

Report to Constitution and Members Services Scrutiny Standing Panel



SCRUTINY

Date of meeting: 24 September 2013

Subject: Vice Chairman of Council – Appointment Review



Epping Forest District Council

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Recommendations/Decisions Required:

- (1) To consider methods for the Appointment of the Vice Chairman of Council; and
- (2) To make appropriate recommendations to enable either:
 - (i) a report to be consulted on with Group Leaders and members; or
 - (ii) further work to be undertaken by officers on elements of a desired future scheme.

Report:

1. At the annual meeting of the Council it was agreed that the Overview and Scrutiny Committee 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 has delegated that review to this Panel. At the meeting held on 25 June 2013 members asked that a further report be submitted to this Panel with information regarding how other Local Authorities arranged their appointment process for the position of Vice Chairman of Council and including the Point System used previously by the District Council.

2. This report seeks to give members a number of 'pick and mix' options for future appointments, details of the points system previously employed and results of online research into how other authorities appoint to these positions.

Previous Points System

3. The Points systems was operated by the Council during the period 2000-2007. The details of the system are set out in Appendix 1 attached. The premise of the system was that it created a rotational system linked to numbers of Councillors in any group. The system was suspended in 2004/05 and 2005/06 and was replaced by the current system by the May 2007 Annual Council meeting.

4. There are a couple of observations on this system. Firstly it took the control of the appointment process out of the hands of the members; and secondly meant that no independent members would ever have been made the Chairman as it was based on group strengths. Members could choose to revert back to this system as it did mean that Groups would all eventually be eligible to put forward an appointment.

Online Research

5. During the summer the Council was fortunate to have help from a student intern, Roisin Perry who has undertaken online research with other authorities. The details of her research are at Appendix 2. Over 80 other local authorities have been looked at. Interestingly there seems to be a majority of other authorities that have not defined a process except the

Vice Chairman being appointed at the annual meeting. This wording is used as it is that which is stated in the Local Government Act 1972.

6. However Roisin has found some examples of other practices. These are detailed in Appendix 3 attached and are summarised below:

(a) Birmingham City Council

“Should a Member, due to take up the Deputy Lord Mayoralty, fail to be re-elected to the City Council, or an incumbent is unable to complete his or her term, owing to ill health or similar disposition, the Party Group of the outgoing Deputy Lord Mayor will be asked to make an alternative nomination. This will be the last Member of their Group to hold the position of Deputy Lord Mayor prior to the outgoing Deputy.”

“Should that Member be unwilling to take up the Office, previous Lord Mayors of that Party will be approached, in reverse chronological order, until a Member willing to take on the role can be found”

“Should the Party Group be unable to put forward an alternative name by this process, the Office shall then be offered to the previous Deputy Lord Mayor, regardless of their Party affiliation. If that individual is unwilling to assume the role, the previous Lord Mayors will be approached, again in reverse chronological order, until a Member, regardless of Party affiliation, willing to take on the role can be found.”

These are interesting approaches to the selection of candidates based on party lines, and though here applying to conditions of re-election or failure to take up the Deputy Lord Mayoralty post, could be used as inspiration for initial elections of a Chairman or Vice-Chairman.

(b) Coventry City Council

The office of Lord Mayor and Deputy Lord Mayor will be offered by the Leader of the Council to the Councillor who has the longest service and has not previously held the office. If that Councillor declines that offer, then it is offered to the next person in order of length of service. Any Councillor who declines the offer may take up the offer in subsequent years.”

This statement therefore offers a seniority approach, which could be applied to the election process at Epping Forest District Council.

(c) Wolverhampton City Council

The Annual Meeting of the Council in May each year will elect a Mayor and appoint a Deputy Mayor from different political groups so as to ensure a dignified rotation of these offices between Senior Councillors. For the first Municipal year of this protocol (commencing at the Annual Meeting on 23 May 2001) the Deputy Mayor was selected from Category B. For all succeeding years the following methodology will apply.

Step 1

After the municipal election in May and immediately before the Annual Meeting each year all Councillors will be placed into one of two categories -
Category A - Controlling Group
Category B - All other Councillors

Step 2

Each category will list Councillors in order of seniority based on the number of years and part years service as a Councillor with Wolverhampton City Council or any of its predecessor authorities. Councillors with the same number of years and part years will be listed alphabetically. Councillors who have already held office as Mayor will be treated as if their years of service begin again.

Step 3

1. The unopposed nomination for the post of Deputy Mayor for the next ensuing municipal year will be offered in strict order of seniority to Councillors within the same category as the sitting Mayor.

2. Where a Councillor is unable or unwilling to accept the nomination for whatever reason the offer will pass to the next most senior Councillor within that category and so on.

Step 4

At the immediate following Annual Meeting the current Mayor will preside over the election of the current Deputy Mayor to the office of Mayor for the ensuing municipal year.

The newly elected Mayor will preside over the appointment of the new Deputy Mayor selected in accordance with steps 1 to 3.

This Constitution thus provides a useful and detailed step-by-step outline of a party-based rotation of office, which also uses seniority as a method of selection.

(d) Cheshire East Council

The Deputy Mayor will normally succeed to the Mayoralty in the following year. Each year, the Deputy Mayor will be chosen by full Council at the recommendation of the political group which has the majority of Council Members, provided that in making such choice, another political group or groups may be invited to put forward a nomination for consideration by the majority group.

The Council has adopted a Mayoralty Code of Practice which is included in Part 5 of their Constitution.

The Deputy Mayor will normally succeed to the Mayoralty in the following year. The selection process should normally ensure that, upon election to office, the Mayor will have served at least one term of office as a local authority Councillor.

Cheshire East therefore provides a precedent for the use of a party based system of appointment, subject to the will of the majority of Council Members. This is a variation on other party based systems that could be adopted by the Council.

We are aware that York City Council also ask that the member appointed has served at least five years on the Council.

(e) Stockton-on-Tees Borough Council

Each year the Councillor with the longest cumulative service on the Council will be nominated to serve as Deputy Mayor (unless that Councillor has previously served as Mayor).

When appointed by Council as Deputy Mayor, the Councillor concerned will then be agreed as the person nominated to serve as Mayor for the following Municipal Year.

Where, in any year, more than one Councillor satisfies the criterion as the Councillor with the longest cumulative service on the Council, and no one agreed nominee has been chosen, lots will be drawn to secure the nomination for Deputy Mayor for the forthcoming municipal year.

If in any year the Councillor with the longest cumulative service or chosen nominee, decides not to agree to their name being put forward as nominee to the annual meeting of the Council, this will not preclude that Councillor from being re-considered for nomination in future years.

Stockton-on-Tees Borough Council thus differs from other councils in its approach to the seniority rule; by way of drawing lots for the nomination of Deputy Mayor should more than one Councillor be eligible. Again, this approach could be adopted at Epping Forest District Council.

(f) Chester West and Chester Council

1. Each year, prior to the Annual Council (nominally about 10th May or after the elections early May, prior to the Annual Council), each Party will be allocated a point for each Member they have on the Council at that time.
2. The number of points, when added to the carry over number of points will give a total number of points per Group and the Group with the largest number of points will be entitled to put forward a name for the post of Duty Chairman CWaC and Deputy Lord Mayor of Chester who will in due course become the Chairman of CWaC and Lord Mayor of Chester.
3. If the Group with the largest number of points has no name to put forward then the Group with the next largest number of points will be entitled to nominate.
4. When a group nominates a name, 72 points (the current size of the Council) will be deducted from the Group's total.
5. It is expected that the Group Whips will liaise to ensure the process operates correctly
6. Democratic Services, independent of the Groups, will maintain a running list of the points system for both Civic appointments each year and which Group makes the nominations.

This is basically the same system as we applied in the period 2000-2007.

7. The above examples give a flavour of mechanisms that could be employed by the Council. We have been unable to find a similar system that requires cross party support. In essence most authorities try to avoid contested elections for the Chairmanship and Vice-Chairmanship of Council as the positions are regarded as Ceremonial.

What should the Scheme look like?

8. The Panel should consider what a scheme might look like. For example:
 - Should there be restrictions on applying?

Examples might be: a minimum length of service?, require a fixed number of supporters?, prior experience as a Chairman? Not in their last year before re-election? Should any new scheme remove any restriction on applying?

- Should the Council have the final say?

At present the Council is asked to make the appointment and is required in law to do so at its annual meeting¹. Any scheme should not conflict with primary legislation. The decision must be made at the annual meeting. There is nothing in the current procedure rules that would prevent an alternative motion/amendment being made at the annual meeting either with or without the suspension of a procedure rule.

- Should it be open to all members to apply?

The previous points scheme made it impossible for non-affiliated members to become Chairman.

- Should nominations require cross party support?

If the new process has this requirement, does this preclude some groups from putting forward a valid nomination? Does this method ensure that a nomination has the broader support of the Council? Should the wording give non-affiliated members the right to be a valid supporter?

- Should any restrictions apply to chairman?

At present restrictions on the appointment of Vice Chairman don't apply to the election of the Chairman. Should they? Or is the progression automatic?

- What happens when vice chairman isn't a councillor at the time of appointment?

There have been occasions when the Vice Chairman hasn't taken up the position of Chairman, what rules should then apply to that election? Should they be the same as the appointment of the Vice Chairman in those instances?

- Should there be a person specification and job description? Or other Essential / desirable criteria?

The Council's Constitution already contains developed Accountability Statement's². Should these be used to further develop job related documents and used in any assessment of suitability? Who would make the assessment?

9. Members should give guidance on the above in order that officers can frame what a procedure would look like. There follows some thoughts on potential methods of appointment.

How could you choose a vice chairman?

10. There would seem to be a number of ways that the Council could seek to appoint a Vice Chairman. The list below is not exhaustive. Officers have attempted to give the pros and cons of each system:

¹ Section 5 – Local Government Act 1972

² Pages W16-W19 EFDC Constitution

- A points system

Pros	Cons
It ensures that a rotational system is employed which links the political strengths of groups on the council to the number of Vice Chairman appointments over time.	It doesn't cater for non-affiliated members. Rules may become complicated if one group cannot field a candidate.

- A rotational system (party based)

Pros	Cons
It enables Groups to plan ahead of time as they would know which years they would be required to nominate someone.	It doesn't cater for non-affiliated members. Rules may become complicated if one group cannot field a candidate.

- A qualification system

Pros	Cons
Council could define the quality and requirements for the post of Vice Chairman. This could be based upon a number of factors including experience, personal qualities and time served.	A balance of requirements may be needed to ensure that there is equality of treatment across the members

- A person mandate system (an application system)

Pros	Cons
Any member with the support of two members (ie a mover and seconder) could apply for the position knowing the criteria for appointment. Assessment of candidates could follow a tried and tested path.	Who would decide on the appointment? Full Council would need to have the final say in any event and may not have been privy to the process.

- A length of service system (call down)

Pros	Cons
A simple system to operate. Members would need to decide if exclusions would apply – breaks in service, where a member had turned down the opportunity before. Examples exist in other authorities.	Wishes of groups may not be followed.

- A drawing of lots

Pros	Cons
Does have a parallel in the elections procedures and could have a defined application. It could be used in conjunction with other methods.	Makes the choice random.

- An equalities balanced approach?

Pros	Cons
Could be a way of ensuring that a mix of people are given the chance to be Chairman.	Its operation would need advice about approach.

- A straight vote at Council

Pros	Cons
Simple to operate. Seems to be the way most council's elect to these types of positions. Accords with the Acts requirements.	Could be a lack of certainty over who might be in the position at the point the Appointments Panel meets. Would minority protections require thought?

Conclusions

11. From research it seems that the majority of authorities do not operate a system comparable to this Council. If they do they are not codified in their constitutions. Some systems have been found. These are a mix of seniority and/or length of service. A similar points scheme to ours has been found.

12. Do members wish greater control over the mechanism for appointment? Is competition for the roles seen as a good thing? Who should decide which nomination should go forward as supported? There would seem to be a number of methods and combinations of practices that could be adopted.

13. The principle that the Council appoints to this position cannot be altered and there is nothing to prevent alternative nominations being made at the meeting regardless of any process. Would therefore a more informal approach give more scope for the right appointment to be made?

14. The Panel are asked to consider the elements of this report to enable further consultations (and in this case it may be appropriate for all members to be consulted); or to give advice to officers on the elements of a new scheme to enable further work. This could be based upon smaller changes to the current scheme or a completely new scheme.