

ANNUAL COUNCIL

25 MAY 2023

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

ALLOCATION OF SEATS AND APPOINTMENTS TO COMMITTEES

Appendix B to this report is not for publication by virtue of paragraph 12 of Schedule 12A, Part 4 of the Local Government Act 1972

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; and to receive nominations and make appointments of Members to serve on each of the standing Committees in accordance with Party Group wishes.
2. To receive the recommendation of the Governance and Audit Committee and approve the appointment of the recommended candidate as an Independent Member to the Governance and Audit Committee.

Background

3. The previous report (Agenda Item 10) outlined matters relating to the establishment of Committees, together with their size and terms of reference.
4. The Council Meeting 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.
5. 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.
6. 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.
7. 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

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

TABLE A

Political Groups	Number of Councillors	Political Balance
Labour	55	69.62%
Conservative	11	13.92%
Liberal Democrat	10	12.66%
Plaid Cymru/Green Party	2	3.47%
Non-Grouped (Propel)	1	1.27%
Total	79	100.00%

Allocation of Seats

9. The total number of seats on the Committees recommended under Agenda item 10, 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

Political Groups	Number of Committee seats
Labour	100
Conservative	20
Liberal Democrats	18
Plaid Cymru / Green Party	4
Non-Grouped (Propel)	2
Totals	144

Nominations and Appointments to Committees

10. Based on the Committee structure and size set out in the previous report (Agenda Item 10), the total number of seats to be filled is 144.
11. 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.

12. 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.

Appointment of Independent Member of Governance and Audit Committee.

13. As a result of the planned resignation of Hugh Thomas as an independent member of the Governance and Audit Committee on 31 March 2023, the Committee established an appointments panel to recruit an Independent Member to serve on the committee in his place.
14. A recruitment exercise was undertaken and the notification of vacancy was published in a local newspaper and on the Council's website. The Council website also provided additional information about the role and the requirements of being an independent member of the committee.
15. The recruitment exercise concluded on the 13 March 2023 with the Appointment Panel interviewing all shortlisted candidates. The Governance and Audit Committee held on 21 March 2023 considered the recommendation of the Appointments Panel and agreed that the recommendation for appointment should be submitted to Council for approval. Suitable references have been received and an extract of the CV of the recommended candidate is attached at **Appendix B** (Exempt from publication) for information.

Legal Implications

Political balance

16. 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, Governance and Audit Committee and joint committees where the Council appoints three or more seats. The rules do not apply to the Standards and Ethics Committee or the Licensing Committee. However, by custom and practice, the Council has elected to apply the political proportionality rules to the Licensing Committee; and has appointed one Member from each of the three largest political groups to the Standards and Ethics Committee to ensure political balance
17. 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.

18. The 1990 Regulations (Regulation 8) say that a political group may be constituted by two or more Members who give notice of their wish to be treated as a political group. Where not all Members of an authority belong to a political group, then any seats remaining unallocated after the proportional allocation of seats to the political groups, are allocated to those Members not belonging to a political group (Regulation 16 of the Local Government (Committees and Political Groups) Regulations 1990, 'the 1990 Regulations').
19. Where a local authority has determined the allocation of seats on a Committee to the political groups, 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.
20. 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).

Appointments to Committees

21. 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

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 five independent members and the Community Council member have not expired and so no further appointments to these positions are presently required.
25. Appointments are required for the 3 Cardiff Councillor members on the Committee. 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

26. The Local Government (Wales) Measure 2011 (section 12), as amended by the Local Government and Elections (Wales) Act 2021, states that the Democratic Services Committee must comprise solely of members of the Council and cannot include more than one member of the Cabinet (who must not be the Leader) or Assistant to the Cabinet. Cabinet Job-Sharers appointed to share the same office together count as one Cabinet member for these purposes. The political balance rules apply to the Democratic Services Committee.

Governance and Audit Committee

27. The Local Government (Wales) Measure 2011 (section 82), as amended by the Local Government and Elections (Wales) Act 2021, requires that one third of the Committee members must be lay members. The current and recommended composition of the Governance and Audit Committee includes four non - councillor 'Independent Members' seats and 8 Councillors. This proportion of Independent Members is one third of the Committee members, which complies with the legislative requirements.
28. The Committee can include no more than one Cabinet member (who may not be the Leader) or Assistant to the Cabinet. Cabinet Job-Sharers appointed to share the same office together count as one Cabinet member for these purposes. The Governance and Audit Committee is subject to the political balance rules.
29. An Independent (lay) member must not be a current Member or officer of any local authority, or the spouse or partner of a Member or officer, or have been a Member or officer of a local authority within the last 12 months. Draft 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. Councils should follow a public recruitment exercise, similar to that used to appoint members of standards committees, to recruit their independent members. It is recommended that an independent member should not be appointed for more than two full terms of a local authority.

Planning Committee

30. 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, to allow other ward Members to perform the representative role for local community interests. However, this rule is not applicable to authorities comprised solely of multiple Member wards, such as Cardiff.

Financial Implications

31. There are no direct financial implications arising from this report. Remuneration payments are to be made in accordance with the rates applicable through the Members' Schedule of Remuneration, and contained within the allocated budget.

RECOMMENDATIONS

The Council is recommended to:

- a. approve the allocation of seats on Committees for the municipal year 2022/23 as set out in **Appendix A**;
- b. receive nominations from Party Groups in respect of the seats allocated to each Group.
- c. appoint Members to each Committee in accordance with the nominations received from Party Groups as detailed on the amendment sheet; and
- d. 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; and
- e. To approve the recommendation of the Governance and Audit Committee and appoint the recommended candidate, **Mr Chris Burns**, as an Independent Member of the Governance and Audit Committee for an initial 5 year term of office, with the possibility of reappointment for one further 5 year term.

DAVINA FIORE

Director of Governance and Legal Services and Monitoring Officer

19 May 2023

Appendix A - Allocation of Committee Seats Municipal Year 2022/23

Appendix B - Candidate Profile – Extract of CV – Exempt from publication

Background Documents:

[Appointment of an Independent Member to the Governance and Audit Committee report to Governance and Audit Committee dated 21 March 2023](#)

Welsh Government, Local Government: Guidance for Principal Councils (Consultation Draft): [Local Government Guidance for Principle Council Consultation document - \(Final version\)](#)