

## **Report of the Monitoring Officer – Appointments to Committees and outside bodies, Deputy Section 151 Officer appointment and Data Protection Officer appointment**

Cabinet Member: N/A

Division and Local Member: N/A

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### **1. Summary**

- 1.1** This report sets out decisions on proposed changes to appointments to committees and outside bodies, the appointment of a Deputy Section 151 Officer and the appointment of a Data Protection Officer

### **2. Recommendations**

**2.1** **Appointments Schedule – Appendix 1 refers**

**To approve the changes to Committee and Outside Bodies appointments – see section 3.1 and Appendix 1 to this report.**

**2.2** **Appointment of Deputy Section 151 Officer**

**To appoint the post of Strategic Manager – Adults, Health and Children, currently held by Elizabeth Watkin, as a Deputy Section 151 Officer.**

**2.3** **Appointment of Data Protection Officer**

**To appoint the post of Data Protection Manager, currently held by Lucy Wilkins, as the Council's Data Protection Officer.**

### **3. Background**

**3.1. Changes to seats held by the Council, appointments to Committees and Outside Bodies:**

- 3.1.1** Following the 2017 elections, the Council in May 2017 appointed committees and made all related appointments in accordance with the requirements of the Local Government and Housing Act 1989.
- 3.1.2** The Act sets out the principles to be used in agreeing the size of and allocation of places to committees (and sub-committees) of the Council and also requires this process to be repeated annually at the Council's Annual General Meeting (AGM). The principles must be followed so far as is reasonably practicable.
- 3.1.3** The following principles from the 1989 Act, together with a commentary where appropriate, must be applied to the allocation of seats on committees.

1. All the seats should not be allocated to the same political group.
2. A majority group is required to have a majority on all committees unless the Council agrees otherwise. *The proposal in the table in 3.2.4 below satisfies this principle. Local arrangements apply to the Constitution and Standards Committee membership where all political groups are represented and the Scrutiny Committee for Children & Families where the membership includes 5 co-opted members with a vote on education matters only.*
3. Subject to principles (1) and (2), the total number of seats on all the committees of the Council allocated to each political group should reflect the number of seats held by that group on the Council. *The table below reflects this calculation.*
4. Subject to principles (1), (2) and (3), the number of seats on each committee of the Council allocated to each political group should reflect the number of seats held by that group on the Council. *This calculation led to the following allocations to political groups in the table below in 2017.*

### 3.1.4

<b>Seats held on the Council</b>	<b>35</b>	<b>12</b>	<b>3</b>	<b>3</b>	<b>2</b>	<b>55</b>
<b>Committee</b>	<b>Con</b>	<b>Lib Dem</b>	<b>Ind</b>	<b>Lab</b>	<b>Green</b>	<b>Total</b>
Regulation	6	2	1 or	1		9
P&P (Place)	6	2	1 or	1		9
P&P (Adults & H)	6	2	1 or	1		9
P&P (Child's S)	6	2	1 or	1		9
HR Policy	4	1	1 or	1		6
Audit	6	2	1 or	1		9
Officer App	4	1	1 or	1		6
Pensions	3	1				4
Fire Authority	5	2	1 or	1		8
Exmoor NPA	3	1				4
Con & Standards	1	1	1	1	1	5
Individual cttee totals	<b>50</b>	<b>17</b>	<b>5</b>	<b>5</b>	<b>1</b>	<b>78</b>
Overall calculation - total places	49.64	17.02	4.25	4.25	2.84	<b>78</b>

#### Notes

- The overall calculation takes priority over individual committee allocations
- As stated above, the Conservative Group must have a majority on each committee unless a 'local arrangement' is agreed. They have chosen to exercise this right in all cases other than the Constitution & Standards Committee
- On the larger committees (8/9 members) 1 seat needs to be filled either by the Independent or Labour Groups by agreement
- The Green group are not entitled to any places on individual committees but have a place on the Constitution and Standards Committee as of right under a proposed 'local arrangement'.

**3.1.5** No changes to the above allocations were made at the Annual General Meeting of the Council in May 2018. However, since then there have been some changes to the size of the political groups as follows:

Political Group	May 2018	Current	Difference
Conservative	35	33	-2
Liberal Democrat	12	13	+1
Independent	3	4	+1
Labour	3	3	0
Green	2	2	0
Totals	55	55	

These changes to the membership of some of the political groups require the Council to make changes to the allocation of seats held by the Council in accordance with the principles set out in 3.1.3 above.

**3.1.6** In addition to the changes in membership of some of the political groups the Leader of the Council has proposed for the Council to consider reducing all of the nine member internal committees to eight members. The primary aim of this proposed change in committee size is to ensure that as best as possible there is a core trained and committed membership of committees and to avoid situations of the regular use of several substitutes which can affect consistency of outcomes.

<b>Seats held on the Council</b>	<b>33</b>	<b>13</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>55</b>
<b>Committee</b>	<b>Con</b>	<b>Lib Dem</b>	<b>Ind</b>	<b>Lab</b>	<b>Green</b>	<b>Total</b>
Regulation	5	2	1			8
P&P (Place)	5	2	1			8
P&P (Adults & H)	5	2	1			8
P&P (Child's S)	5	2	1			8
HR Policy	4	1	1			6
Audit	5	2	1			8
Officer App	4	1	1			6
Pensions	3	1				4
Fire Authority	5	2	1			8
Exmoor NPA	3	1				4
Con & Standards	1	1	1	1	1	5
Individual cttee totals	<b>45</b>	<b>17</b>	<b>5</b>	<b>4</b>	<b>2</b>	<b>73</b>
Overall calculation - total places	43.84	17.25	5.31	3.98	2.65	<b>73</b>

**3.1.7** It can be seen from the above allocation of places table that the main changes and actions required are:

- The need for the Conservative political group to reduce their membership on the current nine member committees from six nominated members to five nominated members
- That the Independent political group become the party with the third highest membership and therefore have 'first choice' in terms of their preference from the available places for 'minority political groups' to achieve their total allocation of 5 places. Any remaining places will then need to be discussed with the Labour political group (to achieve their total allocation of 4 places) and Green Party political group (to achieve their total allocation of 2 places).

- 3.1.8** The changes to committee places and outside bodies will be set out in an amended Appointments Schedule (Appendix A) which is expected to be tabled on the day of the Council meeting for approval. This appendix will set out:
- Confirmation of the Council's committees, their size, the allocation of places and appointments to those places
  - Any potential changes to Chairs and Vice-Chairs, where appointed by the Council

**3.1.9** No changes are proposed within this report to the terms of reference of Committees of the Council as agreed by Council and set out within the Constitution.

### **3.3 Appointment of Deputy Section 151 Officer**

**3.3.1** In July 2018, the Council appointed the Interim Director of Finance (Peter Lewis) to the statutory role of Section 151 Officer. Council needs to formally approve the appointment of any deputy Section 151 Officers who will undertake the statutory role in the absence of the Section 151 Officer. Martin Gerrish (Strategic Manager – Governance, ECI and Corporate Services) is currently one of the Council's two deputy Section 151 Officers, but he will be leaving the Council in February 2019 following which his post will be deleted. The other deputy Section 151 Officer role was vacant following the departure of the former Strategic Manager – Adults, Children and Public Health and Elizabeth Watkin was appointed into the role in August 2018.

Both the Interim Director of Finance and the Chief Executive recommend that Council appoint this post and its postholder as a Deputy Section 151 Officer. This is a critical appointment given the forthcoming departure of Martin Gerrish after 30 years of service to the Council. It should be noted that in view of the changes to structures in Finance service that in due course the Council will reduce from the current two to one Deputy Section 151 Officer. This situation is mirrored by many councils so is not unusual.

**3.3.2** The Officer Scheme of Delegation refers to officers authorised to substitute for a Director and key statutory posts. Subject to the Council's approval to the proposed appointment, the Monitoring Officer will need to be amend the Scheme of Delegation to reflect this change.

### **3.4 Appointment of the Council's Data Protection Manager**

**3.4.1** There is a requirement for the Council to appoint a Data Protection Officer in accordance with the EU-General Data Protection Regulations 2016 Section 4 Articles 37 – 39, specifically Article 37 (a) but other Articles (b) and (c) also support the appointment:

*37.1 The Controller and the processor shall designate a data protection officer in any case where:*

*The processing is carried out by a public authority, except for courts acting in their judicial capacity.....*

**3.4.2** This new requirement follows a new regulation coming into force on the 25<sup>th</sup> May 2018 as part of the European Union harmonising data protection legislation across Europe.

3.4.3 Following the recent departure of the Service Manager – Information Governance, the Data Protection Manager post currently held by Lucy Wilkins is the appropriate post to hold the statutory Data Protection Officer role within the organisation and hence the recommendation at paragraph 2.3.

#### **4. Implications**

**4.1 Legal & Risk:** This report complies with all legal requirements. The only risk to the Council would result from the Council failing to fulfil its legal obligations as set out in the report through any decisions taken or not taken at this meeting.

**4.2** The Council's Constitution sets out the legal framework within which the Council takes decisions and fulfils its functions and responsibilities. It needs to be kept up to date and legally compliant. All of the proposed amendments to the Constitution are in accord with the legislative requirements which give considerable scope for the Council to agree its own constitutional arrangements.

**4.2 Financial, equalities, sustainability and community safety implications:** There are no direct equalities implications arising from any of the proposals in this report. There are also no direct financial, sustainability or community safety implications.

#### **5. Background papers**

**5.1** Council's Constitution dated July 2018