

ABERDEEN CITY COUNCIL

COMMITTEE	Statutory Council Meeting
DATE	16 May 2012
DIRECTOR	Chief Executive
TITLE OF REPORT	Appointment of Members to Committees and Appointment of Conveners and Vice Conveners
REPORT NUMBER:	OCE/12/007

1. PURPOSE OF REPORT

To appoint Conveners, Vice Conveners to the Council's committees, to approve the composition and membership of these committees, to agree the payment of senior allowances and a committee diary for the period July 2012 to June 2013, and to determine whether a review of the committee Orders of Reference and Standing Orders is required. The matter of member eligibility for checks under the PVG scheme is also addressed.

2. RECOMMENDATION(S)

That the Council –

- (i) agree the composition of the committees listed at paragraph 5.1, agree to increase the size of the Education, Culture and Sport Committee to 19 (plus 7 external members), and appoint members to these committees on the basis of the agreed compositions;
- (ii) appoint a Convener and Vice Convener to each of the committees listed at paragraph 5.1;
- (iii) agree the composition of the Urgent Business Committee and appoint members to this committee on the basis of this composition;
- (iii) determine whether it wishes to review the committee Orders of Reference and Standing Orders attached to the report; and if so, instruct officers to report with these revisions to the Council at its meeting on 27 June;
- (iv) agree the payment of senior councillor allowances in accordance with the guidance set out at paragraph 7.3;
- (v) agree the appointment of external members to the Education, Culture and Sport Committee as set out at paragraph 8.1 and authorises that Committee to accept the appointment of the second teacher representative as set out in paragraph 8.2;
- (vi) approve the diary of meetings for July 2012 to June 2013, subject to any modifications as determined by the Council; and
- (vii) approve option 3 for checking members under the Protecting Vulnerable Groups ("PVG") scheme, and determine whether to establish a "pool" of substitutes for the Social Care and Wellbeing

and Education, Culture and Sport committees; and agree to check external members as outlined at paragraph 10.7, and budgetary provision for this purpose.

3. FINANCIAL IMPLICATIONS

The financial implications associated with this report are minimal. Those associated with approval of senior councillor allowances are set out at paragraph 7.3.

Each application to the PVG Scheme costs £59. Checks for members will be charged against individual members' codes. There is no budgetary provision for undertaking checks for external members. This is estimated to be around £1,500 and the Council is asked to approve this.

4. OTHER IMPLICATIONS

Legal – There are legal risks surrounding the issue of PVG checking. It is an offence to require an individual to become a member of the PVG scheme (in other words, to be 'PVG checked') if they are not involved in regulated work as defined by the Protection of Vulnerable Groups (Scotland) Act 2007 (the "2007 Act"). The Council must therefore ensure that it has justifiable grounds to do so before carrying out PVG checks on members.

Notwithstanding the above, it is equally an offence (both for the individual involved and the Council) for an individual to be engaged in regulated work if they are barred from doing so. However, the only way to ascertain whether an individual is barred from regulated work is to carry out a PVG check on that individual. (PVG checks also show information on convictions and other relevant information such as police intelligence, which have not led that individual to becoming barred from regulated work with children and/or adults, but which the Council is entitled to take into account in any way it sees fit).

In order to be legally compliant, therefore, it has been recommended that a proportionate method of dealing with PVG checks for members should be undertaken, whereby checks are only undertaken on members who are going to be engaged in regulated work, defined in accordance with the 2007 Act. Any PVG checks carried out should be justified on the basis of the Council's Standing Orders, as these will determine who is a member of a Committee which would give rise to being engaged in regulated work with children and/or adults. The legal and factual background to the issue of PVG checking is further explored at Section 10 of this report.

5. BACKGROUND/MAIN ISSUES

Committee Structure

5.1 The Council's Standing Orders require the establishment by the Council of the following core and regulatory committees.

Core Committees	Regulatory Committees
Finance and Resources	Development Management Sub Committee
Corporate Policy and Performance	Licensing
Education, Culture and Sport	Pensions Panel
Social Care and Wellbeing	Appeals
Housing and Environment	
Enterprise, Planning and Infrastructure	
Audit and Risk	

5.2 Orders of Reference for each of these committees are attached as appendix A in accordance with the terms of Standing Order 1.

5.3 Also presented, at appendix B, are the Council's Standing Orders, Council is asked to identify any changes required, and to instruct officers to submit these to the Council in June for final approval.

5.4 The appointment of Sub Committees and Working Groups will be reported to each parent Committee over the forthcoming cycle, to determine whether these should be re-established, also in accordance with Standing Orders. The Orders of Reference for each Sub Committee will also be presented to the parent committees.

Composition and Membership

6.1 Standing Order 29(1) provides that in appointing Committees and Sub-Committees, the Council shall, so far as possible, give effect to the principles regarding political balance set out in the Local Government and Housing Act 1989. Although the statute itself is not in force, this Council has always considered it a matter of best practice to adhere to the principles.

6.2 Section 15 of the Act provides that in allocating seats on ordinary Committees to political groups, three principles are to be observed:-

- (a) not all the seats of the body are to be allocated to a particular group;
- (b) the majority of seats on the body are to be allocated to the group having a majority of seats on the Council; and
- (c) the number of seats on ordinary Committees which are allocated to each group bears the same proportion to the total number of seats on those Committees as the number of seats held by the group on the Council does to the whole membership of the Council.

6.3 The position following the recent election is as follows -

Labour	- 17 members	(17/43 = 39.5%)
SNP	- 15 members	(15/43 = 34.9%)
Liberal Democrat	- 5 members	(5/43 = 11.6%)
Conservative	- 3 members	(3/43 = 7%)
Independent	- 3 members	(3/43 = 7%)

6.4 The Act does not require that the allocation of seats in any particular Committee should follow these proportions, so long as the aggregate allocation across all of the Committees is correct.

6.5 The Council at its meeting of 19th August 2009, agreed the following committee sizes.

<u>Committee</u>	<u>Size</u>
Social Care and Wellbeing	15
Education, Culture and Sport	18
Enterprise, Planning and Infrastructure	15
Development Management Sub Committee	11
Housing and Environment	15
Audit and Risk	15
Corporate Policy and Performance	15
Finance and Resources	15
Appeals	9
Licensing	<u>15</u>
Total	<u>143</u>

6.6 It is proposed to increase the size of the Education, Culture and Sport Committee to 19, as the provisions of the Local Government and Housing 1989, to which the Council adheres despite it not being enacted, state that majority groupings on Councils must have the majority of seats on each individual committee.

6.7 This means that the total number of committee places is 144. The following political calculation illustrates the number of committee places available to each political group and the Independent Alliance Group on the Council - this is on an approximate basis as figures are rounded to the nearest whole number.

<u>Group</u>	<u>Calculation</u>	<u>Number of Places</u>
Labour	(17/43) x 144	57
SNP	(15/43) x 144	50
Liberal Democrat	(5/43) x 144	17
Conservative	(3/43) x 144	10
Independent	(3/43) x 144	<u>10</u>
		<u>144</u>

- 6.7 Appended to the report (appendix C) are proposals for appointing members to the above committees, subject to the Council agreeing to increase the size of the Education, Culture and Sport Committee to 19.
- 6.8 The Pensions Panel is regarded as one of the Council's Regulatory Committees and is dealt with separately on the agenda. The composition of the Panel is not included in the total number of committee places for this reason.
- 6.9 The Urgent Business Committee, also not included on the basis that it is an *ad hoc* committee, currently has 13 members and the Council is asked to agree a composition for this and to appoint members on the basis of that composition.
- 6.10 It is for the Council to determine the allocation of the Committee places, and thereafter the political groups to notify the Head of Legal and Democratic Services of their appointments.

Appointment of Conveners and Vice Conveners and Payment of Senior Allowances

- 7.1 Council is next asked to appoint Conveners and Vice Conveners to each of the committees listed above, and to the Development Management Sub-Committee.
- 7.2 In respect of the Audit and Risk Committee, it is recommended that this be chaired by the Leader of the largest Opposition Group on the Council.
- 7.3 When making these appointments, Council must have regard to the following structure for the payment of allowances to Councillors:-
- (i) up to 19 Councillors can hold senior positions with an allowance of up to £28,410 provided the total is within the maximum permissible of £424,118; and
 - (ii) a basic allowance of £16,234 must be paid as a minimum to each member of the Council. No member can be paid more than one allowance.
- 7.4 Council is asked to agree the senior allowances to be paid, bearing in mind that separate provision is made for the Civic Head and the Leader of the Council.

External Members on Education, Culture and Sport Committee

- 8.1 The Council currently has appointed to its Education, Culture and Sport Committee seven external members under the provisions of the Local Government (Scotland) Act 1973 (as amended), which specify that, when the Council has appointed a committee whose purposes

include advising the authority on any matter relating to the discharge of their functions as education authority, or discharging any of those functions of the authority on their behalf, it shall appoint three church representatives and may appoint persons who are not members of the authority. Two church representatives, Church of Scotland and Roman Catholic, are to be nominated in such a way as those bodies determine. Both have indicated that they wish to retain their current representatives as nominees for membership of the Committee.

- 8.2 This discretionary provision has been used to appoint two teacher representatives and two parent representatives. In the case of the teacher representatives, the primary sector representative has intimated his resignation and a replacement nomination will be agreed by the Teachers' Consultative Forum on 18 May. The other representative wishes to remain as the secondary sector nominee. The two parent representatives are nominated by the Aberdeen City Parent Councils Forum, and the current nominations are in place until November 2013.
- 8.3 The third church representative is to be appointed by the Council having regard to the comparative strength within the area of all the churches and denominational bodies having duly constituted charges or other regular appointed places of worship within the city. The process followed in previous years has been to hold a consultative meeting to which representatives of other religious bodies will be invited from which it is intended that a single nomination will be secured, for subsequent consideration by the Council.
- 8.4 Council is asked to appoint the undernoted members to the Education, Culture and Sport Committee, to appoint the third church representative at a future meeting, and to delegate powers to the Education, Culture and Sport Committee on 7 June to appoint the second teacher representative -

Church representatives

Peter Campbell, Church of Scotland
Irene Wischik, Roman Catholic Church

Teacher representatives

Stewart Duncan, representing the secondary sector

Parent representatives

Alex Nicoll, representing the primary and Additional Support Needs sector
Murdo Maclean, representing the secondary sector

Diary of Meetings

- 9.1 The Council on 17 August 2011 agreed a diary of meetings for the remainder of its term. The May and June dates are attached at appendix D for members' information.
- 9.2 Also attached, at appendix E, is a proposed diary of meetings for the period July 2012 to June 2013, based on an eight week cycle of the current committee structure. Council is asked to approve this diary, after making any required modifications.

Protecting Vulnerable Groups (PVG) Scheme

- 10.1 Members have all been issued with an application to join the PVG Scheme. The Scheme was introduced in February 2011 by the Protection of Vulnerable Adults Act 2007 (the "2007 Act"), replacing the previous system for undertaking disclosure checks. Basic and enhanced checks under the old scheme are no longer valid for any returning councillor.
- 10.2 Under the new scheme, anyone undertaking regulated work with vulnerable adults and children should be PVG checked. Officers have been working with Disclosure Scotland to obtain definitive guidance on which members should be checked.
- 10.3 Any councillor who is a member of a committee which is concerned with the provision of education, accommodation, social services or health care services to children or protected adults, or a sub-committee which is discharging these functions, should be checked. Within the current committee structure, the relevant committees would be the Education, Culture and Sport Committee and the Social Care and Wellbeing Committee.
- 10.4 As members will be aware, the Council's Standing Orders do make provision for the use of substitutes, and at present any member can act at a substitute for any other member, on any committee. Disclosure Scotland has advised that the 2007 Act reflected a general desire across Scotland that the PVG Scheme should be applied in a proportionate way, and it was not envisaged that every elected councillor would be doing regulated work. They also advise that the Standing Orders of each Council will determine who is a "member of a committee".
- 10.5 It would therefore seem that the options open to the Council, in light of the above, are –
 - (1) To remove the provision within Standing Orders which permits substitutes, and to PVG check only the members on the above committees;

- (2) To amend Standing Orders to prevent the use of substitutes on the Education, Culture and Sport and Social Care and Wellbeing committees, and to PVG check only the members on these committees; or
- (3) To confirm that Standing Orders, as drafted at 29(5), ensure that anyone substituting for another member does become a fully fledged member of that committee for the meeting, or part of the meeting, at which they are acting as substitute, and on this basis to PVG check **either** all 43 members, **or** establish a “pool” of substitutes for the Education, Culture and Sport and Social Care and Wellbeing committees and check these members as well as the substantive members.

10.6 In undertaking any checks, officers will establish any existing memberships of the PVG Scheme. For councillors who already have membership, their application becomes one to extend their membership to take account of the regulated work they carry out as a councillor.

10.7 Based on advice from Disclosure Scotland, that the term “member of a committee” is not restricted to councillors, it will also be necessary to undertake a PVG check for all external committee members, which under the current committee structure means that the seven external members on the Education, Culture and Sport Committee will require to be checked. The Council also has a statutory duty to establish and administer a School Placings and Exclusions Appeal Committee. The external members on this committee will also require to be checked. This is referred to separately at item 10 on the agenda.

6. IMPACT

Corporate - The subject matter of the report impacts on every aspect of the Council’s Five Year Business Plan, and the Council’s input to the Single Outcome Agreement and Community Plan.

Public – This report is likely to be of interest to the public.

7. BACKGROUND PAPERS

None

9. REPORT AUTHOR DETAILS

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List of appendices

A – Orders of Reference

B – Standing Orders

C – Committee allocations

D – Diary for May and June 2012

E – Proposed Diary for July 2012 to June 2013