

Report of:	Monitoring Officer – Charlotte Benjamin, Director of Legal and Governance Services
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AGENDA ITEM 6

Submitted to:	<i>Constitution and Members’ Development Committee</i>
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Subject:	Proportionality and the Allocation of Seats to Political Groups
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Summary

Proposed decision(s)
The Committee notes the content of the report.

Report for:	Key decision:	Confidential:	Is the report urgent?¹
Discussion	No	No	No

Contribution to delivery of the 2020-23 Strategic Plan		
People	Place	Business
		Applying political balance ensures effective decision making and ensures cross party and community representation in Council decisions.

Ward(s) affected
N/A

What is the purpose of this report?

This report guides the Committee through the legal requirements in relation to proportionality and allocation of seats on Committees to Political Groups

Why does this report require a Member decision?

Under the Local Government & Housing Act 1989 (“the Act”) and the subsequent Local Government (Committees and Political Groups) regulations 1990 , the Council must review

the representation of the different political groups on committees when requested to do so by a leader of a political group where changes have occurred in the size of political groups.

Report Background

1. There have been major changes in the political composition of the Council and numerous changes to group memberships over several months. A request was made to provide members with the legal framework on the allocation of seats to political groups.
2. Following local elections in May 2019 the Council's political make-up changed significantly. The Constitution and Members Development Committee requested that the Monitoring Officer provide a report in respect of the legal framework / requirements for committee appointments and the allocation of places and the Political Balance legislation.

Legal Position

3. The Local Government and Housing Act 1989 established the principle of the proportional allocation of committee and sub-committee seats. The Council is also required under the Act to keep under review the representation of the different political groups on bodies appointed by the Council.
4. Where there are non-aligned councillors regulation 16 of the Local Government (Committees and Political Groups) regulations 1990 modifies the above and requires proportional allocation of seats to those members and introduces the requirement to have regard to the wishes of political groups in the allocation of members to their allocated seats.
5. It is open to the Council when carrying out a review to adopt some arrangement other than that prescribed by the Act and the Regulations.
6. Notice of such a proposal would have to be given in the Summons, and a decision would need to be made with no one voting against it. The remainder of this report assumes that the Council will not want an alternative arrangement to that prescribed by law.
7. In the main the annual meeting [after each ordinary election of councillors], is when the council:
 - a) resolves what committees shall be appointed, and what shall be the terms of reference of each of those committees, and of how many voting members each committee shall consist;
 - (b) resolve that non-voting members, shall also be appointed to any such committee;
 - (c) resolve what limitations shall be placed on the powers of any such committee to arrange for the discharge by a sub-committee of any functions which they may discharge.

Political Groups

8. There are currently 4 political groups on the Council. The respective membership of those Groups has been fluid since the election, however the current status of groups and committee places is as follows:-

<u>Group</u>	<u>Number in group</u>	<u>Allocation of places</u>	<u>Number of places (rounded)</u>
Labour	20	78.26	78
Conservative	2	7.83	8
Middlesbrough Independent Councillors Association	15	58.70	59
Middlesbrough Independent Group	8	31.30	31
<i>Unallocated, Independent and Vacant</i>	1	3.91	4
Total	46		180

9. Under the regulations, two or more councillors may form and register a group.

Proportionality Principles

10. The Act sets out four principles which must be followed so far as reasonably practicable.

11. They are:

(a) Preventing domination by a single group: All the seats on a committee should not be allocated to the same political group.

(b) Ensuring a majority group enjoys a majority on all committees: If one political group has a majority in the full Council, that political group should have a majority on each committee.

(c) Aggregating all committee places and allocating fair shares: Subject to the above two principles, the total number of seats on all the committees of the Authority allocated to each political group should be in the same proportion as that political group's seats on the full Council.

(d) Ensuring as far as practicable fairness on each committee: Subject to the above three principles, the number of seats on each committee of the Authority allocated to each political group should be in the same proportion as that political group's seats on the full Council.

12. The Council's overriding duty to comply with (a) and (b) above takes precedence over achieving a mathematically balanced distribution of Committee seats as described in (c) and (d) and that – committee places reflect as closely as possible a groups proportion of seats on committees.

13. The Mayor is a member of the Council for the purposes of the LGA 1972 however that does not seem to be the case for the LG&HA 1989. As a result, the appointment of the Mayor to any non-executive committee is within the gift of the Council, but outside the political balance rules. Therefore the Mayor is considered as part of the Terms of Reference as an added member.

Application of Principles

14. The Council must review the establishment of its committees in accordance with the principles laid down in the Act. Immediately this is done, each political group should state the names of the councillors it wishes to take its allocated places on committees, and when those wishes are known, the Council is under a duty to make the appointment of those councillors as soon as practicable.
15. It is a legal requirement however that the Council formally approves the appointment of councillors to committees and therefore it is essential that each political group notifies the Principal Democratic Services Officer of their nominated councillors to serve on committees, preferably before the Council meeting.

Councillors not in a Political Group

16. In the case of councillors who are not members of a political group, a proportion of seats on committees equal to the proportion of Council members who do not belong to a political group has to be reserved, with appointments to these seats being made by the Council at its discretion.

Method to Calculate Places

17. The principles in paragraph 11 are applied as below:
 - I. Calculate the total number of seats with votes on all the committees subject to Political Balance.
 - II. Calculate the proportion that each political group forms of the total membership of the Authority. Reserve an appropriate number of seats for ungrouped members.
 - III. Apply those proportions to the total number of ordinary seats to give the aggregate entitlement of each group; the requirement to apply the proportions "so far as reasonably practicable" are met by rounding down fractional entitlements of less than half, and rounding up entitlements of a half or more; if this results in a greater aggregate than the number of seats available, the fractional entitlement(s) closest to a half should be rounded in the other direction until entitlements balance the available seats.
 - IV. Apply the proportions to the number of councillors on each committee to give provisional entitlement to seats on that committee.
 - V. Finally, adjust the seats on each committee so that the total allocated to each group is as near as possible to their aggregate entitlement, whilst preserving the results reached at steps (iv) and (v) (thus applying principle (c) in paragraph 11). Where calculations identify additional seats (not allocated) the largest group followed by the next largest group etc., will have their choice of which committee places they wish to take their allocation from in the un-allocated/independent /vacant columns.
 - VI. Unallocated spaces will be available to any independent members (who are not members of a group) – where more than one independent member is nominated for a seat then the seat is allocated at the discretion of Full Council.

18. Attached to this report at Appendix 1 is a numerical guide to proportional representation on Committees based on the respective strengths of the political groups set out in paragraph as is now and with proposed committee structures.

Review of allocation of seats to political groups

19. The authority is under a duty to review the representation of different political groups at the annual general meeting or as soon as practicable after this date.

20. Subsequent reviews may only be conducted where a request in writing is provided by a group leader to the proper officer and where one month has passed since the last review.

21. As per the Local Government (Committees and Political Groups) regulations 1990 appointments are made in accordance with the wishes of a political group, then, so long as that person's seat continues to be allocated to that group, the authority or committee which made the appointment shall act in accordance with the wishes of that group in determining whether and when to terminate the appointment.

If a group fails to express its wishes within a period of three weeks of being notified of the allocation or vacancy, the Council may make such appointment as it thinks fit.

22. The rules of political balance do not apply to the Licensing Sub Committees, the Health and Wellbeing Board, however the Council have previously determined that as far as possible, political balance is sought.

23. The Executive is exempt from the proportionality rules.

What decision(s) are being asked for?

24. The Committee notes the content of the report.

Impact(s) of recommended decision(s)

N/ A

Policy Framework

NA

Equality and Diversity

Risk

If the Council does not have adequate governance processes in place to ensure that it complies with all relevant legislation, it could result in a breach in governance requirements leading to (depending on the seriousness of the breach) fines, reputational damage, government intervention alongside failure to deliver organisational priorities

Actions to be taken to implement the decision(s)

NA

Appendices

N/A

Background papers

Body	Report title	Date
	The Local Government and Housing Act (15 & 16)	1989
	Local Government (Committees and Political Groups) regulations (13 - 16)	1990

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