

GREEN GROUP NOMINATION TO SCRUTINY COMMITTEE

Cabinet Member(s): Cllr Bob Deed, Leader of the Council
Responsible Officer: Kathryn Tebbey, Head of Legal (Monitoring Officer)

Reason for Report: to explain the position where a political group is unable to nominate from within its group to one of its allocated seats and to note the position with regard to a nomination made by the Green group to Scrutiny Committee

RECOMMENDATION: to note the nomination of Cllr John Downes to Scrutiny Committee and the reasons for it.

Financial Implications: None.

Budget and Policy Framework: None.

Legal Implications: As set out in this report.

Risk Assessment: None.

Equality Impact Assessment: None.

Relationship to Corporate Plan: As part of a well-managed council operating executive arrangements, it is clearly desirable that the Scrutiny Committee is fully 'manned'.

Impact on Climate Change: None directly arising.

1.0 Introduction/Background

- 1.1 As Members will be aware, the Council has to ensure that seats are allocated in a way which achieves, as far as reasonably practicable, politically balance between political groups. The Council has four groups – Conservative, Liberal Democrat, Independent and Green. Following the politically balanced allocation of seats, the leaders of each group decide which of their members will sit on each committee/body to represent the group and notify the Chief Executive in due course.
- 1.2 The Green group comprises two members, Cllrs Wainwright and Norton. Cllr Wainwright has recently accepted an appointment to the Cabinet as portfolio holder for Climate Change. Consequently, she is unable to sit on the Environment PDG or the Scrutiny Committee.
- 1.3 Cllr Jo Norton will take the seat on the Environment PDG, but, due to work commitments, is unavailable at the times that Scrutiny Committee habitually meets. The Green group has therefore not been able to nominate from within its numbers - the legal position and arrangements made are set out in this report.

2.0 Duty to give effect to wishes of group

- 2.1 Section 15 of the Local Government and Housing Act 1989 contains the primary duty to allocate seats in a politically balanced way, but there is

another duty set out in section 16 of the same Act, namely the duty to give effect to the allocations and, in particular -

“...to give effect to such wishes about who is to be appointed to the seats on that body which are allocated to a particular political group as are expressed by that group.”

- 2.2 In most cases, it will be possible for a political group to nominate from within their number. However, for a group of two members where one sits on Cabinet, that is a particular challenge. The Monitoring Officer notes that the legislation does not include words which require the appointment wishes of a group to be limited to their group. Despite the duty on politically balanced allocations, the Council must also give effect to the wishes of the group with regard to their allocations - and does not expressly limit them to allocating from within their group. Accordingly, the Monitoring Officer considers that it is permissible for a group to nominate an individual from outside the group where they wish to do so, despite the apparent conflict with the duty on political balance. The important thing is to remember that this is a wish about “who” should take the allocated seat – and not about interfering with the overall balance.
- 2.3 The Green group has expressed the wish that Cllr John Downes be appointed to the Scrutiny Committee. To be clear – this is about the “who” and not the political party. The Green group is not giving up its allocation on Scrutiny Committee and may choose to change its wishes (nominations) at any time. Scrutiny Committee will remain politically balanced in terms of the allocations. If circumstances permit, the Green group may nominate a Green councillor in future to take up its allocated seat. However, for the time being it is unable to do so.
- 2.4 The Council may also wish to note the following – where a group fails to express its wishes within 3 weeks of being notified of the vacancy, the Council can itself appoint to the seat as it sees fit – the Local Government (Committees and Political Groups) Regulations 1990.

3.0 Conclusions

- 3.1 It is legally permissible for a political group to nominate an individual from another group and the Council has a duty to give effect to its wishes. This is not giving up a seat to another group – the allocation remains with the political group making the nomination and the nomination is for the named individual only. The group can change its nomination at any time.

Contact for more Information: Kathryn Tebbey, Head of Legal (Monitoring Officer) (01884) 234210 ktebbey@middevon.gov.uk

Circulation of the Report: Leader of the Council, Leadership Team, Chair of Scrutiny Committee, leaders of all political groups on the Council.

List of Background Papers: None.