



**Meeting:** Adjourned Annual Council

**Date:** 15 May 2013

**Wards Affected:** All wards

**Report Title:** Appointments to Committees and Other Bodies for 2013/14

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## **1. Purpose and Introduction**

- 1.1 To appoint the Council's committees for the new municipal year. In addition, to ensure the committees have appropriate terms of reference and that appointments to those bodies are made in accordance with the political balance requirements.
- 1.2 To appoint the Council's representative on the Devon and Cornwall Police Authority and Devon and Somerset Fire and Rescue Authority.
- 1.3 To give an explanation of the new legislation which has come into force changing how the Council can use its health scrutiny powers and to consider the options that are open to the Council.

## **2. Proposed Decision**

- 2.1 That the committees be appointed with the terms of reference set out in appendix 2 to this report in accordance with the political balance requirements.
- 2.2 That nominations be received to fill the seats on the Committees.
- 2.3 That Councillor Excell be appointed as the Council's nominated representative on the Devon and Cornwall Police and Crime Panel.
- 2.4 That Councillor Brooksbank and Councillor Ellery be appointed as the Council's nominated representatives on the Devon and Somerset Fire and Rescue Authority.
- 2.5 That the Overview and Scrutiny Board continue to exercise (via its sub-committee, the Health Scrutiny Board) the Council's health scrutiny powers and that its terms of reference be amended as set out in the appendix 2 to this report.

### **3. Reason for Decision**

- 3.1 The Constitution requires members at their annual Council meeting to determine which committees to establish for the forthcoming municipal year, their size and terms of reference and the allocation of seats in accordance with the political balance rules.
- 3.2 To ensure that the Council continues to have in place robust health scrutiny practices which ensure the quality of services is maintained and act as an early warning system through which quality issues can be identified and addressed.

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### **Supporting Information**

#### **4. Position**

- 4.1 The political composition of the Council 21 Members of the Conservative Group (including the Elected Mayor), 10 Members of the Liberal Democrat Group and 5 Members of the Non-Coalition Group and 1 Labour Member. The political balance is:
- Conservative Group 21 seats = 56.8%  
Liberal Democrat Group 10 seats = 27%  
Non-Coalition Group 5 seats = 13.5%  
Labour 1 seat = 2.7%
- 4.2 The Local Government and Housing Act 1989 requires the Council to allocate seats on committees to political groups in accordance with the size of each group as a whole, unless alternative arrangements are notified to all members and agreed without any councillor voting against them. The Council is required to observe the following principles as far as it is reasonably practicable:
- (a) that not all seats on the body are allocated to the same group;
  - (b) that the majority of seats on the body are allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;
  - (c) subject to paragraphs (a) and (b) above, that the number of seats on the ordinary committees of a relevant authority which are allocated to each political group bears the same proportion to the total of all the seats on the ordinary committees of that authority as is borne by the number of Members of that group to the membership of the authority; and
  - (d) subject to paragraphs (a) to (c) above, that the number of seats on the body which are allocated to each political group bears the same proportion to the number of all the seats on that body as is borne by the number of Members of that group to the membership of the authority.
- 4.3 The Executive and the Standards Committee are excluded from the requirements of political balance.
- 4.4 The Council is required to determine the number of seats on each committee and the allocation of those seats to the political groups and the independent members.

Applying the principles of the Local Government and Housing Act 1989 and the supporting Regulations, the distribution of seats (attached in the table set out in Appendix 1) would be proportional (co-opted members are not included in the calculation for proportionality purposes).

- 4.5 Members are asked to note that any decision to waive the requirements of political balance will require a resolution of the Council with no member voting against.
- 4.6 The Police Authority (Community Engagement and Membership) Regulations 2010, which came into force on 17 March 2010, amends Regulation 8 of the Police Authority Regulations (appointment of members by relevant councils) and gives provision for Elected Mayor's to be appointed as the authority's Police Authority Representative if that person and the Council indicate that they wish them to be appointed as their representative. The Council's representative on the Police Authority also sits on the Safer Communities Executive.

### **Health Scrutiny Arrangements**

- 4.7 The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 came into force on 1 April 2013. Guidance to accompany the regulations is currently being drafted.
- 4.8 Within the regulations, those relating to health scrutiny make provision for local authorities to review and scrutinise matters relating to the planning, provision and operation of the health service in their area. They replace the previous 2002 regulations on health scrutiny. Under the new system of health scrutiny, local authorities have greater flexibilities in how they discharge their health scrutiny functions. Certain elements of the previous regulations have been preserved but there are new obligations on both NHS bodies, relevant health service providers and local authorities around consultations on substantial developments or variations to services to aid transparency and local agreement on proposals.
- 4.9 The Council may choose whether or not to exercise this function although, if it does choose to do so, there are statutory requirements about how the certain elements of the function are carried out. There is no duty to respond to consultations or to undertake proactive reviews of health services, although communities may expect that these activities are carried out.
- 4.10 In considering whether to continue to carry out the function, consideration should be given to the Government view that:  
  
"The overview and scrutiny of health is an important part of the Government's commitment to place patients at the centre of health services. It is a fundamental way by which democratically elected councillors are able to voice the views of their constituents and hold commissioners and providers of health services to account."
- 4.11 The main change within the Regulations is that the local authority replaces the health overview and scrutiny committee as the holder of the statutory scrutiny powers

## **5. Possibilities and Options**

5.1 As the Council (rather than the Overview and Scrutiny Board) has the power to undertake health scrutiny, there are four options open to the Council in determining how it carries out this function.

5.2 Option 1

The Council could carry out the function itself (i.e. issues would be considered at meetings of the Council).

Whilst this approach would enable all members of the Council to be involved in health scrutiny it could also significantly increase the numbers of items considered at meetings of the Council. The rules of debate at Council may not be conducive to “holding commissioners and providers of health services to account”.

5.3 Option 2

The Council could delegate its powers to (a) another local authority (where it considers that authority to be better placed to exercise those functions and where the other authority agrees) or (b) a joint scrutiny arrangement.

Whilst this approach is not recommended as the default position, there may be occasions (as in the past) where it is appropriate (and required) to delegate the powers in this way (for example, where there is a proposal which affects more than one authority locally or regionally).

5.4 Option 3

The Council could retain its health overview and scrutiny committee. This is presently the Overview and Scrutiny Board which then delegates its powers to its sub-committee (the Health Scrutiny Board).

As members are aware, the Mayor and members of his Executive are not eligible to sit on an overview and scrutiny committee.

There would essentially be no change in how health scrutiny operates if this option was chosen.

Clarification is still being sought from the Department of Health about whether “health scrutiny” powers will continue to apply to adult social care given the Council’s agreement with Torbay and Southern Devon Health and Care NHS Trust.

5.5 Option 4

The Council could delegate its powers to a committee which would be appointed under Section 101 of the Local Government Act 1972 as opposed to an overview and scrutiny committee.

This would mean that the Mayor and/or members of his Executive could be members of the committee.

Consideration would need to be given to how the committee would operate if it scrutinises a decision to which any member of the Executive sitting on the committee had been party to.

If the Council were to delegate its health scrutiny function as outlined in Option 4, the power to refer proposals for service change to the Secretary of State for Health can only be exercised by the Council itself. (There would be no change in the referral process if a health overview and scrutiny committee were retained i.e. the Health Scrutiny Board can determine whether or not to refer a proposal to the Secretary of State.)

## **6. Equal Opportunities**

- 6.1 The appointments have regard to equal opportunities.
- 6.2 Changes in the arrangements for carrying out health scrutiny would not have an impact on groups with protected characteristics. The Public Sector Equality Duty would continue to be taken into account in the work around health scrutiny regardless of the mechanism for carrying out that work.

## **7. Public Services (Social Value) Act 2012**

- 7.1 The Public Services (Social Value) Act 2012 is not applicable as no procurement is being undertaken.

## **8. Consultation**

- 8.1 The Group Leaders have been consulted on the political balance calculations.

## **9. Risks**

- 9.1 There is a statutory requirement to undertake a review of political balance following a change in the political composition of the Council. This review has been completed. Therefore there are no risks unless members fail to determine the matter.
- 9.2 In light of the findings from the Francis Inquiry (The Mid Staffordshire NHS Foundation Trust Public Inquiry), health scrutiny will continue to have a crucial role to play in the strengthening the voice of local people, ensuring that their needs and experiences are considered as an integral part of the delivery and development of health services and that services are effective and safe.
- 9.3 By continuing with the current health scrutiny arrangements, there is clarity between the roles of scrutiny and the executive which is especially important given the integrated health and social care system within Torbay.

## **Appendices**

- Appendix 1 Political balance on committees
- Appendix 2 Schedule 4 – Terms of Reference Overview and Scrutiny Board and Sub-Committees, Regulatory and Other Committees, Area Committees and Other Bodies

## **Additional Information**

None