes/protocols within the Constitution be approved, including the temporary changes to the rules of procedure to accommodate virtual meetings.
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

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• 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 & Assets• Corporate Resources• Education, Youth & Culture• Environment & Economy• Social & Healthcare• Planning Committee• Standards Committee
1.02	<p>During the last 12 months the County Council has been seeking to manage the impact of the pandemic. When the Council moved into the so called “recovery phase” oversight was initially provided by an informal group consisting largely of the political group leaders, and latterly by the Overview and Scrutiny Committees. However, there is no single Committee with oversight of the complete picture. It is therefore proposed to establish a Recovery Committee that will have oversight of all the recovery work. It will not duplicate the work of the Overview and Scrutiny Committees but will, where necessary, refer issues to them for consideration. Draft terms of reference for the Committee are set out in Appendix 1.</p>
1.03	<p>It is recommended that :That Council appoints the following Committees for 2020/21:</p> <ul style="list-style-type: none">• Appeals 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 & Assets • Corporate Resources • Education, Youth & Culture • Environment & Economy • Social & Healthcare • Planning Committee • Recovery Committee (terms of reference as set out in Appendix 1) • Standards Committee
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DETERMINATION OF THE SIZE OF COMMITTEES	
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1.04	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. This is Planning Committee (see below) 17.
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	Committee	Councillors	Co-Optees
	Constitution and Democratic Services	16	None
	Governance & Audit Committee	7	2
	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
	Recovery	3	None
	Standards	3	6

1.05	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 no larger than 50% of the total Membership of the Council.
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1.06	It is recommended that : That the size of each Committee should be as set out in paragraph 1.03 and 1.04 of this report.
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TERMS OF REFERENCE OF COMMITTEES	
1.07	The Annual Meeting is required to decide the terms of reference of the Committees which it appoints. The terms of reference for the Recovery Committee are attached as Appendix 1. They will be incorporated within the Constitution.
1.08	It is recommended that: that the terms of reference for each Committee as set out in the Constitution (and in Appendix 1) should be approved.
POLITICAL BALANCE	
1.09	<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. The rules of political balance will apply to the new Recovery Committee.</p>
1.10	<p>The basis of the statutory requirement is that Committee seats should be allocated to a political group (so far as is practicable) in the same proportion as that group has to the total membership of the County Council. The allocation of seats on Committees to the political groups must recognise that:-</p> <p>(i) There may be no Committee where only one group has all the seats;</p> <p>(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);</p> <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. 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> <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>
1.11	In order to achieve political balance, it has been necessary to separate out the 'employment' Committees which are the Grievance, Grievance Appeals and Investigation & 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.

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 1 Member from a multiple Member ward. <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>			
1.13	<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 who cannot be the Leader. The Constitution has extended this so that no Cabinet Member may be a Member of the Governance & Audit Committee.</p>			
1.14	<p>Section 11 of the Constitution requires that the Investigation & Disciplinary Committee should include at least one Cabinet Member but no more than 50% of the Committee. So, it is proposed that in selecting who will serve on this Committee, the Leader should appoint only one Cabinet Member.</p>			
1.15	<p>There are a total of 131 seats for Councillors across all of the Council Committees based on the current group Membership. The entitlement of each group to seats is set out in the table below:</p>			
	Group	Group size	% of total Councillors	Entitlement to seats
	Labour	34	48.57	63
	Independent Alliance	16	22.86	30
	Conservative	6	8.57	11
	Liberal Democrats	6	8.57	11
	New Independents	4	5.71	8
	Independents	3	4.29	6
	Non-aligned member	1	1.43	2
	Total	70	100%	131
1.16	<p>It is recommended that: That seats be allocated in accordance with political balance as set out in Appendix 2 and the rules on membership of the Committees as set out in paragraphs 1.08 – 1.14, and that the seats on the Grievance, Grievance Appeals and Investigation and Disciplinary Committees be allocated to give a broad political spread of membership.</p>			

APPOINTMENT OF CHAIRS OF STANDING COMMITTEES			
1.17	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.		
	Committee	Who appoints the Chair?	Any restrictions?
	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	Cannot be a member of a group represented on the Cabinet - Local Government (Wales) Measure 2011
	Grievance	The committee appoints its own	None
	Grievance Appeals	The committee appoints its own	None
	Investigation & Disciplinary	The committee appoints its own	None
	Overview & Scrutiny Committees (5)	Council decides which group nominates the chair of each	Council must allocate chairs based on the size of each group - Local Government (Wales) Measure 2011
	Licensing	Council	None
	Planning	Council	None
	Recovery	Council	None
	Standards	The committee appoints its own	Must be a co-opted member - Standards Committees (Wales) Regulations 2001
1.18	<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"> • Clwyd Pension Fund • Constitution and Democratic Services • Licensing • Planning • Recovery 		
1.19	<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>		

1.20	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).
1.21	Full Council appoints the Leader at the Annual 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. The allocations of Chairs is set out in Appendix 2, immediately below the political balance calculations.
1.22	It is recommended that: Council decides which group will Chair each Overview and Scrutiny Committee.
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
1.24	<p>The Constitution is kept under rolling review during each term of the Council and every code/protocol will be reviewed at least once as part of a scheduled review. Changes are also made as and when required if a scheduled review has already taken place or is not due for some time. During the next 12 months the Council will review:</p> <ul style="list-style-type: none"> • procedure rules for meetings to facilitate hybrid meetings (see below) • the Code of Conduct in line with a review by Welsh Government • the Planning Code of Practice as agreed at April's meeting • the protocol on involvement in other wards
1.25	<p>At the last Annual Meeting, Council agreed temporary changes to the rules of procedure to accommodate the differences between a meeting in person and a virtual meeting. For example, members cannot readily stand to support a request for a recorded vote during a virtual meeting so we ask them to indicate support via the chat function. Those rules have been applied since then and work well so they should be kept for the time being. However, they need to be amended further to facilitate hybrid meetings where some members are physically present and some are remote. I will prepare a report for the Constitution and Democratic Services Committee in due course.</p>

1.26	It is recommended that: the rules, procedures, delegations and codes/protocols within the Constitution be approved, including the temporary changes to the rules of procedure to accommodate virtual meetings.
NOMINATIONS TO INTERNAL BODIES	
1.27	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. In April Council agreed to a slightly larger Appointments Panel for the recruitment of a new Chief Executive.
1.28	It is recommended that: The make-up of the Appointments Committee be approved.
STANDARDS COMMITTEE	
1.29	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, Paul Johnson and Woolley) have been appointed for the whole term of this Council.
1.30	It is recommended that: The composition and membership of the Standards Committee be noted.
APPOINTMENTS TO OUTSIDE BODIES	
1.31	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.
1.32	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).

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 -Terms of Reference for the Recovery Committee. Appendix 2 - 2020 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	None.