

Report to Council

Date of Meeting: 20 February 2014

**Report of: Constitution and Member Services
Standing Scrutiny Panel**

Chairman: Councillor J Philip

Subject: Vice-Chairman of Council – Review of Appointment Procedure



Recommending:

That paragraphs 5.02 and 5.03 of Article 5 in the Constitution (Chairman of Council) be amended as set out in Appendix 1 to this report so as to provide for a new process for appointing a Vice Chairman of Council.

1. At the Annual meeting of the Council in May 2013, it was agreed that the Overview and Scrutiny Committee should be asked to undertake a review of the process for the nomination to and appointment of the Vice Chairman of Council. The Overview and Scrutiny Committee delegated that review to this Panel.
2. We have considered the review at three of our meetings this year. The review has included consideration of information on how other local authorities arrange their appointment process and the operation of the points system used previously by this Council.

Previous and Current Procedures for Appointing the Vice Chairman

3. A points system was operated by the Council between 2000 and 2007. We have received details of that system and understand that it provided a rotational system linked to the number of councillors in any group. The system was suspended in 2004/5 and 2005/6 and was replaced by the current system at the May 2007 Annual Council meeting.
4. The current procedure contains some elements of the earlier arrangement but without the points system. Any candidate for Vice Chairman must secure 12 signatories on a nomination from at least two political groups. We believe that the points system had the effect of taking the control of the appointment process out of the hands of the members and meant that no independent members could become the Chairman as it was based on group strengths. We are therefore not recommending that this procedure should be reinstated or continued.

5. We have considered methods used by other councils. During the summer of 2013, the Council was fortunate to have help from a student intern, Roisin Perry who has undertaken online research with other authorities. Over 80 other local authorities have been reviewed. From this research there seems to be a majority that do not define any process other than the Vice Chairman being appointed at the annual meeting. This wording derives from the basic legal requirement under the Local Government Act 1972.

Other Methods

6. Where specific procedures have been found, these fall into one of the following categories:
 - (a) a points system;
 - (b) by nomination of the current Vice Chairman's party;
 - (c) a rotational system (often party based);
 - (d) a qualification system (normally by service years or by positions served);
 - (e) a person mandate system (an application system); and
 - (f) by length of service (call down from longest serving).
7. We also noted that the following options were used:
 - (a) drawing of lots;
 - (b) an equalities-balanced approach; and
 - (c) a simple vote at Council.

A New Procedure

8. Having considered the options available, we are of the view that a scheme which requires cross party support for any candidate is the most appropriate for this Council. This method allows the control of the appointment of the Civic Head of the Council by its members rather than rely on a "system". Therefore, the amendments we are proposing are:
 - (a) that any nomination should have the support of a quarter (15) of the Council with nominators being serving District Councillors at the point the nominations are considered by the Appointments Panel after the elections (this is a change from 12 members from two political groups);
 - (b) that independent or unaffiliated members should be allowed to support a nomination;
 - (c) that the procedure should specify that all nominations should be considered by the Appointments Panel; and
 - (d) that if the Vice Chairman is unable to be elected Chairman, the same procedure would apply in that year to both Vice Chairman and Chairman positions.

Views of EFDC Members

9. Officers undertook a wider consultation with all members via the Council Bulletin on 18 October 2013. Members expressed the following views:

Councillor K Angold-Stephens:

"The LRA is wholly opposed to the increase in nominations for VC from 12 to 15. This discriminates against smaller parties and individual members. Members find it unseemly to go from meeting to meeting to drum up support when they are on their own or part of a small group. This decision would clearly favour a majority party whose members would be able to sign at a group meeting and would almost certainly do so if it was a member of their own party. It thus discriminates in favour of the majority party when the person is supposed to be selected on merit and not on political persuasion. So far our Council has been quite fair in its approach but an unscrupulous majority party in the future could make sure their candidate always won which is against the spirit of the job and against the constitution but there would be no way of others being able to successfully challenge that decision. Even 12 is a high hurdle for some individual members but we accept the bar has to be set somewhere.

I am also surprised the report did not recommend a method of supporting nominations by e-mail instead of actual signatures. There must be a way of doing this to avoid the necessity of an individual having to tout their nomination from meeting to meeting to gain a signature or, as recently, travelling around the District to gather signatures.

We accept that finding a solution will not be easy but this proposal does nothing to address the issue and may make matters worse."

Councillor G Chambers

"I agree with all comments in the revised section of 5.03 with the exception of the following.

There needs to be a further 15 signatures to endorse the vice chairman to become chairman. This of course would allow members to vote out someone who proves not to be suitable during his or her time in office as the vice chair.

Additionally 15 signatures could be sent in opposing the vice chair to become chair which would then mean we would need a vote in chamber. Just feel here needs to be mechanism to remove someone who becomes unsuitable. Perhaps we have this elsewhere in the constitution."

Councillor B Sandler

"I understand the content and cannot disagree with this style of appointment but this should only be put into operation if the Council does not have a one party majority. I firmly believe that if one party has the control of the Council then that party alone should hold the Office of Chairman and Vice Chairman."

Councillor P Spencer

"The proposals should look at ways of including suitable candidates from minority parties and independents."

Councillor D Stallan

"I support the proposed amendments to Section 5.02 as stated. I have no additional comments to make."

Councillor Janet Whitehouse

"In response to the consultation on the appointment of the Vice Chairman I didn't support the proposals for change at the scrutiny panel and I confirm that I don't support the revised Section 5.02 proposals.

I would like all members to have the opportunity to be consulted on all the possibilities that were in the report that came to the scrutiny panel."

Use of E-Mail for Nominations

10. We are also recommending that a further sub paragraph be added to those set out in paragraph 8 above in order to allow the use of e-mail for nominations. "That nominators be able to indicate their support for any nomination to the co-ordinating member via e-mail."
11. In discussion at the Overview and Scrutiny Committee members asked that advice be given on how the e-mail system should be used to put forward nominations.
12. We remain of the view that this position should command the support of at least a quarter of the Council and recommend the adoption of the new procedure and the consequential changes to Article 5 as set out in Appendix 1 to this report.