

REPORT OF THE GOVERNANCE COMMITTEE

The Governance Committee met on 24 April 2018. Attendances:

Councillor Glazier (Chair)
Councillors Godfrey Daniel, Elkin, Simmons and Tutt

1. Appointments to committees, sub-committees, panels and other bodies

1.1 The County Council, at its annual meeting in May, appoints members to committees etc. In appointing members to committees the Council must comply with section 15 of the Local Government Act 1989 and subsequent Regulations. These provide that places on committees must be allocated to political groups in proportion to the number of seats on the Council held by each group, unless there is agreement, without dissent, that the provisions of the Act should not be applied.

1.2 The allocation of places to party groups must, so far as is reasonably practicable, give effect to the following principles:

- (a) not all of the seats on the body can be allocated to the same political group;
- (b) where more than half the members of the Council belong to one political group, that group shall have a majority on all committees, sub-committees, etc;
- (c) subject to (a) and (b) above, the total number of seats on the ordinary committees (including sub-committees) allocated to a political group reflects that group's proportion of the members of the Council;
- (d) subject to (a), (b) and (c) above, the number of seats on each body allocated to a political group reflects the proportion of the seats on the Council held by the group.

1.3 The rules require seats to be allocated on a proportional basis "so far as practicable" and inevitably there must be some rounding up and rounding down. It is open to the Council to review the size and number of committees and sub-committees at any time.

1.4 Members of the Cabinet may not serve on the Scrutiny Committees or the Regulatory Committee and the Leader and Deputy Leader of the Council may not serve on the Standards Committee.

1.5 The Leader of the Council appoints the Cabinet and allocates portfolios to those Cabinet Members. Political balance provisions do not apply to the Cabinet

1.6 The principle in paragraph 1.2 (c) above applies to appointments to ordinary committees (including sub-committees). Accordingly, before considering the allocation of places to political groups the Council will need to consider whether it wishes to recommend any changes in committees, including their size. The tables in Appendix 1 (circulated separately) outline proposals in relation to committees, their total membership and the number of seats on each to which the groups will be entitled following the principles set out in paragraph 1.2 above.

1.7 The group leaders have been asked to let the Assistant Chief Executive have nominations to fill the places on committees, sub-committees, panels and other bodies covered in this report provisionally allocated to their group. The final list of nominations

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received will be circulated to members of the County Council on the day of the annual council meeting, for approval by the Council.

Other Committees and Panels

1.8 There is no obligation in relation to other committees and panels to aggregate the total number of places and to adjust allocations so that the total number of places allocated to each group reflects its proportion of the members of the Council. It is proposed that places should be allocated on a proportionate basis, unless the Council agrees to waive the political balance provisions which has been the custom for certain panels over many years.

1.9 The practical effect of the proportionality rules for a committee, panel or group of members of any given size from 3 to 12 is set out in Appendix 2, together with the list of current committees and panels to which appointments will need to be made and their membership.

Chairs and Vice Chairs of Committees

1.10 To reflect the changes made to the structure agreed by the County Council in March, the Chairs and Vice Chairs of scrutiny committees and Audit Committee shall be allocated to groups in accordance to the number of seats they have on the Council. Within this allocation, the Chair of the Audit Committee shall be appointed from the members of the largest opposition group. On this basis the allocation of the 8 places would be as follows:

Conservative – 5

Liberal Democrat – 2 (including the Chair of the Audit Committee)

Labour – 1

Independent Group - 0

Independent Democrat - 0

The proposed list of Chairs and Vice Chairs to be appointed by the County Council is:

Committee	Chair	Vice-Chair
Regulatory	Conservative	
Audit Committee	Liberal Democrat	Conservative
People Scrutiny Committee	Conservative	Liberal Democrat
Place Scrutiny Committee	Conservative	Labour
Health Overview and Scrutiny Committee	Conservative	Conservative
Governance Committee	Conservative	
Planning Committee	Conservative	Conservative
Pension Committee	Conservative	
Standards Committee	Conservative	

1.9 The Committee recommends the County Council to:

☆ (1) allocate to the political and other groups the places on, and membership of, the main committees as set out in Appendix 1;

(2) allocate places on the other committees and panels as set out in Appendix 2;

(3) allocate the chair and vice chair positions on committees as set out in paragraph 1.10; and

(4) delegate authority to the Assistant Chief Executive to amend the Council's Constitution where necessary to give effect to this decision

2 Data Protection Officer designation required by the General Data Protection Regulation

2.1 Article 38 of the General Data Protection Regulation (which is directly applicable in the UK) imposes a mandatory requirement that all public authorities designate a Data Protection Officer ('the DPO'). It provides that 'the data protection officer shall be designated on the basis of professional qualities and, in particular, expert knowledge of data protection law and practices and the ability to fulfil the tasks referred to in Article 39'.

2.2 The DPO's details must be published, and – although they may be an employee or contractor – they must be supported in carrying out their roles and responsibilities, which are to be executed with independence. The DPO may not be dismissed or penalised for carrying out his or her tasks and must report to the highest management level regarding the detailed range of tasks indicated in article 39. These include providing advice on the lawful performance of the Council's obligations and monitoring its compliance as well as assisting in the assignment of responsibilities and in relation to data protection impact assessments and acting as contact point with the Information Commissioner's Office ('the ICO').

2.3 The term 'Data Protection Officer' has been in common use in local government for some time and has historically been used to describe those officers who deal with subject access requests made under the Data Protection Act 1988. However this statutory role is a new requirement for local authorities (and indeed most organisations) and is to be distinguished from that.

2.4 Article 38 of the GDPR specifically permits a single Data Protection Officer to be designated for several public bodies or authorities. This has been actively explored as an option by this Council in discussion at officer level with its fellow Orbis partners, Surrey County Council and Brighton & Hove City Council. The increasing alignment of relevant support services including Audit – an alignment which is obviously a key feature of the Orbis project - has informed these proposals. They will offer this Council access to an individual with dedicated expertise and seniority, this via a model which as well as satisfying a key GDPR requirement offers the potential to positively influence the work done by the sovereign Information Governance function, including meeting the need to ensure compliance in terms of our arrangements across Orbis for sharing information.

2.5 It is proposed the funding for the joint DPO appointment will be agreed by the Orbis Joint Management Board and will reflect an appropriate methodology which is governed by the relative information maturity of the three authorities. There is no bid for funding additional to that which has already been agreed.

2.6 This proposal is considered to offer a solution which complies with the requirements of the GDPR in such a way as to inform and benefit this authority's approach to its information governance arrangements. The shared DPO's independence will be reinforced by the basis

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on which they are appointed (ie across the three authorities) and they will moreover be well-placed amongst other things to identify opportunities for any joint work streams which arise while ensuring that their main focus is on deploying their skills, experience and seniority to discharge their statutory functions.

2.7 It is considered by the ICO to be good practice for councils to appoint a Senior Information Risk Owner (SIRO) to ensure accountability and effective risk management in relation to information held across the range of the authority's functions. Although this is a non-statutory role, it is considered to be key to ensuring that one of the Council's Chief Officers retains responsibility for maintaining oversight of the Council's ongoing (and continually evolving) use of technology to deliver its functions.

2.8 Currently the SIRO role is fulfilled by this Council's Chief Operating Officer. It is proposed that this arrangement continues. Compliance with the requirements of the General Data Protection Regulation are mandatory and – while different models exist for ensuring compliance with the requirement to designate a DPO – the proposals outlined here are recommended.

2.9 The Committee recommends the County Council to:

☆ (1) approve the Council having a single shared designated statutory Data Protection Officer with Brighton & Hove City Council and Surrey County Council;

(2) delegate authority to the Chief Operating Officer, in consultation with the Chief Executive, to appoint or designate to the role of statutory Data Protection Officer; and

(3) delegate authority to the Assistant Chief Executive to amend the Council's Constitution where necessary so as to give effect to this decision and to include provision in the Scheme of Delegation to Officers for the new statutory Data Protection Officer role.

24 April 2018

KEITH GLAZIER
(Chair)