

WIRRAL COUNCIL

CABINET - 12 MAY 2009

REPORT OF THE DIRECTOR OF LAW, HR, AND ASSET MANAGEMENT

APPOINTMENT AND CONSTITUTION OF THE CABINET AND COMMITTEES

1. Executive Summary

- 1.1 The purpose of this report is to request that recommendations be made to the Council, in accordance with the relevant statutory provisions and the terms of the Constitution, in respect of the appointment of the Leader of the Council and Cabinet and committee membership for 2009/10.

2. Background and Present Position

- 2.1 Standing Order 24 requires the Cabinet to make recommendations to the Annual Meeting of the Council with regard to the appointment of the Leader, Deputy Leader and Cabinet, and the constitution and membership of committees. In doing so, members must have regard to the requirements of section 15 of the Local Government and Housing Act 1989, and the relevant regulations (which deal with political balance on committees and sub-committees), and the terms of the High Court judgement in the case of *R v Brent LBC ex-parte Gladbaum and Wood* (which requires the relevant parent committee, rather than the Council, to appoint members of sub-committees and panels).

- 2.2 The current political composition of the Council (in the absence of elections) remains as follows:

Conservative	24 seats	(36.36% of the 66 seats)
Labour	21 seats	(31.82%)
Liberal Democrat	20 seats	(30.30%)
Independent	1 seat	(1.52%)

- 2.3 Based on the numbers of committee members recently agreed by the Council, the total number of committee places to be allocated in accordance with the above percentages - the Cabinet and Standards Committee are excluded from the calculations - is **119** (referred to as available seats). This is assuming a membership of ten for the Scrutiny Programme Board. The method of calculation is set out in Appendix 1.

3. Statutory and Other Considerations

- 3.1 Unless appointed as full members, the Leaders and Deputy Leaders of the three largest political parties represented on the Council are entitled to attend meetings of all committees and sub-committees, but with no right to vote and the right to speak only at the Chair's invitation (Standing Order 25(4)).

- 3.2 The Cabinet is reminded that seats must be allocated to political groups in accordance with the following principles:

- (a) not all seats may be allocated to the same group (except in the case of the Cabinet);
- (b) a group with an overall majority is entitled to a majority of the seats on every committee;
- (c) subject to (a) and (b), the total of available seats must be allocated in the same proportion as each group's membership bears to the Council's membership;
- (d) subject to (a) to (c), the number of seats on each committee must be proportional to the group's membership of the Council.

Note: Only principles (a), (b) and (d) apply to the appointment of sub-committees, panels and advisory committees.

- 3.3 In proposing the new structure for overview and scrutiny committees, the Cabinet has expressed the view that all non-executive members of the Council (other than the Mayor) should have the opportunity to serve on an overview and scrutiny committee if they so choose (a total of 50 places is available, assuming that all members of the Scrutiny Programme Board will already be members of one or more of the other O&S committees).
- 3.4 Although the same might be said for all committees, for the Pensions and Standards Committees in particular it is considered desirable to maintain continuity of membership.
- 3.5 A list of the current membership of the Cabinet and committees is attached as Appendix 2 and may prove useful as a guide. No membership has been included for the new overview and scrutiny committees, and the numbers indicated for each group may need to be adjusted to ensure overall proportionality. The co-opted members of current committees have been 'slotted in' to the new committee that covers the functions with which they are concerned.

4. Standards Committee

- 4.1. The Standards Committee is not included in the overall calculation for the allocation of places and is not subject to the proportionality requirement (though the current 3:3:3 ratio of elected members does conform to that). In addition, there are three independent members, i.e. 25% of the total membership, which is the minimum prescribed by statute.
- 4.2. Membership of the Standards Committee cannot include either the Mayor or the Council Leader. It can include one Cabinet member (and it is recommended that it should). It should also be noted that the Standards Committee, rather than the Council, appoints its own Chair, which must now be an independent member.

5. Co-opted members

- 5.1 The position with co-opted members is that any O & S committee is entitled to recommend to the Council the appointment of any non-voting co-optees. The Children's Services and Lifelong Learning Overview and Scrutiny Committee will have four voting co-optees – there is a statutory requirement to have representatives of the Catholic and Church of England dioceses and of parent governors. The independent members of the Standards Committee also have voting rights (see part 4 above), as do the co-opted members of the Pensions Committee, who represent the other four districts in Merseyside and the wider membership of the Merseyside Pension Fund.

5.2 There are a number of issues that members might wish to consider in relation to co-opted membership:

- Their period of office, especially for Standards Committee members, which is currently two years, but which might be regarded as too short for them to build up the necessary expertise.
- Additional co-opted members for the Standards Committee, given that three is the statutory minimum.
- New scrutiny committees – the existing co-opted members have provisionally been re-allocated to them (which requires confirmation by the Council), but should *all* scrutiny committees be encouraged to seek an appropriate range of representation by co-opted members? For example, the two co-opted members included on the Economy and Regeneration O&S Committee appear only to represent housing issues.
- Whether to adopt a scheme for allowing more (or all) co-opted members to vote (adoption of such a scheme is a non-executive function, i.e. not to be determined by the Cabinet).

5.3 The Cabinet might wish to refer the question of co-option, plus any general issues affecting O&S committees, to the Scrutiny Programme Board in the first instance.

6. Appointment of Chairs and Vice-Chairs

6.1 Standing Order 25(1) provides for the Council to appoint Chairs and Vice-chairs, but for the past few years it has left the appointment of vice-chairs to individual committees. Not all of them have made such an appointment, but it is recommended that they be urged to do so, particularly to avoid the possibility of a meeting being postponed because the Chair might not be available.

7. Deputies

7.1 Standing Order 25(6) permits the Council to appoint up to a maximum of eight deputies for each political group on committees and sub-committees. It is not necessary for deputies to be appointed for the Licensing Act 2003 Committee. This is because the vast majority of its work will be done by sub-committees comprising any three members of the Committee.

7.2 Given the proposed membership of the Scrutiny Programme Board, separate consideration might have to be given to its pool of deputy members to ensure that representation by all five themed O&S committees is maintained.

8. Financial and Staffing Implications

8.1 There are no financial or staffing implications arising directly out of this report, though it is recognised that there could be cost implications if the number of committees or committee places is varied.

9. Other Implications

9.1 There are no implications arising out of this report in terms of equal opportunities, ethnic minorities, the elderly or the disabled; nor are there any human rights, community safety, social inclusion, Local Agenda 21, or planning implications, though individual committees will be concerned with such issues.

10. Local Member Support

10.1 This report has no implications for specific wards.

11. Background Papers

11.1 Other than published works, the only background papers used in the preparation of this report were the Council's Constitution and departmental records relating to current Cabinet/committee memberships.

12. Decisions required

12.1 The Cabinet is requested to make recommendations to the Annual Meeting of the Council, asking the Council to:

- (a) agree the appointment of Leader, Deputy Leader and Cabinet members for 2009/10, including the allocation of portfolios;
- (b) agree the constitution and membership of committees in 2009/10 (including deputies), having regard to the "proportionality" requirements of the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990;
- (c) in the case of the Scrutiny Programme Board, agree the numbers of members and arrangements for deputies;
- (d) agree the appointment of chairs and, if considered appropriate, vice-chairs;
- (e) note the designation of party spokespersons;
- (f) agree any other recommendations arising from this report in relation to co-opted members, vice-chairs, etc.

Bill Norman

Director of Law, H.R. and Asset Management