

HERTFORDSHIRE COUNTY COUNCIL

COUNTY COUNCIL

TUESDAY, 19 MAY 2020 AT 10.00AM

Agenda Item No.

6

**POLITICAL PROPORTIONALITY ON THE COUNTY COUNCIL'S
ORDINARY COMMITTEES & SUB-COMMITTEES - LOCAL GOVERNMENT
AND HOUSING ACT 1989: REVIEW OF ALLOCATION OF SEATS TO
PARTY GROUPS**

Report of the Chief Legal Officer

Report author: Quentin Baker, Chief Legal Officer (Tel: 07976 611271)

Executive Member: David Williams, Leader of the Council

1. Purpose of report

1.1 To advise Members of the rules relating to political proportionality and the implication of those rules for the allocation of seats to political groups of the County Council following the Chief Legal Officer's annual review and the recent resignation of Councillor Roma Mills from the Council's Labour Group.

2. Summary and Background

2.1 The Council is required to review committee membership and political proportionality on committees annually. A review of the allocation of seats to 'political groups' is also required as soon as practicable after a change in the composition of a 'political group'. Councillor R Mills has recently resigned from the Labour Group. The Chief Legal Officer has reviewed the current allocation of places to the Political Groups on the Council and the following sets out the results of that review.

2.2 It should be noted that due to the nature of the exercise the legal requirements enable a degree of flexibility so as to achieve an outcome which, as far as reasonably practicable, complies with proportionality requirements. This is particularly relevant where there is an 'un-grouped' or 'independent' member and the proposal set out below is a starting point for discussion.

2.3 Following Councillor Mills' resignation from the Labour Group the composition of the Council is Conservative Group (50 seats), Lib Dems Group (18 seats) and Labour Group (9 seats). Although Cllr Mills is an elected member of the County Council she is no longer a member of a

'party group' for the purposes of political proportionality and as such not entitled to an allocation of any seats on committee or sub-committee.

Legal Considerations

- 2.4 S.15 of the Local Government and Housing Act 1989 imposes a duty on the Council to allocate seats on its ordinary and advisory committees to 'party groups': -
- "to give effect, **so far as reasonably practicable**, to the principles specified in subsection (5)."*
- (a) *All the seats are not allocated to the same group (Principle 1);*
 - (b) *The majority of seats go to the group (if any) which has an overall majority on the Council (i.e. 39 seats or more) (Principle 2);*
 - (c) *Subject to the above two principles, that the number of seats on the total of all the ordinary committees allocated to each group bears the same proportion to the proportion on the full Council (Principle 3); and*
 - (d) *Subject to (a) and (c), that the number of seats on each ordinary committee and each sub-committee allocated to each group bears the same proportion to the proportion on the full Council (Principle 4)."*
- 2.5 Due to the numbers of elected members on the Council the resignation from the Labour Group has a relatively small impact upon the overall proportionality calculation and, given the small size of some committees, it is recommended that the existing allocations of seats to 'party groups' remain the same. In addition, the circumstances give rise to a consideration of whether any seat, should be allocated to Councillor Mills.
- 2.6 Where, in the recent past, the County Council has had an Independent Member, the Council has allocated 1 seat on a committee representing that Councillor's area of interest. Councillor Mills has indicated that Public Health is a key area of interest for her. As such, it is recommended that an additional seat be created on the Health Scrutiny Committee for Councillor Mills in her capacity as Independent Member of the County Council.
- 2.7 At its Annual Meetings on 23 May 2017, 22 May 2018 and on 21 May 2019, County Council agreed to waive political proportionality in respect of Overview & Scrutiny Committee and Health Scrutiny Committee and any topic group or sub-committee of those committees. The reason for this was because of the voting non county councillor members on these committees where compliance with Principle 2 would lead to the

Conservative Group having a disproportionately large number of seats compared to the other two Groups and to the Health Scrutiny Committee having to be increased in size (or the number of voting non county councillor members reduced). If the County Council wishes to waive the political proportionality rules in relation to Overview & Scrutiny Committee and Health Scrutiny Committee and any topic group or sub-committee of those committees, as it has done previously and to enable R Mills to have a place on the Health Scrutiny Committee, it will need to do so again at this meeting with no member voting against.

- 2.8 Taking into account the waiver mentioned above and the rules of proportionality at its meeting on 21 May 2019 Council adopted the scheme of proportionality set out in Part A of the Appendix to this Report. The Chief Legal Officer has reviewed the allocation of places and confirmed that this remains in accordance with the rules of political proportionality. Part B of the Appendix sets out proposed arrangements for the Council's Overview and Scrutiny and Health Scrutiny Committees.
- 2.9 The rules of political proportionality referred to above do not apply to Cabinet Panels which are advisory bodies established by the Executive. The Constitution does provide, however, that when appointing Members to Cabinet Panels proportionality rules will be applied to each Cabinet Panel but not across all Panels.
- 2.10 The rules of political proportionality do not apply to the Council's Health and Wellbeing Board where appointments are made by the Leader of the Council in accordance with the requirements of the Health and Social Care Act 2012 Regulations.

3. Recommendations

- 3.1 It is recommended that Full Council: -
- (i) Confirms that the existing allocation of seats to Party Groups remain unchanged, as set out in Part A of the Appendix to the report; and
 - (ii) (a) agrees to continue the waiver of the political proportionality requirement in respect of the Overview and Scrutiny Committee, the Health Scrutiny Committee and any topic group or sub-committee of those committees; and
 - (b) approves the addition of a seat on the Health Scrutiny Committee for Councillor Roma Mills in her capacity as an Independent Member

so as to agree the arrangements set out in Part B of the Appendix to the report, provided that the Leader of any of the three largest

political groups on the Council can request at any time a review of political proportionality in respect of Overview & Scrutiny Committee and Health Scrutiny Committee.

4. Financial Implications

- 4.1 There are no financial implications arising from the proposals in this report.

5. Equality Implications

- 5.1 When considering proposals placed before Members it is important that they are fully aware of and have themselves rigorously considered the equalities implications of the decision that they are taking.
- 5.2 Rigorous consideration will ensure that proper appreciation of any potential impact of that decision on the County Council's statutory obligations under the Public Sector Equality Duty. As a minimum this requires decision makers to read and carefully consider the content of any Equalities Impact Assessment (EqIA) produced by officers.
- 5.3 The Equality Act 2010 requires the Council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics under the Equality Act 2010 are age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief, sex and sexual orientation.
- 5.4 An Equality Impact Assessment (EqIA) has not been undertaken in respect of the proposals in this report.

Background Documents

The Local Government and Housing Act 1989

<http://www.legislation.gov.uk/ukpga/1989/42/contents>

The Local Government (Committees and Political Groups) Regulations 1990

<http://www.legislation.gov.uk/uksi/1990/1553/part/II/made>

APPENDIX

Scheme of Proportionality

Part A

Committee	Total Size	Conservative	Liberal Democrat	Labour
Development Control	10	7	2	1
Employment	5	3	1	1
Pensions	10	7	2	1
Audit	10	6	3	1
Standards	5	3	1	1
Impact of Scrutiny Advisory Committee	5	3	1	1
TOTAL	45	29	10	6

Part B

Committee	Total Size	Conservative	Liberal Democrat	Labour	Independent
Overview & Scrutiny (see Note 1)	10	7	2	1	
Health Scrutiny (See Note 2)	11	7	2	1	1

Notes

- (1) In addition the Overview and Scrutiny Committee comprises 2 Parent Governor and 2 Church Representatives (who are only able to vote on any question which relates to any education functions which are the responsibility of the Executive).
- (2) In addition the Health Scrutiny Committee comprises 10 District Councillors (voting) nominated by the Hertfordshire Leaders Group and 1 Independent Member of the County Council

The composition of the committees set out in the table in Part B above would require the County Council to agree to waive the rules of political proportionality with no member voting against.