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**REPORT OF DIRECTOR OF GOVERNANCE AND LEGAL  
SERVICES AND MONITORING OFFICER**

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**ALLOCATION OF SEATS AND NOMINATIONS AND APPOINTMENTS OF  
MEMBERS TO COMMITTEES**

**Reason for this Report**

1. The Council is requested to approve the allocation of seats on the established Committees to political groups in accordance with requirements of the Local Government and Housing Act 1989 and to receive nominations of Members to serve on each Committee and make such appointments. .

**Background**

2. The previous reports (Agenda Items 11 and 12) outlined matters relating to the establishment of Committees, together with their size and terms of reference.
3. The Council Procedure Rules in the Cardiff Constitution provide that at the Annual meeting the Council will decide on the allocation of seats on committees to political groups in accordance with the requirements of the Local Government and Housing Act 1989.
4. The Local Government and Housing Act 1989 requires the Council to allocate Committee seats to political groups in proportion to the size of the Groups on the Council as far as is reasonably practicable.
5. Having determined the allocation of seats to political groups, the Annual Council meeting is required to receive nominations of Members to serve on each of the established Committees and make such appointments.

**Issues**

Political Balance

6. The overall composition of the Council following the Local Elections on 4 May 2017 is as set out in Table A:

**TABLE A** - Composition of the Council following elections on 4 May 2017:

Groups	Number of Councillors	Percentage
Labour	40	53.33%
Conservative	20	26.67%
Liberal Democrat	11	14.67%
Plaid Cymru	3	4%
Ungrouped Independent	1	1.33%

Allocation of Seats

7. The Council is required to allocate Committee seats to political groups in proportion, as far as is reasonably practicable, to the size of the Groups on the Council (in accordance with the Local Government and Housing Act 1989, Section 15 and the Local Government (Committees and Political Groups) Regulations 1990).
8. The total number of seats on the proposed Committees subject to the political balance requirements is 144 and is detailed in **Appendix A**. Based on the composition of the Council following the elections on 4 May 2017, the proportional allocation of seats on those Committees is as set out in Table B:

**TABLE B** – Allocation of Seats in accordance with Political Balance

Groups	Number of Councillors	Number of Committee seats
Labour	40	78
Conservative	20	39
Liberal Democrats	11	21
Plaid Cymru	3	6
Ungrouped **	1	0

*\*\* Non-grouped Councillors are not, according to political balance legislation, entitled to seats on Committees and are not therefore taken into account for the purposes of the political balance calculation.*

9. The proportional allocation of seats, as set out in Table B above, has been discussed with all Party Group Whips. The Plaid Group has indicated that it does not wish to take up its allocation of Committee seats, and therefore, these have been distributed amongst the other Groups, as shown in **Appendix A**.
10. Under the rules on political balance, the Council may adopt an alternative arrangement to strict political proportionality for the allocation of seats on Committees and distribute seats on a different basis provided that notice of such proposal is given in the Council Summons, and the alternative arrangement is approved by Council,

without any Member voting against the arrangement (referred to as a 'nem con' vote).

11. Notice has been given on the Council Summons to effect the alternative arrangement for the distribution of seats on Committees as detailed in **Appendix A**.

#### Nominations and Appointments to Committees

12. Following the allocation of seats on each Committee in accordance with the statutory provisions on political balance, the next step is to make appointments to those Committees. It is the duty of the Council to make appointments as soon as practical thereafter, and to give effect to the stated wishes of party groups regarding who is nominated to the seats allocated to each particular group.
13. Based on the Committee structure and size set out in the previous reports (Agenda Items 11 and 12), total nominations required are 144 and as set out in Appendix A

It is normal practice where possible for the groups to make known their nominees at the Annual Council meeting, but where this is not achievable the Director of Governance and Legal Services and Monitoring Officer will report the nominations and any subsequent changes to the next Council meeting for Members' information.

#### **Legal Implications**

14. Sections 15 to 17 of the Local Government and Housing Act 1989 ("the 1989 Act") and the Local Government (Committees and Political Groups) Regulations 1990 ("the 1990 Regulations") lay down requirements designed to ensure that there is political balance on Committees. The rules apply to all ordinary committees, advisory committees, scrutiny committees, the Democratic Services Committee, Audit Committee, and joint committees where the Council appoints three or more seats, but do not apply to the Standards and Ethics Committee.
15. At its Annual Meeting, the Council is required to review the political make up of its Committees in accordance with the principles set out in Section 15 of 1989 Act, those principles being:
  - (a) not all seats on a Committee should be allocated to the same political group;
  - (b) the majority group on the Council should form the majority on the Committee;
  - (c) subject to (a) and (b), that the proportion of seats allocated to each political group on the total of all Committees should be the same as the proportion of Council Members who belong to that group; and
  - (d) subject to (a)–(c), that the proportion of seats allocated to each political group on each Committee should be the same as the

proportion of Council Members who belong to that group.

16. However, the allocation of seats based on the political proportionality principles set out in Section 15 of the 1989 Act (please see paragraph 11 above) may be varied (pursuant to Section 17 of the 1989 Act) if alternative arrangements are approved by the Council, subject to:
- i. Notice being given to all Members of the proposal to adopt the alternative arrangements for the allocation of seats – this is met by the express reference made in the Council Summons (Regulation 20 of the 1990 Regulations); and
  - ii. The alternative arrangements must be approved by the Council without dissent (a “nem con” vote).

This report recommends the approval of alternative arrangements for the allocation of seats on Committees in accordance with section 17 of the 1989 Act.

17. Where a local authority has determined the allocation of political groups on a Committee, it is under a duty to give effect to the wishes of those groups with regard to the identities of the persons who are to represent that group on the Committee (pursuant to Section 16 of the 1989 Act). Regulation 14 of the Local Government (Committees and Political Groups) Regulations 1990 (‘the 1990 Regulations’) requires political groups to be notified of their allocation on a committee in order that they may nominate individuals to serve on that committee. Regulation 15 contains a residual power for the Council to make appointments if the political groups fail to do so. However, apart from this provision, the Council has no discretion in the matter—its function is simply to make appointments which give effect to the wishes of the political groups.
18. The wishes of a political group are to be taken as those expressed to the Proper Officer (a) orally or in writing by the leader or representative of the group; or (b) in a written statement signed by a majority of the members of the group. In the event that different wishes of a political group are notified, the wishes notified in accordance with point (b) shall prevail (Regulation 13).
19. A political group is identified when two or more members of the Council who wish to be treated as a political group write to the Proper Officer to inform him of that fact and of their name and the identity of their leader. A person joins a particular political group by sending a notice signed by him/her and the leader of the group. People may cease to be members of the group by notifying the Proper Officer (the Monitoring Officer) of their resignation, joining another group, or being ousted by a notice signed by a majority of the members of the group.
20. Under the Scheme of Delegations (delegation reference LD17), the Monitoring Officer is authorised to appoint members to Committee

seats allocated to political groups (or make changes and fill vacancies) in accordance with the wishes of the political groups.

21. For the avoidance of doubt, the requirements for political balance do not apply to the Cabinet (or a Committee of the Cabinet) or to the Standards and Ethics Committee.

#### Standards and Ethics Committee

22. Standards Committees in Wales must consist of not less than five and not more than nine members, and independent members must comprise at least half of all members. The Committee must include at least one 'Community Committee member' (i.e. a member of a community council within the authority's area) as the Standards Committee discharges functions in relation to Community Councils. Regulations specifically prohibit anyone other than a member of the Council, an independent member or a 'Community Committee' Member from being a member of the Committee. The Leader is prohibited from being a member of the Standards Committee, and no more than one member of the Cabinet may be a member of the Committee. The political balance requirements of the 1989 Act do not apply.
23. The Council's Constitution (Article 9) provides that the Standards & Ethics Committee will be composed of 9 members comprising 5 'independent' members, 3 Cardiff County Councillors and 1 Community Councillor.
24. The terms of office of the 5 independent members have not expired and so no further appointments of independent members are presently required.
25. The term of office for a Councillor sitting on the Standards Committee can be no longer than the period until the next ordinary Local Government Elections; but a Councillor may be re-appointed for one further consecutive term.
26. The term of office of the Community Council member expired on the day of the local government elections this year and cannot be further extended. Arrangements are in hand to seek a suitable replacement, in consultation with the Community Councils, as required under the relevant legislation. The Standards and Ethics Committee will recommend a new appointment to full Council for approval in due course.

#### Democratic Services Committee

27. The Local Government (Wales) Measure 2011 (section 12) states that the Democratic Services Committee cannot include more than one member of the Cabinet, who must not be the Leader.

## Audit Committee

28. The Local Government (Wales) Measure 2011 (section 82) provides that there must be at least one lay member on the Audit Committee or up to a third of the total membership. Subject to that, the Council must decide how many non-councillors should be appointed to the Audit Committee. The Committee can include no more than one Cabinet member, who may not be the Leader. Statutory Guidance recommends that all Members of the Committee should display independence of thinking and unbiased attitudes, and must recognise and understand the value of the audit function.
29. The current composition of the Audit Committee, as approved at Annual Council in May 2016, includes four non - councillor 'Independent Members' and 8 Councillors. The proportion of Independent Members is one third of the Committee members, which is the maximum permitted by law.

## Planning Committee

30. As noted in the separate report on the Planning Committee – New Regulations (Agenda item 11), new regulations came into force on 5<sup>th</sup> May 2017, introducing new requirements for any committee discharging relevant planning functions. Where wards have more than one elected Member, there is a new requirement that only one Member may sit on the planning committee, in order to allow other ward Members to perform the representative role for local community interests (but this rule is not applicable to authorities comprised solely of multiple Member wards). In submitting nominations for the planning committee, political groups will need to comply with this new rule.
31. All decisions taken by or on behalf the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers of behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Council Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

## **Financial Implications**

32. This proposal sets out a recommendation to allocated seats to Committees on the basis that the Committees remain unchanged for 2017/18. For the 2017/18 budget, the Council budget was approved with the Scrutiny budget reduced by £50,000. In the event that as part of Agenda Item 12 a decision is taken not to reduce the number of Scrutiny Committees then consideration needs to be given to finding alternative means of achieving a £50,000 saving.

## **RECOMMENDATIONS**

That the Council:

1. approves 'alternative arrangements' for the allocation of seats on each Committee to political groups as set out in Appendix A;
2. receives nominations from the political groups to the seats allocated to each group and approves the corresponding appointments; and
3. requests the Monitoring Officer to report to the next Council meeting the details of all appointments to committees for information, taking into account any further nominations or changes notified following this meeting.

**DAVINA FIORE**

**Director of Governance and Legal Services and Monitoring Officer**

18 May 2016

Appendix A – Distribution of Seats Municipal Year 2017/18





Distribution of Seats 2017/18 Municipal Year

APPENDIX A

Committee	Number of Seats	Labour	Cons	Lib Dem	Plaid	**Non Grouped	
<b>Committees subject to Political Balance</b>							
No of Seats	75/75	40/75	20/75	11/75	3/75	1/75	
Percentage %		53.33%	26.67%	14.67%	4%	1.33%	
Political Balance		54.05%	27.03%	14.86%	4.05%	0	
Total No Seats	144	78	39	21	6	0	144
<b>Ordinary Committees</b>							
Audit Committee	8	5	2	1			8
Constitution Committee	12	7	3	2			12
Corporate Parenting Advisory Committee	9	5	3	1			9
Council Appeals	9	5	3	1			9
Democratic Services Committee	12	7	3	2			12
Employment Conditions	8	5	2	1			8
Licensing <i>(same Membership as Public Protection)</i>	12	7	3	2			12
Public Protection <i>(same Membership as Licensing)</i>	12	7	3	2			12
Pension Committee	5	3	1	1			5
Planning	12	7	3	2			12
No of Seats	99	58	26	15	4		99
<b>Scrutiny Committees</b>							
<b>Allocation of Chairs</b>							
Children & Young People	9	5	3	1			9
Community & Adult	9	5	2	2			9
Economic & Culture	9	5	3	1			9
Environment	9	5	3	1			9
Policy Review & Performance	9	5	2	2			9
No of Seats	45	25	13	7	2		45
<b>TOTAL NO OF SEATS</b>							
	144	83	39	22			144
		57.6%	27.1%	15.3%			100%

Committee	Number of Seats	Labour	Cons	Lib Dem	Plaid	**Non Grouped	
<b><u>Political Balance Not applicable</u></b>							
Standards & Ethics Committee	3	1	1	1			3
Bilingual Cardiff Working Group	10	7	2	1			10
Local Authority Governor Panel	7	4	2	1			7
Health & Safety Advisory Group	5	3	1	1			5
Pension Panel ( <i>** from Membership of Pension Committee</i> )	3	2	1				3
Works Council ( <i>** from Membership of Employment Conditions Committee</i> )	5	3	1	1			5

<b><u>Joint Committees</u></b>							
Glamorgan Archives Joint Committee	5	3	1	1			5
City Deal Joint Board	1						
Cardiff & Vale Regional Partnership Board	2						
Public Services Board	1 (+nom sub)						
Prosiect Gwyrdd	**2	2					2
Shared Regulatory Services Joint Committee	*/ **2	2					2
Central South Consortium Joint Education Service Joint Committee	**1	1					1
Vale, Valleys and Cardiff Regional Adoption Collaborative Joint Committee	**1	1					1

\* Chair of Licensing Committee

\*\* Cabinet Member/s