

Allerdale Borough Council

Council – 23 February 2022

Governance Updates

Portfolio holder	Councillor M Fitzgerald, PH Policy, Governance and People Resources
Report from	Sharon Sewell, Chief Officer Place & Governance, Monitoring Officer
Wards affected	All wards
Is this a key decision	No

1.0 The reason for the decision

- 1.1 To note a change in membership of Committees following the resignation of Councillor Bainbridge from her committees;
- 1.2 To appoint a new Vice-Chair of Audit Committee following the resignation of Councillor Bainbridge from the committee;
- 1.3 To consider a request for an extension to the six month period of non-attendance provided for within section 85(1) of the Local Government Act 1972 for Councillor Mary Bainbridge on the grounds of ill health and extend the period for a further six months, to expire on 27 October 2022.
- 1.4 To note any consequent changes to the allocation of seats on committees and panels following the local by-election for the Allerdale Borough Stainburn and Clifton Ward (report to follow).
- 1.5 To approve an amendment to the Constitution on recommendation from the Constitution Working Group in relation to delegation of charitable functions.

2.0 Recommendations

- 2.1 To note that Councillor Elaine Lynch is to be appointed to the Audit Committee for the Labour Group to replace Councillor Mary Bainbridge;

- 2.2 To note that Councillor Billy Pegram is to be appointed to the Licensing Committee for the Labour Group to replace Councillor Mary Bainbridge;
- 2.3 To note that Councillor Billy Pegram is to be appointed to the Standards Committee for the Labour Group to replace Councillor Mary Bainbridge;
- 2.4 That nominations be sought for a Vice-Chair of Audit Committee;
- 2.5 That Council agrees an extension to the six month period of non-attendance provided for within section 85(1) of the Local Government Act 1972 for Councillor Mary Bainbridge on the grounds of ill health and extends the period for a further six months, to expire on 27 October 2022;
- 2.6 That Members agree that the suggested paragraphs as set out under paragraph 4.4 of this report be included in the Council's Constitution under 'Section 5 - The Executive'.

3.0 Background and Introduction

- 3.1 On 2 December 2021 Councillor Mary Bainbridge, for health reasons, resigned in writing from her seats on the Audit Committee, Licensing Committee and Standards Committee with immediate effect.
- 3.2 Councillor Bainbridge is a Labour member and it is therefore for the Labour Group to provide replacements to sit on those three committees.
- 3.3 As Councillor Bainbridge was also the Vice-Chair of the Audit Committee this position is now vacant and Council are now required to agree a new Vice-Chair.
- 3.4 Section 85(1) of the Local Government Act 1972 sets out that if a councillor does not attend any meeting within a six month period, they will cease to be a member of the authority. This requirement can be waived and the time limit extended if any failure to attend was due to a reason approved by the Council, in advance of the six month period expiring.
- 3.5 Due to ill health, Councillor Mary Bainbridge has been unable to attend any meetings since Audit Committee on 27 October 2021. A request has therefore been made for an extension of the six month rule which must be approved by Council before the period expires on 27 March 2022.
- 3.6 Cllr Janet King was disqualified as an Allerdale Borough Councillor for the Stainburn and Clifton Ward on 30 December 2021 by virtue of non-attendance at meetings for more than 6 months. Councillor King was a member of the Allerdale Independent Group.
- 3.7 The by-election for Stainburn and Clifton Ward is scheduled for Thursday 17 February 2022, this Council agenda has been published before the election has taken place. A supplementary report will be published following the by-election and ahead of the Council meeting.

- 3.8 On 17 January 2022 Councillor Lynda Williams resigned from the Allerdale Independent Group to form a new Group with Councillor Stephen Stoddart. This new Group is called the 'Moorclose, Westfield and Mossbay Independents'.
- 3.9 On 1 February 2022 Councillor Owen Martin resigned from the Allerdale Conservative Group to become an Independent non-aligned member.
- 3.10 On 5 February 2022 Councillor Carmel Bell resigned from the Allerdale Conservative Group to become an Independent non-aligned member.
- 3.11 At their meeting on 11 February 2021 the Constitution Working Group had a discussion around, and requested clarity in relation to delegation of charitable functions. It was recommended that the Constitution be updated to include detailed arrangements for handling any given charity of which the Council is trustee.

4.0 Content

- 4.1 Section 15 of the Local Government and Housing Act 1989 sets out how committees must be constituted when the Council is divided into one or more political groups.
- 4.2 The Local Government (Committees and Political Groups) Regulations 1990 make provision for securing the political balance on councils and their committees and for determining the voting rights of members of certain committees. These Regulations make no reference to the treatment of councillors who are not members of a political group in councils which are divided into political groups.
- 4.3 Following the Stainburn and Clifton Ward by-election Council will be required to review the allocation of seats on committees to political groups.
- 4.4 Following discussions at the Constitutional Review Group, the Group Members requested clarity in relation to delegation of charitable functions. It is therefore recommended that the following is to be included under Section 5 of the Constitution - The Executive;

CHARITIES

1.1 Delegation of Charitable Functions

The Leader may exercise Charitable Functions himself/herself or may otherwise make arrangements to delegate power:

- 1.1.1. for the general control and management of the administration of a charity to one or other of the persons or set of persons set out in paragraphs 5.7.1-5.7.6 in this Constitution;
- 1.1.2. in relation to land or property held by the Council on trust for charitable purposes, including trusts of land held by the Council under or by virtue of

Section 164 of the **Public Health Act 1875** and **Section 9** and **Section 10** of the **Open Spaces Act 1906**;

1.1.3. for decisions to be made in respect to monies held on trust by the Council on trust for charitable purposes.

1.2 Trustee duties

1.2.1. Any person, persons or set of persons with power the general control and management of the administration of a trust will be treated as a charity trustee in accordance with **Section 177** of the **Charities Act 2011**. The duty of the trustee is to advance the objects of the charity;

1.2.2. Should power be delegated to a committee, the committee must consider charity business separately from other matters.

1.3 Conflict of interest

Where a conflict of interest arises between the duty of the trustee and the interest of the Council, the duties of the charity must prevail.

1.4 Good practice during trustee meetings

1.4.1. All trustees should be reminded, at the start of each trustee meeting of their statutory duty in accordance with Paragraph 1.2.1 as mentioned above;

1.4.2. All trustee meetings and decisions should be recording in writing.

5.0 Delivery arrangements

5.1 Not applicable to this report.

6.0 Implications and Impact

6.1 Contribution to Council Strategy Priorities, Outputs and Outcomes

6.2 Finance/Resource implications

These costs can be met from existing resources.

6.3 Legal and governance implications

Appointments to committees are made in line with the Local Government and Housing Act 1989 and The Local Government (Committees and Political Groups) Regulations 1990.

6.4 Risk analysis

A scored and mitigated risk log

Risk	Consequence	Controls required	Mitigated score
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Political membership not fully represented	Inability to hold meetings	Nominations provided by Group Leaders. Provision for substitute members where appropriate	Low
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6.5 Increasing satisfaction and service

Not applicable to this report.

6.6 Equality impacts

Equality impacts have been considered.

6.7 Health and Safety impacts

There are no health and safety implications directly associated with this report.

6.8 Health, wellbeing and community safety impacts

There are no health, wellbeing and community safety implications directly associated with this report.

6.9 Environmental/sustainability impacts

There are no environmental/sustainability implications directly associated with this report.

6.10 Other significant implications

None

Appendices attached to this report

Appendix number	Title of appendix
N/A	

Background documents available

Name of background document	Where it is available
N/A	

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