



Review of Political Balance and Allocation of Seats to Political Groups

Corporate Priority:	All
Relevant Ward Member(s):	All
Date of consultation with Ward Member(s):	N/A
Exempt Information:	No

1 Summary

- 1.1 To approve the revised political balance calculations and allocation of seats on committees in accordance with statutory requirements (as set out in the report) following recent changes which alter the political balance between the Groups.

2 Recommendations

That Council:

- 2.1 **Note how the rules operate;**
- 2.2 **Approve the political balance calculation set out at paragraphs 5.10 and 5.11;**
- 2.3 **Approve the allocation of seats on the Committees as set out in paragraph 5.12;**
- 2.4 **Note the appointments for the Committees and Working Groups put forward by Political Groups as set out in Appendix A;**
- 2.5 **Appoints non-aligned members to their allocation of seats on Committees and Working Groups as set out in Appendix A; and**
- 2.6 **Delegate authority to the Monitoring Officer to make consequential changes to the Substitution Procedure Rules (MBC Constitution Chapter 3 – Part 8) and Licensing Procedure Rules (MBC Constitution Chapter 2 – Part 8) to reflect the inclusion of non-aligned members in the political balance calculation and the amendments to the Licensing Committee as set out in the report.**

2.7 **Note the appointment to the PATROL Joint Committee, as outlined in paragraph 5.17.**

3 Reason for Recommendations

3.1 To ensure that the council complies with its statutory obligations under the Local Government and Housing Act 1989 and associated Regulations.

4 Background

- 4.1 On 05 January 2023, the Proper Officer was notified of Councillor Leigh Higgins' wish to be treated as a member of the Conservative Group. On 07 January 2023 the Proper Officer received notification from the Group in accordance with the requirements set out in Regulation 9 of the Local Government (Committees and Political Groups) Regulations 1990 that Councillor Leigh Higgins is to be treated as a Conservative Councillor. Councillor Higgins was therefore deemed a Conservative Councillor from 07 January 2023.
- 4.2 Pursuant to Section 15 of the Local Government and Housing Act 1989 the authority is under a duty to review the allocation of seats to Political Groups as soon as practicable following a change to the membership of those groups.
- 4.3 The Council's duty is to determine the allocation of seats to be filled by appointments by the authority, except the Cabinet and the Statutory Licensing Committee. The purpose is to ensure that there is proportionality across all formal activities of the Council, representing the overall political composition. It affects all formally constituted panels, committees and subcommittees which discharge functions on behalf of the authority.
- 4.4 The political proportionality rules that apply in allocating seats on Committees etc. set out in Section 15 and 16 of the Local Government and Housing Act 1989 apply only to political groups.
- 4.5 Independent (non-aligned) members are to form part of the calculation for political balance purposes.
- 4.6 It is a requirement, once seats have been allocated to political groups, that the remaining seats are to be appointed by Council from the Independent (non-aligned) members.
- 4.7 This method is different to that previously adopted by the Council which resulted from the layering of rules and ambiguity of the language in the legislation with further modifications that are often missed by a number of publications.
- 4.8 It is an express provision of the legislation that any proceedings of the Council are not to be invalidated by any breach of the political balance requirements. Accordingly, no action is required to rectify previous error(s) save for correcting the calculation to ensure it is addressed going forward.

5 Main Considerations

- 5.1 The LGA have recognised that there is a point of ambiguity in the legislation related to political balance in that it only refers to ‘political groups’ which means this is often interpreted to imply that solo councillors (i.e. non-aligned Councillors), whether part of a political party or independent, who do not sit in a group recognised by the council, should be excluded from Committee proportionality calculations and are not entitled to seats. The Council has, like many other councils, operated under this interpretation of the legislation.
- 5.2 The Council’s approach has been consistent with the interpretation referred to in the LGA factsheet. In addition, a resolution was passed by Council in May 2020 not to include non-aligned Councillors in the political balance calculations and the Council has operated under this extant decision since.
- 5.3 In January 2023, a query was raised in respect of how the Council calculates political balance in respect of non-aligned Councillors which gave cause for the Monitoring Officer to review the position and seek external advice on the interpretation of the law.
- 5.4 The review highlighted the ambiguity and inconsistency in the interpretation of the legislation and the different methods used to calculate political balance.
- 5.5 Notwithstanding the above, and while recognising the legislation continues to be interpreted inconsistently across the sector, having received external validation, the advice of the Monitoring Officer is that non-aligned members should be included in the political balance calculations and that has been reflected in the paragraphs and calculations set out below.

Licensing (Regulatory) Committee

- 5.6 In addition, the Licensing Committee established as a statutory committee under the Licensing Act 2003 may only carry out those functions assigned to it under that Act and the Gambling Act 2005. The other matters said to be delegated to that Committee by the Council require addressing as an ordinary committee of the Council to enable it to exercise responsibility for regulatory functions under other relevant legislation.
- 5.7 Accordingly, the Regulatory element of the Licensing Committee also has been added to the calculations.
- 5.8 External advice suggests that this can be approached by appointing to both:
- 5.8.1 A licensing (regulatory) committee to exercise responsibility for determination of non-executive regulatory functions not delegated as part of the terms of reference of the licensing committee which is an ordinary committee and subject to political balance rules; and alongside that
- 5.8.2 A licensing (Licensing Act 2003) committee to exercise responsibility for functions under the Licensing Act, which is a statutory committee obliged amongst other things to a number between 10 and 15 members and for which there is no substitution.
- 5.9 This can be managed through the political balance process establishing and appointing to the ordinary committee for regulatory matters and then including a provision in the constitution for the statutory committee for Licensing Act matters consisting of the same members as are appointed to the Licensing (regulatory) Committee.

Political Balance

5.10 For the purposes of this report and going forward, political balance will encompass:

- Planning (11 seats)
- Scrutiny (10 seats)
- Audit & Standards (10 seats)
- Employment (7 seats)
- Licensing (Regulatory) Committee (10 seats)

Total number of seats available is 48.

Revised Composition:

5.11 The revised composition of the Council is shown in the following table.

Members	Number	%	Proportion of seats available	Rounded to
Conservative Group	20	71.43	34.29	34
Opposition Group	4	14.29	6.86	7
Independent (non-aligned)	3	10.71	5.14	5
Vacancy	1	3.57	1.71	2
Total	28	100	48	48

5.12 Allocations

Using 48 as the total number of seats across all committees, the total row shows the total number of places each group is entitled to for each committee, using the calculated proportions above.

Committee	Places	Conservative	Opposition	Independent (non-aligned)	Vacancy
Planning	11	8	2	1	0
Scrutiny	10	7	2	1	0
Audit & Standards	10	7	2	1	0
Employment	7	5	1	1	0
Licensing (Regulatory)	10	7	2	1	0
Total across all committees	48	34	9	5	0

Allocation	48	34	7	5	2
No. of places across the Committees requiring variation by agreement of Council		None	Minus 2	None	Plus 2

As can be seen from the table above, the sum of the proportional allocations across all committees results in an over representation for the Opposition Group of two seats. These must therefore be given up to the vacant position to ensure overall political balance across the council is maintained. Further to consultation with the Opposition Group Leader the table below shows the total number of places on each committee to be allocated to each group and the vacant position:

Committee	Places	Conservative	Opposition	Independent (non-aligned)	Vacancy
Planning	11	8	2	1	0
Scrutiny	10	7	2	1	0
Audit & Standards	10	7	1	1	1
Employment	7	5	1	1	0
Licensing (Regulatory)	10	7	1	1	1
Total across all committees	48	34	7	5	2
Allocation	48	34	7	5	2

5.12.1 The outcome requires the Council to make the following decisions:

5.12.2 To confirm appointments of the Committees above and to that size of membership

5.12.3 To allocate seats on the Committees as above to the two political groups, but:

- a) Remove an Opposition Group place on two of the Committees; and
- b) To not appoint to those seats but note as vacant

5.12.4 To appoint named non-aligned members to seats on the Committees

5.13 Each group will be allocated seats in accordance with its total proportional entitlement.

5.14 Group Leaders have provided notification of allocation of seats to members as detailed in Appendix A.

5.15 The Non-aligned members have expressed their preferences for allocation of seats as detailed in Appendix A.

5.16 Working Groups

Whilst the following are not formal committees, the terms of reference for these meetings do require the allocation of seats to be calculated in accordance with the political balance calculation.

Group Name	Joint Staff Working Group	Local Plans Working Group
Conservative	5	3
Opposition	1	1
Non-aligned	1	1
Totals	7	5

5.17 **Outside Bodies**

It has come to the Council's attention that there is a requirement to appoint to the PATROL (Parking and Traffic Regulations Outside London) Joint Committee. It is proposed that the relevant Portfolio Holder, the Portfolio Holder for Growth and Regeneration is the Council's nominated appointee.

6 Options Considered

6.1 The Council must review its political balance and allocation of seats as soon as practicable following a change to political groups in accordance with the legislation.

7 Consultation

7.1 The Group Leaders have been consulted on the changes required and the information presented in this report has been compiled in consultation with them

7.2 Non-aligned members have also been consulted on the changes

8 Next Steps – Implementation and Communication

8.1 Any changes to membership of Committees will be reflected on the Council's website page for each Committee.

8.2 Any mandatory training requirements will be considered and arranged as necessary for respective members.

9 Financial Implications

9.1 There are no financial implications arising from this report.

Financial Implications reviewed by: Deputy s151 officer

10 Legal and Governance Implications

10.1 The Council must allocate seats on committees so as to give effect to the political balance rules unless there is a decision to the contrary with no member voting against.

10.2 The allocation of seats shall conform to the principles of proportionality contained in sections 15 and 16 of the Local Government and Housing Act 1989. There is a duty to give effect to the following principles, as far as reasonably practicable, in the order shown:

- a) Not all the seats on the body are allocated to the same political group
- b) A majority of the seats on a body are allocated to a group if it comprises a majority of the total membership of the authority;

- c) Subject to (a) and (b) above, that the number of seats on ordinary committees allocated to each group bears the same proportion to the total of all seats on ordinary committees as is borne by the number of members of that group to the total membership of the authority; and
- d) Subject to (a) to (c) above, that the number of seats on a body allocated to each group bears the same proportion to the number of seats on that body as is borne by the number of members of that group to the total membership of the authority.
- 10.3 For political balance, a group is required to have at least two members in order to be formally constituted as a political group.
- 10.4 The political proportionality rules that apply in allocating seats on Committees etc. set out in Section 15 and 16 of the Local Government and Housing Act 1989 apply only to political groups.
- 10.5 Section 15(3) of the Act states as follows:
- “15(3) Where at any time the representation of different political groups on a body to which this section applies falls to be reviewed under this section by any relevant authority or committee of a relevant authority, it shall be the duty of that authority or committee, as soon as practicable after the review, to determine the allocation to the different political groups into which the members of the authority are divided of all the seats which fall to be filled by appointments made from time to time by that authority or committee.”*
- 10.6 However, where the Council has members who are non-aligned, this section is has word inserted/modified by regulation 16 of the Local Government (Committee and Political Groups) Regulations 1990 to read as follows:
- “15(3) Where at any time the representation of different political groups on a body to which this section applies falls to be reviewed under this section by any relevant authority or committee of a relevant authority, **it shall be the duty of that authority or committee, as soon as practicable after the review to determine the allocation to each of those groups of such of the seats which fall to be filled by appointments made from time to time by that authority or committee as bear to the total of all of those seats the same proportion as is borne by the number of members of that group to the membership of the authority.**”*
- 10.7 Additionally, where there are non-aligned members, section 16(2A) of the Local Government and Housing Act 1989 has effect. The Regulations also insert the following:
- “Where appointments fall to be made to seats on a body to which section 15 applies otherwise than in accordance with a determination under that section, it shall be the duty of the authority or the committee, as the case may be, so to exercise their power to make appointments as to secure that the persons appointed to those seats are not members of any political group”*
- 10.8 The implications of these changes to paragraph 15(3) taken with section 16(2A) is to require that the Council must allocate seats to the political parties in accordance with the four principles set out above (1.4 a-d). If there are any seats left over, they must then make appointments to the non-aligned groups.
- 10.9 Alternative arrangements for not complying with section 15 and 16 of the 1989 Act may be made by virtue of Section 17 of the 1989 Act by passing a resolution with no member voting against the resolution.

- 10.10 Once the allocations have been agreed, the appointment of individual members must be given effect in accordance with the wishes of the relevant Group as expressed through the Group's Leader / Deputy Leader.

Legal Implications reviewed by: Monitoring Officer

11 Equality and Safeguarding Implications

- 11.1 An Equality Impact Assessment (EqIA) has not been completed because there are no service, policy or organisational changes being proposed.

12 Community Safety Implications

- 12.1 There are no community implications arising from this report.

13 Environmental and Climate Change Implications

- 13.1 There are no environmental or climate change implications arising from this report.

14 Risk & Mitigation

- 14.1 The Council would be in breach of its statutory and constitutional obligations if it fails to consider the business contained within this report.

15 Background Papers

- 15.1 There are no background papers.

16 Appendices

- 16.1 Appendix A – Committees Memberships 2022/23 (February 2023)

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