

CONSTITUTIONAL REPORTING AND APPOINTMENTS TO COMMITTEES

FULL COUNCIL



DATE	6th December 2023
PORTFOLIO	Leader
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PURPOSE

1. To inform members of the Council of the removal of the Deputy Leader, and Executive Members on 17th November 2023.
2. To inform members of the Council of the appointment of a Deputy Leader and Executive by the Leader on 17th November 2023, and to note amended Executive Portfolios.
3. To note the impact on the political balance of the Council and approve consequential appointments to the membership of committees and outside bodies following the recent election of Cllr Alex Hall in Trinity Ward, and the resignation from the Labour Group of 11 Councillors who have formed a new group on the council, known as Burnley Independent Group, and as a result of the implementation of the Substitute Scheme for members with a disability.
4. To note a minor amendment to Part 2 of the Constitution – Articles (Article 12) by the Monitoring Officer.
5. To make an amendment to the Guidance for Members and Officers involved in outside organisations at Part 5.7 of the Constitution to clarify the rules regarding insurance.

RECOMMENDATION

6. That Council note the Leader's removal of the Deputy Leader and Executive members as set out in Appendix 1.
7. That Council note the Leader's appointment of the Deputy Leader and the Executive as set out in Appendix 2, and the detailed remits of those portfolios as set out in Appendix 3.
8. That Council note the change in the Political Balance of the Council following the election of Councillor Alex Hall; and approve consequential changes to committee places and Outside Bodies as set out in Appendix 4.
9. That Council note the following minor amendment to Part 2 of the Constitution – Articles (Article 12) – the transfer of Housing & Development Control Service from

Chief Operating Officer to Chief Executive as set out in the Management Structure Review as set out in Appendix 5.

10. That Council approve an amendment to the Guidance for Members and Officers involved in outside organisations at paragraph 2.10 of Part 5.7 of the Constitution to clarify the rules regarding insurance.

REASONS FOR RECOMMENDATION

11. To note the Leader's removal of the Deputy Leader and Executive Members as set out in the Council's Constitution.
12. To note the Leader's appointment of the Deputy Leader, Executive and detailed portfolios according to the Council's constitution.
13. To ensure that committee seats are politically balanced as required by the Local Government and Housing Act 1989, and appointments are up to date.
14. To ensure the Constitution is updated as required.

SUMMARY OF KEY POINTS

15. Part 2 of the Constitution (Articles) sets out at:
 - a. Section 7.04 (b) That the Deputy Leader will hold office until the end of the Leader's term of office unless.....
 - (v) he/she is removed by the Leader who must give written notice of such removal to both the Deputy Leader and the Head of Legal and Democratic Services. The removal of the Deputy Leader will take effect on receipt of the Leader's written notice by both the Deputy Leader and the Head of Legal and Democratic Services. The Head of Legal and Democratic Services will keep a written record of any removal of the Deputy Leader, and the Leader will report any such removal of the Deputy Leader to Council and the Executive at the earliest opportunity.
 - b. Section 7.05 That An Executive Member shall hold office until the end of the Leader's term of office unless:
 - (d) he/she is removed by the Leader who must give written notice of such removal to both the Executive Member and the Head of Legal and Democratic Services. The removal of an Executive Member will take effect on receipt of the Leader's written notice by both the Executive Member and the Head of Legal and Democratic Services. The Head of Legal and Democratic Services will keep a written record of any removal of an Executive Member, and the Leader will report any such removal of the Executive Member to Council and the Executive at the earliest opportunity.

16. On 17th November 2023, the Leader gave appropriate notice according to the Constitutional requirements that he was removing the following members from his Executive:

Deputy Leader and Executive Member for Resources & Performance	Cllr Sue Graham
Executive Member for Economy & Growth	Cllr Mark Townsend
Executive Member for Housing & Leisure	Cllr John Harbour

17. On 17th November 2023, the Leader gave appropriate notice according to the Constitutional requirements that he was appointing the following members to his Executive:

Deputy Leader and Executive Member for Resources & Performance Management	Cllr Margaret Lishman
Executive Member for Sustainable Development & Growth	Cllr Scott Cunliffe
Executive Member for Community and Environmental Services	Cllr Howard Baker
Executive Member for Health, Culture and Wellbeing	Cllr Jack Launer
Executive Member for Housing & Development Control	Cllr Lubna Khan

18. Following the resignation of Trinity Ward councillor Andy Fewings a by-election was held on 26th October 2023. Councillor Alex Hall of the Green Party was elected.

19. By 9th November 2023, the following 11 members of the Labour Group had resigned from that group and the Labour Party: Cllrs Afrasiab Anwar, Saeed Chaudhary, Shah Hussain, Mohammed Ishtiaq, Nussrat Kazmi, Syeda Kazmi, Arif Khan, Lubna Khan, Sehrish Lone, Asif Raja, and Christine Sollis. Those 11 members have now formed a new group on the Council – Burnley Independent Group.

20. The political makeup of the Council is now:

Burnley Independent Group	11 seats
Labour	11 seats
Conservative	7 seats
Green	7 seats
Liberal Democrats	7 seats
Independents	2 seats

21. Accordingly, the political balance and resulting changes to committee places have been calculated. Group Leaders have submitted details of nominations and

removals from Committees and Outside Bodies to give effect to the calculation. (Appendix 4).

22. Following approval of the Council's new Management Structure by Council in July, a number of amendments were made to the Constitution to give effect to the decision.
23. During an unrelated review it was highlighted that there were a number of small changes that were also required to Part 2 – Articles of the Constitution (Article 12) to reflect the decision. The Monitoring Officer considers that these changes were minor and could be made under delegated powers.
24. The changes are set out for members to note in Appendix 5.
25. Elected members and officers are often appointed or nominated by the Council to represent it on the management committees of outside bodies. The Guidance for Members and Officers involved in Outside Organisations is contained in Article 5.7 of the Constitution, with paragraphs 2.8 and 2.10 setting out the rules regarding indemnity for actions. Having clarified the extent of the insurance for outside bodies with the Council's insurer, it is considered appropriate to replace the current wording of paragraph 2.10 with the wording below to clarify the situations where the elected member or officer will be insured by the Council. Appendix 6 sets out the changes as below
26. Revised Section 2.10:

The Council will indemnify any elected member or officer arising from their service on the board or participation in an outside body (e.g. in the capacity of a governor, officer, trustee, director, committee member or other official of any not-for profit entity) in the following situations subject to the limitation at c);

- a) where the service or participation by the officer or elected member is specifically requested by or under the specific direction of the Council
- b) where the Council is legally entitled to approve the service or participation and to indemnify the officer or elected member in respect of it
- c) any payment will only be made by the Council for an amount in excess of any indemnification or insurance coverage provided by the not-for-profit entity or afforded from any other source and to which the officer or elected member is entitled.

The indemnity the Council can provide is subject to limitations. In general terms, if a elected member or officer is acting properly, within their powers and in good faith, the power to indemnify will usually apply. However, the Council cannot, for example, provide an indemnity in relation to any action or failure by any elected member or officer which constitutes a criminal offence, or for any action or failure by any elected member or officer which is the result of fraud, or other deliberate wrongdoing or recklessness on the part of the elected member or officer. You can seek further advice on indemnity from the monitoring officer.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

27. None.

POLICY IMPLICATIONS

28. None.

DETAILS OF CONSULTATION

29. Member Structures and Support Working Group.

BACKGROUND PAPERS

30. None.

FURTHER INFORMATION

PLEASE CONTACT:

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