

REPORT TO:	COUNCIL
DATE:	25 JULY 2022
SUBJECT:	POLITICAL BALANCE OF THE COUNCIL AND COMPOSITION OF COMMITTEES
LEAD OFFICER:	STEPHEN LAWRENCE-ORUMWENSE DIRECTOR OF LEGAL SERVICES AND MONITORING OFFICER
WARDS:	ALL
FINANCIAL SUMMARY:	
There are no financial issues arising from the recommendations in this report.	
1. RECOMMENDATIONS	
Following the recent by-election, Full Council is recommended to:	
1.1 Note that there are now 34 Labour Group Members; 34 Conservative Group Members (including the Executive Mayor); 2 Green Group Members and 1 Liberal Democrat Member.	
1.2 Agree the amended size of committees and the allocation of seats on committees in accordance with the principles set out in this report and, in particular, at paragraph 3.16. The amendment increases the size of the Audit and Governance Committee by one seat.	
1.3 Appoint Councillor Danielle Denton to the Audit and Governance Committee, and one other Conservative Member as a substitute member, in accordance with the wishes of the Conservative Group.	
1.4 Subject to 1.2, authorise the Monitoring Officer to amend the Constitution to reflect the increase in the size of the Audit and Governance Committee.	

2. INTRODUCTION

- 2.1 This report fulfils the Council's duty to review and determine the representation of different political groups on certain committees as soon as practicable in specified circumstances. The subsequent duty to make appointments to those committees, giving effect to the wishes of the political groups allocated the seats, is also dealt with.
- 2.2 In addition, related changes to the Constitution are proposed in this report. Namely, an increase in the size of the Audit and Governance committee.
- 2.3 On 30 June 2022, Councillor Danielle Denton was elected to the South Croydon ward. Thereafter, Councillor Denton formally notified the Council of her wish to join

the Conservative Group and requested that the political balance of the Council be reviewed.

3. POLITICAL BALANCE / PROPORTIONALITY

- 3.1 The rules on political balance and committees are set out in sections 15 to 17 of the Local Government and Housing Act 1989 (the 1989 Act) and supplemented by the Local Government (Committees and Political Groups) Regulations 1990.
- 3.2 As soon as practicable after the review, the Council then has a duty to determine the allocation to the different political groups all the seats on the relevant committees. The allocation is determined by applying the political balance rules prescribed by section 15(5) of the 1989 Act. These rules are set out in the next paragraph and are designed to ensure that the political composition of the Council's committees, as far as possible, replicates the political composition of the Council.
- 3.3 The rules are that seats on relevant committees must be allocated to different political groups (i.e. a group of two or more members), so far as reasonably practicable, in accordance with the following four principles:
 - (a) That not all the seats on the body are allocated to the same political group. In other words, committees/sub-committees comprising solely of members of the same political group are not allowed.
 - (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 Council's membership. As no political group has an overall majority, this rule is not applicable.
 - (c) Subject to paragraphs (a) and (b) above, that each political group is allocated the same proportion of the total seats across all the ordinary committees of the Council as the proportion of the members of the Council that belong to that group. In other words, the total number of seats on certain committees (see **Table** below) have to be taken together and then allocated proportionately to each political group so far as is possible.
 - (d) Subject to paragraphs (a) to (c) above, that each political group is allocated the same proportion of the seats on each relevant body as the proportion of the members of the Council that belong to that group.
- 3.4 Following the by-elections on 30 June 2022, the two main political groups in the Council remain as the Labour Group and the Conservative Group. The Council also has two Green Party members and one Liberal Democrat member.
- 3.5 The political balance calculations for the purposes of this meeting are therefore based on 71 Members (70 Councillors plus the Executive Mayor).
- 3.6 The Constitution, as recently changed with the approval of Full Council in March 2022, states that the Executive Mayor: "if a member of a political group will be taken into account when calculating seat allocations on Committees and Sub-Committees of which they are a member ...".

3.7 Accordingly, political balance calculations will be based on the following split:

Labour: 34/71 = 47.9%
 Conservative: 34/71 = 47.9%
 Green: 2/71 = 2.8%
 Liberal Democrat: 1/71 = 1.4%

3.8 Principle (c) refers to “ordinary committees” which, under the 1989 Act, means those committees appointed under Section 102(1)(a) of the Local Government Act 1972. These committees are listed in the **Table** below as well as *current* committee sizes and seat allocations. Provided that the prescribed number of seats are allocated based on statutory entitlement, ultimately, it is for Members to decide which political group is allocated seats on which particular committee.

Committee	Size	Lab 47.9%	Cons 47.9%	Green 2.8%	Lib Dem 1.4%
Appointments and Disciplinary	6	3	3		
Appeals *	6	3	3		
Audit and Governance**	6	3	2		1
Ethics	6	2	3	1	
General Purposes	8	4	4		
Licensing	12	6	5	1	
Civic Mayoralty and Honorary Freedom Selection	6	3	3		
Pension****	8	4	4		
Planning	10	5	5		
TOTAL	68	33 (33.01)	32 (32.01)	2 (1.97)	1 (0.95)

* Members who shall not be members of Appointments and Disciplinary Committee but **must** include at least one member of the Executive.

** Membership includes one independent, suitably qualified Chair who may not be a member or officer of the Council. The membership also comprises one independent, suitably qualified co-optee.

*** Membership includes one Staff Side non-voting co-opted member and two Pensioner Side co-opted Members (one voting co-opted member and one non-voting co-opted member).

3.9 The Licensing Committee is included because it is established as an ordinary committee of the Council and, at the same time, as the Council’s mandatory committee under the Licensing Act 2003. In other words, it is a hybrid committee which discharges all the Council’s licensing functions at Member level.

3.10 The above **Table** sets out the allocation of a total of 68 ordinary seats to the Members of the Council (including the Executive Mayor) based on a total Council membership of 70 members.

3.11 Following the by-election result, in purely mathematical terms, a proportionate entitlement of the total 68 ordinary committee seats produces the following results:

Labour:	32.57 seats
Conservative:	32.57 seats
Green:	1.90 seats
Liberal Democrat:	0.95 seats

- 3.12 The rules on proportionality require that the total number of ordinary committee seats have to be allocated proportionately to each political group “so far as reasonably practicable”. Once seats have been allocated to each political group so far as is possible, there is a duty to allocate seats to a member who is not a member of a political group (as per section 16(2A) of the 1989 Act as amended by the regulations already referred to).
- 3.13 The make-up of the council means that it is not possible to apply the rules on proportionality neatly. Indeed, there are tensions. That, however, is not uncommon as the application of the rules are no more than principles which are expected to be applied to any possible scenario at any council. The law is silent on how to allocate seats in the event that a straightforward calculation does not result in whole number allocations. Although it is established and well respected practice to round up or down, the law itself does not mention it. Relying on established interpretation aids, however, the legal advice is that Council is required to apply the rules to the Council’s unique make-up having regard to the purpose of the legislation and the general principles of fairness and reasonableness.
- 3.14 On that basis, the legal advice is that it would likely not be lawful to allocate all 68 seats to the 3 political groups i.e. round up as follows: Conservative: 33; Labour: 33 and Green: 2. That would mean that the Liberal Democratic Member would lose her single seat allocation. Nor would it be lawful to reduce the allocation of 2 seats to the Green group. That would then leave the Conservative and Labour groups with precisely the same entitlement but only 65 seats remaining. In these circumstances, in strict legal terms, it would be for Full Council to decide who to allocate the 65th seat to.
- 3.15 The obvious practical solution is to increase the number of ordinary committee seats by 1 to maintain parity so that both Conservative and Labour groups can be allocated 33 seats each.
- 3.16 In the interests of proportionality and fairness, this is considered to be the preferred option. In accordance with principle (d) above, it is proposed that the size of the Audit and Governance Committee is increased by one seat. Assuming no other changes are made to the current arrangements, that seat would be allocated to the Conservative group as reflected in the **Table** below.

Committee	Size	Lab 47.9%	Cons 47.9%	Green 2.8%	Lib Dem 1.4%
Appointments and Disciplinary	6	3	3		
Appeals *	6	3	3		
Audit and Governance	6 7	3	2 3		1
Ethics	6	2	3	1	
General Purposes	8	4	4		
Licensing	12	6	5	1	
Civic Mayoralty and Honorary Freedom Selection	6	3	3		
Pension	8	4	4		
Planning	10	5	5		
TOTAL	689	33 (33.05)	323 (33.05)	2 (1.93)	1 (0.96)

3.17 If such an increase is approved, Members are asked to authorise the Monitoring Officer to amend the Constitution accordingly.

3.18 Principles (a), (b) and (d) apply to a “body” to which the Council makes appointments. The 1989 Act provides that the bodies to which this principle applies include ordinary committees (see **Tables** above), ordinary sub- committees, advisory committees and sub-committees and certain joint committees where at least 3 seats are filled by appointments made by the Council.

3.19 Principle (c) does not apply to the Scrutiny and Overview Committee but the other principles do which means that the Labour and Conservative groups are entitled to an allocation of 3 seats each. This reflects the membership of the Council so far as is possible based on the size of the committee.

3.20 The law does allow councils to depart from the political balance rules but only if notice of proposals to adopt alternative arrangements is given in the summons to attend the meeting and, at the meeting, no member votes against them. No such notice is included in the summons to this meeting and therefore that option is not available to Members.

3.21 The political balance rules do not apply to the Health and Well-being Board.

3.22 The Local Pension Board is constituted under the Public Service Pensions Act 2013 and the Local Government Pensions Scheme (Amendment) Regulations 2015. It is not a committee of the Council and the proportionality rules do not apply to the Board which has three employer representatives and three employee representatives and an Independent non-voting Chair. One of the Employer representatives is a Councillor. The other employer representatives are employers who are Admitted Bodies.

3.23 Assuming the above is agreed, in accordance with the wishes of the Conservative Group, Council is requested to appoint Councillor Denton to the Audit and Governance Committee and one other Conservative Member as a substitute

member.

4. LEGAL IMPLICATIONS

- 4.1 The law relevant to the decisions to be made by Members is explained and applied in the body of report.
- 4.2 By sections 101 and 102 of the Local Government Act 1972 the Council has the power to arrange for its functions to be discharged in a number of different ways. These include by appointing committees.

5. FINANCIAL AND RISK ASSESSMENT CONSIDERAITONS

- 5.1 There are no direct financial implications arising from this report.

CONTACT OFFICER:	Stephen Lawrence-Orumwense Director of Legal Services and Monitoring Officer
APPENDICES:	None
BACKGROUND DOCUMENTS:	None