

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Director of Legal and Democratic Services

to
Council
on
19th October 2017

Report prepared by John Williams
Director of Legal & Democratic Services

Changes to Membership of Committees and Minor Amendments to the Constitution

Part 1 - Public Agenda Item

1. Purpose of Report

For the Council to agree minor changes to appointments to Committees, Working Parties and one outside body as a result of a change to the Conservative Group on the Council

For the Council to make several minor amendments to the Constitution.

2. Recommendations

2.1 To note that as a result of Councillor McMahon having given notice to the Chief Executive that she has joined the Conservative Group on the Council, the political make-up of the Council is now as follows

- Conservative Group – 28
- Independent Group – 11
- Labour Group – 9
- Liberal Democrat Group – 2
- Non-aligned – 1 (Councillor Ayles)

2.2 That Councillor McMahon be appointed to the Policy and Resources Scrutiny Committee and General Purposes Committee in accordance with the wishes of the Conservative Group

2.3 To agree the minor amendments to the Constitution set out in Appendix 1

3. Background

3.1 On 19th September 2017 Councillor McMahon gave formal notice to the Chief Executive pursuant to Regulation 9(b) of the Local Government (Committees

and Political Groups) Regulations 1990 that she wished to be treated as a member of the Conservative Group on the Council with immediate effect
As a consequence of the notice, the political make-up of the Council is now as set out in recommendation 2 1

- 3 2 Places on Committees and other bodies for the municipal year 2017/18 were previously agreed at the Appointments Council held on 18 May 2017 and then amended at Council on 15 June 2017 and generally reflected the wishes of the political groups in the context of the political proportionality rules

The political composition of the Council necessitates the Council agreeing minor changes to Committees for the remainder of the municipal year 2017/18 in accordance with the political proportionality rules

The proportionality calculations entitle the Conservative Group to an additional seat on a committee of 17 and it is proposed that Cllr McMahon is allocated a seat on the Policy and Resources Scrutiny Committee (she was previously appointed to the Committee as a Non-Aligned Member) in accordance with the wishes of that Group

The 3 Committee places remaining (after allocating places to the 4 political groups under the political proportionality rules) must be allocated to the one Member who is not a member of any political group ("Non-aligned Member"), this being Councillor Aylen

However, Councillor Aylen has confirmed that he wants his three places on Appeals Committees A and B and General Purposes Committee to be reallocated. The Conservative Group already hold the two additional places on the Appeals Committees by virtue of the decision made at the June meeting of Council. As Councillor McMahon was appointed to the General Purposes Committee as a Non-Aligned Member at the June meeting, it is proposed that she retains her place, but as a Conservative member in accordance with the wishes of that Group. The allocation of the seats would result in a non-proportional arrangement. If such arrangement was wanted, then this would have to be agreed by the Council with no-one voting against (see S 17(1) of the Local Government and Housing Act 1989 and Regulation 20 of the Local Government (Committees and Political Groups) Regulations 1990). In the absence of such unanimity, these 3 Committee places would remain with Councillor Aylen.

- 3 3 It is important to note that no other changes are required to Committees, Sub-Committees, Working Parties, Panels etc or to any of the other outside bodies to which the Council makes appointments. These will remain as agreed the Council meetings referred to above.

- 3 4 Several minor amendments are needed to the Constitution as set out in Appendix 1. The changes are as follows:

(a) Paragraph 5 1 of the Special Scheme of Delegation in Part 3, Schedule 3 to reflect the latest arrangements for dealing with obtaining communications data,

- (b) Paragraph 5 6 (b) of the Special Scheme of Delegation in Part 3, Schedule 3
– the addition of a further officer to serve notices,
- (c) Paragraph 5(a) the addition of a footnote to record the general dispensations
agreed by Council on 19th July 2012

4. Background Papers

None

5. Appendices

Appendix 1 – Minor amendments to the Constitution

5. Special Schemes of Delegation

5.1 Regulation of Investigatory Powers Act 2000

5.1.1 All Chief Officers and the following Group Managers in the Department for Place (Regulatory Services, Waste & Environmental Care and Partnership Manager, Community Safety) are Authorising Officers for directed surveillance or CHIS activity under the Regulation of Investigatory Powers Act 2000 provided they have received appropriate training and comply with the Council's RIPA Policies & Procedures.

5.1.2 Any Council Officer who has received appropriate training may carry out directed surveillance authorised under 5.1.1. Such Officer shall be known as an "Investigating Officer" and must comply with the Council's RIPA Policies and Procedures.

~~5.1.3 Any Council Officer trained and accredited for the role by the Home Office and appointed by his / her Chief Officer shall act as single point of contact (SPOG) for the Council to acquire Communications Data.~~

5.1.4³ All Chief Officers, the Group Manager Regulatory Services (Place) and the Group Manager Investigations (Chief Executive Department) shall each act as Designated Person to ~~serve notice and authorise applications~~ for Communications Data, provided they have received appropriate training and comply with the Council's RIPA Policies & Procedures.

Submit applications to the National Anti-Fraud Network (NAFN) and to the Magistrates' Court.

5.2 Cemeteries & Crematorium

The Bereavement Services Group Manager is authorised to enforce and execute the duties and functions of the Council in respect of the following:

- (i) To grant exclusive rights of burial and rights to erect monuments and memorials.
- (ii) To enter into undertakings for the maintenance of graves.
- (iii) In appropriate circumstances, to arrange funerals at the Council's expense in accordance with Section 46 of the Public Health (Control of Disease) Act 1984.

Under the direction of the Bereavement Services Group Manager; the Crematorium Manager; Office Manager and Administration Officer are appointed to authorise cremations under the Cremation Act 1902, the Cremation Regulations 1930-1979 and the Cremation (Amendment) Regulations 1988.

5.3 Estate Management Service

The Group Manager (Corporate Property & Asset Management) may exercise all the powers of the Chief Executive and Director of Finance & Resources in respect of Estate Management Services as defined in 4.4 above subject to the limits set out in the Financial Procedure Rules.

5.4 Private Sector Housing

The following Officers may serve notices and take appropriate action (including but not limited to works in default) under Private Sector Housing legislation within their area of responsibility, subject to being authorised in that regard by their Chief Officer pursuant to 3.2(h):

- Private Sector Housing Manager
- Strategy & Planning Manager, Private Sector Housing
- Private Sector Enforcement Officers

5.5 Building Control

The Group Manager (Planning & Building Control) may exercise all the powers of Deputy Chief Executive (Place) and the Director of Planning & Transport in respect of Building Control and Dangerous Buildings.

5.6 Public Protection (including Regulatory Services, Waste Management & Environmental Care and Community Safety)

- (a) The Group Managers for Regulatory Services, Waste Management & Environmental Care and Community Safety may exercise all the powers of the Deputy Chief Executive (Place) and the Director of Public Protection in respect of functions within their remit as defined in 4.11 above.
- (b) The following Officers may serve notices and take appropriate action (including but not limited to works in default) under legislation within their area of responsibility, subject to being authorised in that regard by their Chief Officer pursuant to 3.2(h):
- Regulatory Services Manager(s)
 - Regulatory Services Officer(s)
 - Service Manager, Waste Management
 - Waste and Contracts Officer(s)
 - Environmental Care Co-ordinator(s)
 - Environmental Care Officer(s)
 - Enforcement Officer(s)
 - Animal Warden
 - Sustainability Officer
 - Anti-Social Behaviour Team Leader
 - Anti-Social Case Worker(s)
 - CCTV Team Leader
 - Community Safety Officer
 - Any other duly appointed and trained contracted staff
- Enforcement Support Officer.*

5.7 Planning

5.7.1 Subject to the **Committee Referral Procedure** in 5.7.4 below, approval or refusal of all applications made under The Town and Country Planning Act 1990, The Planning (Listed Buildings and Conservation Areas) Act 1990 and The Planning (Hazardous Substances) Act 1990 and associated Regulations and Orders is delegated to each of the following officers ("**the Relevant Officer(s)**"):

- The Deputy Chief Executive (Place);
- The Director of Planning and Transport; and
- The Group Manager (Planning and Building Control)

provided that:

- (a) In the case of an approval the proposals do not conflict materially with a policy of the current Development Plan;
- (b) In the case of refusals the proposals are materially in conflict with a policy of the current Development Plan;
- (c) Consultations, neighbour notification and publicity have been carried out in accordance with statutory requirements and Council Policies;
- (d) The decision would not conflict with a material planning objection in principle from a statutory consultee received within the statutory consultation period;

9. Disclosure of Interests (Disclosable Pecuniary Interests, Other Pecuniary Interests and Non-Pecuniary Interests)

- 9.1 Subject to sub-paragraphs 9.2 to 9.3, where you have a Disclosable Pecuniary Interest, Other Pecuniary Interest or Non-Pecuniary Interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.
- 9.2 Sub-paragraph 9.1 only applies where you are aware or ought reasonably to be aware of the existence of the Interest.
- 9.3 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 but by virtue of paragraph 12 (Sensitive Information) details of the interest are not registered in the Authority's published Register of Members' Interests and the interest is a Disclosable Pecuniary Interest or Other Pecuniary Interest you need not disclose the nature of the interest to the meeting.
- 9.4 Where you have a Pecuniary Interest in any business of the Authority which would be Disclosable by virtue of paragraph 9.1 and a function of the Authority may be discharged by you acting alone in relation to that business, you must ensure you notify the Authority's monitoring officer of the existence and nature of that interest within 28 days of becoming aware that you will be dealing with the matter even if more than 28 days before you will actually deal with the business.
- 9.5 Where you have an interest in any business of the Authority which would be disclosable by virtue of paragraph 9.1 and you have made an executive decision in relation to that business you must ensure that any written statement of that decision records the existence and nature of that interest. In this paragraph "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

10. Effect of Interests on Participation

10.1 Disclosable Pecuniary Interests

- (a) If you are present at a meeting of the Authority or of any committee, sub-committee, joint committee or joint sub-committee of the Authority and you or a Relevant Person has a Disclosable Pecuniary Interest in any matter to be considered, or being considered, at the meeting and you are aware of that Interest:
- (i) You must not participate, or participate further, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting;
 - (ii) You must withdraw from the room or chamber where the meeting considering the business is being held unless you have received a dispensation from the Standards Committee or the Authority's proper officer. ^①
- (b) If you have a Disclosable Pecuniary Interest in any business of the Authority you must not:
- (i) exercise executive functions in relation to that business; or
 - (ii) seek improperly to influence a decision about that business
- (c) If a function of the Authority may be discharged by a Member acting alone and you have a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with in the course of discharging that function you may not take any steps or any further steps in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by yourself).

Footnote ① On 11 July 2012 the Standards Committee granted the following general dispensations and these were endorsed by Council on

the 19th July 2012 :-

- (i) where the matter relates to the housing functions of the Council and the Member is a tenant of the Council (provided that the matter does not relate particularly to the Member's tenancy or lease)
- (ii) school meals or school transport and travelling expenses, where the Member is a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends
- (iii) an allowance, payment or indemnity given to Members
- (iv) any ceremonial honour given to Members
- (v) setting Council Tax or a precept under the Local Government Finance Act 1992
- (vi) where an Executive Councillor attends a meeting of a Scrutiny Committee in respect of executive matters, including call-in and pre-Cabinet Scrutiny items.