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

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

Reason for this Report

1. The Council is requested to determine the allocation of seats on Committees to political groups in accordance with the Political Balance Rules contained in the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990 as amended.
2. The Council will also receive nominations and make appointments of Members to serve on each of the standing Committee in accordance with Party Group wishes.
3. The Council is asked to note the terms of office of the Independent Members of the Audit Committee, and make re-appointments as detailed.

Background

4. The previous report (Agenda Item 11) outlined matters relating to the establishment of Committees, together with their size and terms of reference.
5. The Council Procedure Rules in the Constitution provide that at the Annual meeting the Council will decide on the allocation of seats on committees to political groups in accordance with legislation.
6. 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.
7. 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.
8. The Standards and Ethics Committee is exempt from the political balance requirements (under Regulation 12 "*Allocation of seats to Political Groups*" of the Standards Committees (Wales) Regulations 2001).

Issues

Political Balance

9. The current composition of the Council is as set out in Table A:

TABLE A - Composition of the Council as at 1 May 2019:

Groups and Independents	Number of Councillors	Political Balance
Labour	39	52.0%
Conservative	20	26.67%
Liberal Democrat	11	14.67%
Plaid Cymru	3	4.0%
Heath & Birchgrove Independent	1	1.33%
Fairwater Cardiff West Independent	1	1.33%

Allocation of Seats

10. The total number of seats on the Committees recommended under Agenda item 11, which are subject to the political balance requirements is 144, as detailed in **Appendix A**. Based on the current composition of the Council (shown in Table A), 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 and Independents	Number of Councillors	Number of Committee seats	Political Balance
Labour	39	77	53.47%
Conservative	20	38	26.39%
Liberal Democrats	11	22	15.28%
Plaid Cymru	3	7	4.86%
Independents (Not in a Group) **	2	0	0

*** Independent Councillors (Not in a Group) 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.*

11. The proportional allocation of seats, as set out in Table B above, has been discussed with all Party Group Whips on 30 April and 13 May 2019 when the calculations were agreed.
12. 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).

Nominations and Appointments to Committees

13. Based on the Committee structure and size set out in the previous report (Agenda Item 11), the total number of seats to be filled are 144.
14. It is normal practice for the Groups to make known their nominations at the Annual Council meeting, but where this is not achieved the Director of Governance and Legal Services and Monitoring Officer may exercise her delegated authority (reference LD17) to make appointments to fill committee seats in accordance with the wishes of the political groups and then report the appointments and any subsequent changes to the next Council meeting for information. Alternatively, appointments may be made at the next meeting of Full Council.
15. It is the duty of the Council to make appointments as soon as practicable on or after the annual meeting, and to give effect to the stated wishes of party groups regarding who is to be appointed to the seats allocated to each particular group.

Audit Committee

16. The previous report (Establishment of Committees, Agenda item 11) recommended the establishment of an Audit Committee comprised of eight Elected Members and four Independent members, in accordance with the requirements of the Local Government (Wales) Measure 2011 (Section 82). It was noted that the Committee is not subject to the statutory political balance requirements, but Statutory Guidance strongly recommends 'that the balance of members of the committee is at least as favourable to non-executive groups as would be achieved by political balance rules' (Guidance paragraph 9.24). It is therefore recommended that the proportional allocation of committee seats be extended to include Elected Members of the Audit Committee.
17. The terms of office of two out of the four Independent Members are due to expire this year, as shown in the Table C below:

TABLE C – Terms of Office of Independent Members

Independent Member	Appointed	Term of office	Expiry of Term
Ian Arundale (Chair)	25/06/2014	Administrative term (5 years)	25/06/2019
David Hugh Thomas	01/09/2014		01/09/2019
David Price	25/11/2016		25/11/2021
Gavin McArthur	01/12/2016		01/12/2021

18. The statutory guidance recommends that Independent (lay) members should not be appointed 'for more than two full terms of a local authority' (paragraph 9.27 of the Guidance). Both Mr Arundale and Mr Thomas are currently in their first term of office and have confirmed their willingness to remain for a further 5-year term. Council is recommended to approve their reappointments accordingly.

Legal Implications

Political balance

19. 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, and joint committees where the Council appoints three or more seats, but do not apply to the Standards and Ethics Committee or the Audit Committee (although statutory guidance recommends equivalent provision, as noted in paragraph 16 of the report)
20. At its Annual Meeting, the Council is required to review the political make up of its Committees, and determine the allocation of seats to political groups 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.
21. However, the allocation of seats based on the political proportionality principles set out in Section 15 of the 1989 Act (please see paragraph 12 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).
22. 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.

23. 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).
24. 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.
25. The Annual Council meeting is required to 'receive nominations of members to serve on each of the standing committees and make such appointments' (Council Meeting Procedure Rules, Rule 2(b)(xiii). Under its approved Scheme of Delegations (Section 4E, delegation reference LD17), Council has also delegated authority to the Monitoring Officer 'To appoint councillors or non-councillor members to committee seats allocated to political groups or nominating bodies (or to make changes, fill vacancies or give effect to temporary membership changes – "substitutions") in accordance with the wishes of political groups or member nominating body.' This report recommends that Council makes appointments to its committees in accordance with the groups' nominations submitted to this Council meeting; and instructs the Monitoring Officer to make appointments to any remaining vacancies in accordance with the wishes of the relevant political groups, and to report all appointments made to the next Council meeting.

Standards and Ethics Committee

26. 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.
27. 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.
28. The terms of office of the five independent members and the Community Council Member have not expired and so no further appointments of independent members or a Community Council Member are presently required.
29. 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.

Democratic Services Committee

30. 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

31. 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. The current and recommended composition of the Audit Committee 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.
32. The Committee can include no more than one Cabinet member, who may not be the Leader. It is not subject to the political balance rules; however, Statutory Guidance recommends that the balance of members of the committee is at least as favourable to non-executive groups as would be achieved by political balance rules' (Guidance paragraph 9.24). Further, 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.

Planning Committee

33. The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 (made under s.39 of the Planning Wales Act 2015), provide that where wards have more than one elected Member, only one Member may sit on the planning committee (but this rule is not applicable to authorities comprised solely of multiple Member wards). This allows other ward Members to perform the representative role for local community interests. This statutory requirement is reflected in the Planning Committee Procedure Rules, Rule 1.1A. In submitting nominations for the Planning Committee, political groups will need to comply with this rule.
34. 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

35. There are no financial implications arising from this report.

RECOMMENDATIONS

The Council is recommended to:

1. approve the allocation of seats on Committees for the municipal year 2019/20 as set out in **Appendix A**;
2. receive nominations from Party Groups in respect of the seats allocated to each Group;
3. appoint Members to each Committee in accordance with the nominations received from Party Groups as detailed on the amendment sheet;
4. re-appoint Mr Ian Arundale as an Independent Member of the Audit Committee with effect from 25 June 2019 to 24 June 2024;
5. re-appoint Mr Hugh Thomas as an Independent Member of the Audit Committee with effect from 1 September 2019 to 31 August 2024;
6. note that the terms of office of the other two Independent members of the Audit Committee shall continue until 2021, as noted in the report; and
7. request the Monitoring Officer to make appointments in respect of any remaining vacancies in accordance with any further nominations or changes received from the relevant political groups following this meeting, and to report to the next Council meeting the details of all appointments to committees for information.

DAVINA FIORE

Director of Governance and Legal Services and Monitoring Officer

16 May 2019

Appendix A – Distribution of Seats Municipal Year 2019/20