

Report to: Council



Date of Meeting 25<sup>th</sup> May 2020<sup>1</sup>

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

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## Governance Arrangements and appointments for the Civic Year (2021/22)

### Report summary:

Report by the Chief Executive and Monitoring Officer to enable the Council to formalise its governance arrangements for the new civic year following the expiry of the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 and the reversion to the pre-existing legal position that requires the Annual Meeting to be held between March – May each year and our Constitutional requirements as to the matters to be dealt with at the Annual Meeting.

The report recommends changes to the Constitution, seeks confirmation of the Committees and their size and terms of reference and agreement to the scheme of delegations. There is a specific requirement to agree the composition of the Standards Committee and Housing Review Board and to confirm the appointment of two new Independent Persons and a new Independent Representative on the Standards Committee.

It deals with the allocation of seats on overview, regulatory and other committees to different political groups of seats in accordance with the political balance of the Council. It seeks to agree the makeup of the advisory panels and forums and joint bodies.

Finally, it covers the councillor appointments to committees, panels, forums, joint bodies and outside bodies together with the appointment of the Chairs and Vice-Chairs of committees.

### Is the proposed decision in accordance with:

Budget Yes  No

Policy Framework Yes  No

### Recommendation:

That Council;

#### PART A

1. Approves the amended Constitution to determine the committee structure, their size and terms of reference and the scheme of delegations.

#### PART B

2. Confirms the Conservative Group as the formal opposition.

#### PART C

3. Approve the allocation to different political groups of seats on the overview, regulatory and other committees as follows;

Democratic Alliance Group	24 members	40.68%	45 seats
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Conservative Group	21 members	35.60%	40 seats
The Independents	6 members	10.17%	12 seats
Independent Progressive Group	4 members	6.78%	8 seats
Cranbrook Voice	3 members	5.08%	6 seats
Independent	1	1.69%	0 seats
<b>TOTALS</b>	<b>59</b>	<b>100</b>	<b>111</b>
Vacancy	1		

4. Approves the allocation of seats on individual overview, scrutiny, regulatory and other committees as set out in *Appendix 1*.

#### **PART D**

5. Agree the makeup of the advisory Panels, Forums and Joint Bodies as set out in *Appendix 2*.

#### **PART E**

6. Agrees the Membership of the Standards Committee and Housing Review Board (as detailed in Part E of this report).

#### **PART F**

7. Approve the appointments of Councillors to committees as set out in the table in *Appendix 3*.

#### **PART G**

8. Approve the appointments of the Chairs and Vice-Chairs of the committees as set out in *Appendix 4*.

#### **PART H**

9. To agree / vote on the appointments for the various positions on the panels, forums and joint bodies as detailed in the document at *Appendix 5*.

#### **PART I**

10. To agree / vote on the appointments for the various positions on the outside bodies as detailed in the document at *Appendix 6*.

#### **Reason for recommendation:**

To ensure that the Council's governance framework is up to date and reflects the current political balance within the Council and to enable the required appointments to be agreed for the civic year.

Officers: Mark Williams, Chief Executive  
Henry Gordon Lennox, Monitoring Officer

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Portfolio(s) (check which apply):

- Climate Action and Emergencies
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Culture, Tourism, Leisure and Sport
- Democracy and Transparency
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Low Risk;

**Links to background information:** [Track changed Constitution](#)

**Link to [Council Plan](#):**

Priorities (check which apply)

- Outstanding Place and Environment
- Outstanding Homes and Communities
- Outstanding Economic Growth, Productivity, and Prosperity
- Outstanding Council and Council Services

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**Report in full**

### **Part A – Adopting the Constitution (Recommendation 1)**

1. Each year the Council adopts the Constitution thereby confirming the Committee structure and the size and terms of reference of the Committees as set out in Articles 7, 8, 9, and 10 (as amended) as well as confirming the scheme of delegations.
2. The detail below contains the main proposed amendments to the Constitution and the rationale behind those changes. In addition, given the enhanced accessibility requirements now, we have reviewed and revised the Constitution to try and improve it in this regard. There are therefore quite significant formatting changes to the document which means it will appear quite different than previous versions. These changes are not shown in track changes but they are not substantive in any way. Finally, there are some minor typographically / consistency / clarification changes that are not detailed below but are in track changes in the draft – the link for which is in the background links.

#### Policy Framework & Budget (p17 & 18)

3. What constitutes 'the Budget' has been revised to give greater clarity over what Council is required to approve.
4. The Policy Framework has been tabulated to make it clearer which plans and strategies are a Full Council decision by law as opposed to being reserved by local choice.

#### Personnel Committee

5. There is desire to establish a Personnel Committee that will essentially deal with all human resource related matters bar those relating to Chief Officers. The Committee will comprise 15 members on a politically balanced basis and will include the Leader, the Deputy Leader

and the Portfolio Holder responsible for human resource matters. It will be politically balanced. The previous standing committees of the Investigating and Disciplinary Committee, Employment Appeals Committee and the Interviewing (Chief Officers) Committee are now sub committees and a new Grievance Sub Committee is also introduced in accordance with JNCC guidance. The membership of the sub committees is drawn from the main Personnel Committee and the membership of the Employment Appeals Sub Committee has been reduced to 5, again in accordance with the JNCC guidance. The Terms of Reference of all these bodies is detailed in Part 2 Section 2 (page 66). The Terms of Reference of Cabinet have been revised to move responsibilities that now sit with the Personnel Committee. There are related consequential changes throughout the Constitution.

#### Standards Committee

6. The membership has been updated to reflect the increase in numbers recently agreed by Council. The recent issue over quorum, which arose from an inconsistency within the Constitution, has been resolved by amendments to Article 9 (page 32) and the Committee's Terms of Reference in Part 2 Section 2 (page 62).

#### Terms of Reference of Committees

7. In addition to the changes above, the Terms of Reference of all committees has been revised so that they are consistent in terms of the information presented.
8. The Strategic Planning Committee's responsibilities now includes approval for publication and submission of the Annual Infrastructure Funding Statement following the decision of 9<sup>th</sup> December Council.
9. The Housing Company Sub Committee has been deleted following Council's decision to dissolve the company.

#### Portfolio Holder's General Delegation

10. The General Delegations to Portfolio Holders (Part 2 Section 2 paragraph 2.1.13 on page 55) have been revised to permit the granting and entering into leases. This aligns to the new wording in the officer delegations.

#### Officer delegated powers

11. Following the redundancy of the Strategic Lead Organisational Development and Transformation, references to this post have been deleted and appropriate revisions made.
12. Following a recent issue over where a planning decision is taken if (or more accurately) when a Ward Member makes an objection, the planning delegations (paragraph 3.27.26 page 76) have been revised for clarity. As revised if a Ward Member objects prior to decision then this will dictate how it is decided. There was an inconsistency in that there was wording indicating that this should only be if the objection was within the 21 day initial consultation. The difficulty with this is that if a Ward Member objects in that consultation period but then changes their view afterwards (following revised plans being received for example) it would still be caught. This resolves that issue and reflects the practice in the planning department.
13. In terms of other amendments to the delegations;
  - a. In the planning delegations (No.3.27.29) authority to deal with necessary modifications to deal with concerns of the Planning Inspector has been included as has entering into planning performance agreements and the like.

- b. In the finance delegations (No.3.29.12) and following COVID, Government Grant Schemes has been added as something that can be administered by officers in certain circumstances.
- c. In property delegations (No.3.29.32 & 34) entering into a lease (where the Council will be the tenant) has been added provided it is in accordance with the Policy Framework and Budget and the listed conditions.
- d. In property delegations there is a new delegation (3.29.46) to agree variations to leases in consultation with the Portfolio Holder.
- e. In the Housing, Health and Environment delegations, the legislation lists (3.31.1 & 2) have been updated. The delegations in relation to private sector housing (3.31.78 – 108) have been moved following a change in reporting lines.

Access to Information Procedure Rules (page 123)

- 14. Rule 17.3 (reporting of special urgency decisions) has been amended to reflect that this is an annual report rather than quarterly.

Overview and Scrutiny Procedure Rules (page 142)

- 15. Rule 8 (agenda items) has been revised to reflect the process that has been agreed to be followed, in essence the proposal form and then scoping. While this helps with the programme of work, the Chair retains the discretion to include items on the agenda.

Officer Employment Procedure Rules (page193)

- 16. Rule 6 (dismissal) has been revised to reflect that certain members are consulted as part of the redundancy process.

Members Allowance Scheme (page 253)

- 17. Paragraph 8 (statutory sick pay) revised to make it clear the scope of 'employment' in this context.

RECOMMENDATION

- 18. That Council approves the Constitution including the amendments to it as shown in the draft and detailed in this report and thereby agree the Committee structure, their size and terms of reference and the scheme of delegations.

**PART B – Confirmation of the formal opposition (Recommendation 2)**

- 19. The Constitution requires confirmation of the formal opposition at the Annual Meeting. The Conservative Group, as the largest opposition party, are entitled to be recognised as the formal opposition.

RECOMMENDATION

- 20. The Conservative Group is confirmed as the formal opposition.

**PART C - Allocation to different political groups of seats on overview, regulatory and other committees in accordance with the political balance of the council (Recommendations 3&4)**

**Introduction**

- 21. The Local Government and Housing Act 1989 (sections 15-17) has implications in respect of the representation of political groups on committees, sub-committees of the Council and on specified joint bodies. A political group is treated as constituted when there is delivered to the Chief Executive the requisite notice signed by two or more Members of the Council who wish to be treated as a political group.

22. The Council is required at each annual meeting of the Council (or as soon as practicable afterwards and at such other times as detailed in regulations) to **review** the representation of political groups on committees, sub-committees and specified joint bodies.
23. The Council must as soon as practicable after such review, **determine** the allocation to different political groups of seats to be filled by it. Appointments must then be made to give effect to political groups' wishes as to who is to be appointed to the seats to be allocated to each group.
24. The Council decided (at Policy Committee minute number 29 of 10.10.90) that the review is carried out at each annual meeting (and at such other times as required by the relevant regulations) and a determination then be made as to the allocation to different political groups of seats to be filled by the Council.

### **Scope of sections 15-16 of the 1989 Act**

25. The above provisions affect appointments to committees, sub-committees and some specified joint bodies.
26. It is not a legal requirement for the political balance rules to apply to the Cabinet. The Leader appoints between 2 and 9 other Councillors to the Cabinet. In addition, the political balance rules are applied to some advisory panels/forums where possible but not to appointments to outside bodies.
27. Further details are set out below but, broadly, allocations of seats on committees and sub-committees need to be in proportion to a political group's representation on the Council. For ordinary committees and sub-committees, the general rule is that Section 15(4) and (5) provides for the following principles to apply as far as reasonably practicable:-
- (a) All the seats on a committee/sub-committee or a joint body must not be allocated to the same political group.
  - (b) Any political group which has a majority on the full Council must be allocated the majority of seats on each committee, sub-committee and relevant joint body.
  - (c) Subject to the two principles in (a) and (b) above the number of seats, in total, for all the ordinary committees allocated to each political group must bear the same proportion to each group's proportion on the full Council.
  - (d) Subject to the three principles in (a) to (c) above, the number of seats on each committee, sub-committee and relevant joint body must be allocated to each political group in proportion to the political group's membership of the Council.

### **A review of representation of political groups on committees and sub- committees**

#### **(a) Overview, regulatory and other committees**

28. The committee structure agreed by Council at its meeting on 29 April 2015 for the creation of separate Overview and Scrutiny Committees to replace the Overview and Scrutiny Committee is to be retained. The Overview and Scrutiny Committees plus the Housing Review Board will continue to utilise Task and Finish Forums as required.
29. The Overview Committee's ordinary meetings are scheduled eight times per year. The Scrutiny Committee's ordinary meetings are scheduled to be held monthly.

30. The minutes of the meetings of these Committees will be referred to the next available meeting of the Cabinet.
31. Please refer to the Committee membership chart, and the list of Panels, Forum and Joint Bodies for details of all Committees, Sub Committees and Boards.

**2021/22 agreed committee structure:**

Overview Committee	13 seats
Scrutiny Committee	15 seats
Housing Review Board	5 Councillor seats

**plus the following Regulatory and other Committees:**

Audit & Governance	10 seats
Planning	16 seats
Personnel	15 seats
Licensing and Enforcement	15 seats
Standards	7 seats (including Chairman of the Council)
Strategic Planning	15 seats

32. The allocation of the total of **111 seats** on all of these committees between 59 members of the council is as follows:-

Democratic Alliance group	24 members	40.68%	45 seats
Conservative group	21 members	35.60%	40 seats
The Independents	6 members	10.17%	12 seats
The Independents Progressive Group	4 members	6.78%	8 seats
Cranbrook Voice	3 members	5.08%	6 seats
Independent	1	1.69%	0 seats
<b>Total seats</b>	<b>59</b>	<b>100</b>	<b>111</b>
Vacancy	1		

33. The allocation of seats on overview/scrutiny, regulatory and other committees between political groups is as set out on **Appendix 1** to this report.

(b) **Standards**

34. Changes in the structure of the Standards Committee were agreed in June 2012 in compliance with the requirements of the Localism Act and the number of members increased at April's Full Council. The Standards Committee is now politically balanced (6 Councillors plus the Chairman of the Council) with substitute Council Members for groups entitled to seats, 2 non-voting independent members and 2 non-voting parish council members.

(c) **Licensing**

35. Under the Licensing Act 2003, it is a legal requirement for the Council's Licensing and Enforcement Committee to have a membership of between 10 and 15. The Gambling Act 2005 gave new responsibilities to this Committee in regulating gambling.

36. It is proposed that the arrangement agreed in 2009 of having one Licensing Sub-Committee be continued. Membership of the Sub-Committee to comprise 3 members of the Licensing and Enforcement Committee, empanelled by the Strategic Lead – Governance and Licensing, as and when required.

(d) **Planning Committee**

37. Membership is currently 16. Ward members who are also members of the Planning Committee have the right to vote in respect of applications within their own ward. Ward members who are not members of the Committee can speak on applications in their own ward but are not entitled to vote. The Committee may organise a Committee site inspection if Members feel that a site needs to be viewed before a decision can be made.

**Determining the allocation to different political groups of seats to be filled and appointments to give effect to groups' wishes**

38. By virtue of Section 16(1) of the 1989 Act, the Council must as soon as practicable, after determining the allocation to different political groups of seats to be filled by it on any body, to which Section 15 above applies, (or after a subsequent vacancy on such a body), make appointments to give effect to political groups' wishes as to who is to be appointed to the seats allocated to the group.

RECOMMENDATIONS

39. That the allocation to different political groups of seats to be filled by the Council be determined as follows in respect of overview, regulatory and other committees.

Democratic Alliance group	24 members	40.68%	45 seats
Conservative group	21 members	35.60%	40 seats
The Independents	6 members	10.17%	12 seats
The Independent Progressive Group	4 members	6.78%	8 seats
Cranbrook Voice	3 members	5.08%	6 seats
Independent	1	1.69%	0 seats
<b>Total seats</b>	<b>59</b>	<b>100</b>	<b>111</b>

40. That the allocation of seats on individual overview/scrutiny, regulatory and other committees be agreed as set out on **Appendix 1** to this report

**PART D - Makeup of advisory Panels, Forum and Joint Bodies (Recommendation 5)**

41. The makeup of advisory Panels, Forums and Joint Bodies is as detailed at **Appendix 2**

RECOMMENDATION

42. Agree the makeup of the advisory Panels, Forums and Joint Bodies as set out in **Appendix 2**.

**PART E - Membership of the Standards Committee and Housing Review Board (Recommendation 6).**

43. The Standards Committee comprises the following membership;



Council representatives: Chairman of the Council and six other members of the Council to be nominated and appointed.

Substitute members: Each group entitled to a seat shall nominate a substitute member to be appointed.

Non-voting independent representatives: Martin Goscomb and Robert Wood

Non-voting parish/town council representatives: Bob Nelson (Broadhembury Parish Council) and Pauline Scott (Sidmouth Town Council).

The Council has agreed to have two Independent Persons who are consultees and are not members of the Standards Committee. The Monitoring Officer consults with an Independent Person when dealing with Code of Conduct complaints. Following expiry of the term of office of the current postholder a recruitment exercise was carried out and the panel are recommending the appointment of Patrick Coulter and Diana Kuh to the positions.

44. The Housing Review Board comprises the following membership;

Council representatives: Five members of the Council to be nominated and appointed.

Tenant and/or Leaseholder representatives (5) - to serve a further year on the Board: Peter Sullivan, Cat Summers, Christine Morrison and Cindy Collier and with the fifth tenant representative position currently vacant\*.

Independent Community representatives (2) – to service a further year on the Board: Christine Drew and with the second representative position currently vacant\*.

*\*Recruitment to fill the vacancy will commence when it is possible to interview prospective candidates safely.*

#### RECOMMENDATION

45. That the membership of the Standards Committee and Housing Review Board set out above is approved along with the appointments of the two Independent Persons.

### **PART F - To agree the appointment of Councillors to Committees (Recommendation 7)**

46. The table containing the proposed appointments (as provided by the Group Leaders) is contained at **Appendix 3**.

#### RECOMMENDATION

47. Members are asked to approve the appointments.

### **PART G – To appoint the Chairs and Vice-Chairs of Committees (Recommendation 8)**

48. The table with the proposed appointments is contained at **Appendix 4**.

#### RECOMMENDATION

49. Members are asked to approve these appointments.

### **PART H – To make appointments to the Panels, Forums and Joint Bodies (Recommendation 9)**

50. Having agreed the makeup of the Panels, Forums and Joint Bodies (Part C) it is therefore necessary to make appointments to them.

RECOMMENDATION

51. Members are asked to agree / vote on the appointments for the various positions on the Panels, Forums and Joint Bodies as detailed in the document at **Appendix 5**.

**PART I – To make appointments to Outside Bodies (Recommendation 10)**

52. The list of Outside Bodies and appointees / prospective appointees is in the document at **Appendix 6**.

RECOMMENDATION

53. Members are asked to agree / vote on the appointments for the various positions on the Outside Bodies.

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**Financial implications:**

There are no direct financial implications arising from the recommendations in this report.

**Legal implications:**

The legal position is detailed in the report.