

COUNCIL
25 JULY 2013

CONSTITUTIONAL MATTERS

Report from: Neil Davies, Chief Executive

Author: Julie Keith, Head of Democratic Services

Summary

This report sets out the following:

- (i) The position regarding the overall allocation of seats on committees following a change in the size of the Labour Group and dis-establishment of the Independent Group.
- (ii) The report seeks agreement to the appointment of Healthwatch representatives to the Health and Wellbeing Board and two of the Council's Overview and Scrutiny Committees.
- (iii) The Council is also asked to consider a recommendation that the scrutiny of housing should be transferred from the Regeneration, Community and Culture Overview and Scrutiny Committee to the Business Support Overview and Scrutiny Committee.

1. Budget and Policy Framework

- 1.1 The allocation of seats on Committees, the appointment of co-opted members to committees and approval of changes to the Constitution are matters for determination by the Council.
- 1.2 The Monitoring Officer has delegated authority to make minor changes to the Constitution, including those changes to executive decision making agreed by the Leader, with a copy of such changes being supplied all Group Leaders and Whips within 14 days. Any other changes can only be approved by the Council.
- 1.3 The Chief Executive has a delegation to make minor in –year changes to Committee and Sub-Committee memberships in line with the wishes expressed by party groups and insofar as there is no change to the overall size of membership and political balance in each case

2. Allocation of seats on Committees

- 2.1 On 11 June notices in the prescribed format were received notifying the Chief Executive that Councillors Andy Stamp and Pat Cooper had joined the Labour Group with immediate effect. This increases the size of the

Labour Group from 15 to 17 members. The Independent Group no longer exists.

A review of the allocation of seats on Committees was also formally requested and has to take place at this Council meeting.

- 2.2 Following an increase in the size of the Labour Group on 11 June the current political composition of the Council is as follows:

Group	Number of councillors	Proportionality %
Conservative Group	35	63.64
Labour Group	17	30.91
Liberal Democrat Group	3	5.45
	55	100%

- 2.3 The Local Government and Housing Act 1989 requires the Council to allocate seats on committees to political groups in accordance with the size of each group on the Council as a whole, unless alternative arrangements are notified to all Members and agreed without any Councillor voting against them. The council is required to observe the following principles so far as is reasonably practicable:-

- (a) that not all the seats on the body are allocated to the same political group;
- (b) that the majority of the seats on the body is allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;
- (c) subject to paragraphs (a) and (b) above, that the number of seats on the ordinary committees of a relevant authority which are allocated to each political group bears the same proportion to the total of all the seats on the ordinary committees of that authority as is borne by the number of members of that group to the membership of the authority;
- (d) subject to paragraphs (a) to (c) above, that the number of the seats on the body which are allocated to each political group bears the same proportion to the number of all the seats on that body as is borne by the number of members of that group to the membership of the authority.

- 2.4 Principles (a), (b) and (d) apply to all appointments to the authority's own bodies and to certain outside bodies. However, principle (c) only relates to appointments to the 'ordinary committees' of the council.

- 2.5 Any decision to waive the requirements of political balance will require a resolution of the council with no member voting against.

- 2.6 The overall number of seats on committees is currently 123 and must now be allocated across the political groups as follows:

Conservative	Labour	Liberal Democrat	Total
78 (+2)	38	7	123

2.7 The following table sets out proposals (which have been shared and agreed with Group Whips), for the allocation of seats to political groups as a consequence of the change in the political make-up of the Council. This meets the overriding requirement to ensure the overall number of seats on ordinary committees are allocated in accordance with the political balance of the Council.

Committee	No. of seats	Con 63.64%	Lab 30.91%	LD 5.45%	Total 100%
Children and Young People OSC	13 (+2)	8 (+2)	4	1	13 (+2)
Health and Adult Social Care OSC	13	8	4	1	13
Business Support OSC	13	8	4	1	13
Regeneration, Community and Culture OSC	13	8	4	1	13
NHS (Joint with KCC)	4	3	1	0	4
Appointments	6	4	2	0	6
Appointments Committee for Director of Children and Adults	8	5	3	0	8
Audit	5	3	2	0	5
Planning	16	10	5	1	16
Employment Matters	7	5	2	0	7
Licensing and Safety	12	8	3	1	12
School Transport and Curriculum Appeals	5	3	2	0	5
Councillor Conduct Committee	8	5	2	1	8
Overall allocation	123	78	38	7	123

Notes:

- (i) There are two additional Conservative Members on the Children and Young People Overview and Scrutiny Committee to preserve that Group's majority in view of the four statutory co-optees with voting rights who have to be appointed to the Committee.
- (ii) The Council has also previously approved the establishment of an ad hoc committee to consider the removal of Council appointed school governors as and when necessary and that the membership of the committee is comprised of the Group Whips and the relevant Portfolio Holder. Previously political balance has been waived in respect of this committee so that the overall number of seats on committees is not affected. Therefore it has not been included in the calculation set out above.

3. Representation by Healthwatch on the Health and Wellbeing Board and Overview and Scrutiny Committees

3.1 Nominations have now been received from Healthwatch in relation to seats they have on the following bodies:

- The Health and Wellbeing Board – one voting member – The Very Reverend Dr Mark Beach, Dean of Rochester Cathedral
- Health and Adult Social Care Overview and Scrutiny Committee – one non-voting co-optee – Richard Iddendun
- Children and Young People Overview and Scrutiny Committee – one non-voting co-optee – Rosie Rowe

3.2 The Council is asked to approve the appointment of the nominees put forward by Healthwatch to the Health and Wellbeing Board and two Overview and Scrutiny Committees for the remainder of the municipal year as listed above.

4. Scrutiny of housing

4.1 Previously the Council agreed there should be alignment between the terms of reference for Overview and Scrutiny Committees and Directorate responsibilities. More recently there has been discussion about the pressure of business at Overview and Scrutiny Committees following a reduction from eight to six meetings a year and, in particular, the impact of the widening of the terms of reference of the Regeneration Community and Culture (RCC) Overview and Scrutiny Committee to include scrutiny of housing.

4.2 In June 2013 both the Business Support Overview and Scrutiny Committee and the RCC Overview and Scrutiny Committee unanimously agreed to recommend the Council to approve the transfer of scrutiny of housing back to the Business Support Overview and Scrutiny Committee. This will relieve pressure on the work programme of the RCC Overview and Scrutiny Committee. Although this represents a departure from the principle of aligning Overview and Scrutiny Committee terms of reference with Directorate structures this is a decision the Council may make.

4.3 The Business Support Overview and Scrutiny has agreed that other measures should also be explored to create additional capacity for Overview and Scrutiny activity within existing resources. These include further work on effective scrutiny of performance information with a member development session on this booked for 10 September, exploring scope for involving the universities in Medway in Task Group work and finding smarter ways of working generally to release staffing capacity in Democratic Services.

4.4 The Council is asked to approve the transfer of scrutiny of housing to the Business Support Overview and Scrutiny Committee and the consequential change to the terms of reference of Overview and Scrutiny Committees as set out in the Constitution.

5. Financial, legal and risk management implications

- 5.1 There are no financial implications arising from the recommendations in this report.
- 5.2 The legal position is set out within the body of the report.
- 5.3 There are no risk management implications arising from this report

6. Recommendations

- 6.1 The Council is asked to agree:
- (i) the allocation of seats to political groups as set out in paragraph 2.7 above following notice of an increase in the size of the Labour Group and a request for a review of the allocation of seats on Committees;
 - (ii) that the Chief Executive should approve any consequential changes to committee memberships in line with the wishes expressed by political groups under his existing delegation;
 - (iii) the continuation of an ad hoc committee to consider the removal of Council appointed school governors as and when necessary and to waive political balance in respect of this Committee.
- 6.2 The appointment of the nominees put forward by Healthwatch to the Health and Wellbeing Board and two Overview and Scrutiny Committees for the remainder of the municipal year as set out in paragraph 3.1 of the report.
- 6.3 The transfer of scrutiny of housing to the Business Support Overview and Scrutiny Committee and the consequential change to the terms of reference of Overview and Scrutiny Committees as set out in the Constitution.

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Background papers

Sections 15-17 of, and schedule 1 to, the Local Government and Housing Act 1989