

Divisions Affected – All

PEOPLE OVERVIEW AND SCRUTINY COMMITTEE

10 NOVEMBER 2022

Co-optee Recruitment Update

Report by Director of Law And Governance

RECOMMENDATION

1. **The Committee is RECOMMENDED to: -**

1.1 NOTE the update on activity undertaken to fill the Committee's vacant co-optee posts.

1.2 AGREE to appoint Ruth Bennie as the Anglican nomination to the Committee as co-opted member, subject to completion of the necessary formalities.

1.3 AGREE to accept the Catholic nominee as a co-opted member to the Committee, subject to the completion of necessary formalities, without further reference to the Committee.

Executive Summary

2. Co-opted members have a dual function to the operation of a Scrutiny committee. Not only do they bring specific, relevant expertise but, coming from outside both the Council and the party-political system they provide greater public assurance of the independence and non-political output of the Scrutiny function. This report seeks to update the Committee on efforts made to date to identify nominees for co-option onto the Committee, to recommend the appointment of a nominee and allow another co-optee to move forward without creating delay.

Background

3. Within the Council's constitution it is outlined that the People Overview and Scrutiny Committee membership includes four co-opted members, all of which relate primarily to education.
4. Part 2, Article 7 s. 4 of the Constitution identifies these co-optees as follows:

'In addition to the county councillors the People Overview & Scrutiny Committee shall include in its membership the following voting representatives: (a) one Church of England representative appointed by the Oxford Diocesan Board of Education; (b) one Roman Catholic representative appointed jointly by the Archbishop of Birmingham and the Bishop of Portsmouth to represent the Roman Catholic Church; (c) two persons who shall be parent governors of maintained schools elected in accordance with a procedure approved by the Council.'

5. The use of the word 'shall' in reference to the membership of the Committee means that the Committee does not have discretion to do otherwise, and must seek to fill these vacancies. The Principal Scrutiny Officer has been seeking to do so accordingly.

Progress Updates

Church of England Nominee

6. Following an approach by the Principal Overview and Scrutiny Officer, and discussions over the nature of the role, the Oxford Diocesan Board of Education have put forward a nominee, Ruth Bennie. Ruth Bennie is a deputy director at the Oxford Diocesan Board of Education.

Catholic Church Nominee

7. Multiple attempts have been made to contact the Archbishop of Birmingham and Bishop of Portsmouth directly. However, this approach availed no positive results. Instead, the Principal Scrutiny Officer has engaged with those responsible for education within the Birmingham archdiocese and the Portsmouth diocese. This has proven more fruitful, with the Birmingham archdiocese in particular being proactive in seeking to identify a suitable candidate. However, the terms of the constitution dictate that the appointment must come jointly from the archbishop and bishop, meaning that there remains work to do to ensure agreement between the nominating parties, and ensuring that the nominations come from the correct source.

Parent Governor Nominees

8. The need to include co-opted members from parent governors is set out in legislation. Under s. 3 of the Parent Governor Representatives (England) Regulations 2001 it is a requirement that 'a local education authority shall appoint at least two but not more than five parent governor representatives to each of their education overview and scrutiny committees and sub-committees.' The Council no longer has a specific Education Overview and Scrutiny Committee but instead includes education-related issues within the remit of the People Overview and Scrutiny Committee, hence People Overview and Scrutiny's membership including this class of co-optees.

9. The 2001 Regulations prescribe the process for selecting these representatives, which is to hold an election amongst parent governors between those who are eligible and have put themselves forward for nomination.
10. All parent governors were contacted using the Council's communication tool, Governor Hub, to publicise the opportunity. In September 2022 parent governors were given a month in which to respond with the supplied expression of interest form in order to be part of the election. Two parent governors responded, but one was deemed ineligible to stand under the 2001 Regulations owing to her employment by the Council. The other was eligible, but subsequently asked to be removed from the list on the basis of a change in her personal circumstances. As such, no eligible governors were able to be put forward for an election, and no election took place. The posts therefore remain vacant.
11. Under the 2001 Regulations, if no nominees are received, the Council must attempt to fill the vacant positions every six months. The Principal Overview and Scrutiny Officer will, therefore, be running a further campaign in March 2023.

Next Steps

12. A co-optee is not merely an external advisor to the Committee, but a full member of it. This means they have access to the same information provided to other committee members, and can participate on equal terms. The only difference is that in the rare instances that the People Overview and Scrutiny Committee wishes to vote on an issue, unless that topic relates to education provided by the Council, the Constitution determines they will be unable to do so. As a consequence of this status, it is necessary that co-opted members are bound by the Members' Code of Conduct, and sign a Declaration of Interest form.
13. The Constitution does not require that a co-opted member be DBS checked, unlike councillors. However, despite the Committee's tendency to focus on strategic issues rather than individual cases there remains the chance that a co-opted member may encounter information on vulnerable individuals, for example as part of a working group. As such, it is proposed that the co-opted member should be DBS checked or show an up to date DBS check as part of the terms of their appointment.
14. It is recommended that subject to this paperwork being satisfactorily completed, Ruth Bennie is appointed as the Anglican-nominated member on the Committee. To prevent delays, the Committee is also asked to agree to appoint the Catholic nominee when an individual is put forward and has completed the necessary formalities.
15. The Constitution is silent on the term a co-opted member should serve on the Committee. It is usually good practice to set a term for co-opted members with a maximum duration. However, owing to the fact the Constitution dictates that the Church-related representatives are appointed by the churches themselves

this is not appropriate. It is ultimately the decision of the churches as to how long they wish a particular representative to remain on a committee. Consequently, the Church of England and Catholic appointments are to be made until the representative quits, or the nominators appoint an alternative candidate. Good practice dictates that a check should be made each year that a nominated co-optee remains the official choice of their nominators.

Corporate Priorities

16. The primary corporate priority served by the appointment of co-optees to the committee is 'Play our part in a vibrant and participatory local democracy'. However, in strengthening the quality of Scrutiny provided towards the People Overview and Scrutiny Committee's remit it is expected that there will be positive impacts on 'Prioritise the health and wellbeing of residents', 'Support carers and the social care system' and 'Create opportunities for children and young people to reach their full potential'.

Financial Implications

17. The role of co-optee is not a paid position, but co-optees do qualify for the same rights to travel and subsistence as Councillors, as detailed in Part 10.1 Sch 1 of the Constitution. Other financial implications are minimal, for example relating to posting out agendas and can be met out of existing budgets.

Comments checked by: Lorna Baxter

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Legal Implications

18. Section 9FA of the Local Government Act 2000 provides for an Overview and Scrutiny Committee to include co-optees who are not members of the Council. People who are co-opted to Overview and Scrutiny Committees under this provision are not entitled to vote unless the Council has made a scheme to allow voting (under Section 11 of Schedule A1 to the Local Government Act 2000). In this instance, the Council's constitution states in Part 2 Art 7 (4) that 'These co-opted members are only able to exercise their vote when the Scrutiny Committee is dealing with education functions which are the responsibility of the Council or the Cabinet. When the Scrutiny Committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak. Co-opted members shall be able to exercise their vote on questions relating to the work programme including how such work is to be conducted.'
19. In respect of Overview and Scrutiny Committees which deal with education functions Section 7 of Schedule A1 to the Local Government Act 2000 requires the appointment of at least one voting co-optee nominated by the Diocesan Board for Education if the area contains at least one Church of

England - maintained school and at least one voting co-optee nominated by the Bishop for the Diocese if the area contains at least one Roman Catholic-maintained school. There is also a legal requirement under Section 8 of Schedule A1 to the Local Government Act 2000 (and associated regulations - the Parent Governor Representatives (England) Regulations 2001) to appoint between two and five voting parent governor representatives elected by the parent governors of maintained schools.

20. The majority on the committee is not affected by the number of non-elected members so it is not necessary to consider any changes to ensure political proportionality in order to comply with the requirements in Sections 15 to 17 of the Local Government and Housing Act 1989

Comments checked by: Kate Charlton

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Staff Implications

21. None arising from this report.

Equality & Inclusion Implications

22. None arising from this report.

Sustainability Implications

23. None arising from this report.

Risk Management

24. Failure to fill the co-optee vacancies on People Overview and Scrutiny Committee would not only reduce the experience and knowledge available to the Committee and impair the public's confidence in the apolitical nature of Scrutiny, but it would also mean the Committee would be operating outside the membership determined by Council in the Constitution.

Consultations

25. None arising from this report.

Annex: None

Background papers: None
Other Documents: None
Contact Officer: Tom Hudson, Principal Scrutiny Officer
November 2022