

MEETING:	COUNCIL
DATE:	28 MAY 2010
TITLE OF REPORT:	ALLOCATION OF SEATS TO POLITICAL GROUPS, APPOINTMENT TO COMMITTEES AND OTHER BODIES, APPOINTMENT TO OFFICES RESERVED TO COUNCIL.
REPORT BY:	CHIEF EXECUTIVE

CLASSIFICATION: OPEN

Purpose

To exercise those powers reserved to Council at its Annual Meeting:

- (a) To confirm its committees and the number of seats on each, including terms of reference and functions of those committees.
- (b) To approve the allocation of seats to political groups for the coming year.
- (c) To make appointments to the positions of Chairmen and Vice-Chairmen of committees.
- (d) To make arrangements for such appointments to committees and other bodies as may be necessary, including co-optees.

Recommendations

THAT:

- (a) **Council confirms the number of seats on each committee;**
- (b) **the arrangements for proportionality be noted;**
- (c) **the notice given in paragraph 9 of the need to partially suspend the rules of proportionality in respect of the Overview and Scrutiny Committee be noted and a resolution be moved to that effect;**
- (d) **subject to the vote at recommendation (c) being passed nem con, the Council allocates the seats to political groups accordingly, OR**
- (e) **in the absence of the vote at recommendation (b) being passed nem con, the Council allocates the seats to political groups accordingly;**
- (f) **the Council appoints the Chairmen & Vice Chairmen of Committees as set out in Appendix 2 (to be circulated at the meeting);**

- (g) **the existing arrangements for co-option to the scrutiny committees continues in operation for 2010/11; and**
- (h) **the functions of those committees set out in Part 3 (Sections 5 and 6) of the Constitution be agreed.**

Key Points Summary

- It is a legal requirement for the Council to review its political composition and how this is applied to appointments to committees and sub-committees of the Council at each Annual Meeting of Council, or as soon as practicable after that meeting.
- In determining the allocation of seats the Council must apply four principles as set out in paragraph six of this report as far as reasonably practicable.
- Certain committees are exempt from the rules of proportionality.
- Should Council wish to allocate seats on a different basis from that of political proportion, this can only be made where they are approved by Council without any Member voting against (known as a nem con vote by Council). It has been the practice in Herefordshire Council to take a nem con vote in respect of the Overview and Scrutiny Committee.
- Options relating to the allocation of seats are outlined in paragraphs 12 – 19.
- The Constitution (at Part 4.5.3) provides that co-optees are appointed by the Council annually.
- The Constitution (at Part 4.1.5.2) requires that the Annual Council Meeting decides the terms of reference for Committees and agrees the functions of those committees set out in Part 3 (Sections 5 and 6) of the Constitution.

Alternative Options

1. The report outlines the options available to Council on the allocation of seats.

Reasons for Recommendations

2. It is a requirement for the Council to review its political composition and how this is applied to appointments to committees and sub-committees of the Council at each Annual Meeting of Council, or as soon as practicable after that meeting.

Introduction and Background

3. The Local Government and Housing Act 1989 requires that the Council reviews the political composition of the Council and how this is applied to appointments to committees and sub-committees of the Council at each Annual Meeting of Council, or as soon as practicable after that meeting.
4. The rules for securing political balance on committees and sub-committees appointed by local authorities are contained in sections 15 and 16 of the 1989 Act, and the Local Government (Committees and Political Groups) Regulations 1990.
5. The Council is under a duty to:

- Ensure membership of those committees and sub committees covered by the rules reflect the political composition of the Council as far as practicable;
 - Review the allocation of seats to political groups at or as soon as practical after the Annual Council meeting (and in other certain circumstances e.g. change in political balance or number of committees established);
 - Allocate seats on the committees to the political groups in proportion to their numerical strength on the Council as far as practicable;
 - Accept nominations made by the groups for filling of seats allocated to them.
6. In determining the allocation of seats the Council must apply the following four principles as far as reasonably practicable:
- Not all seats to be allocated to the same political group;
 - Where a political group has a majority on the Council, it must have a majority of seats on committees
 - Subject to the above two points, the total of all relevant seats should be allocated to groups in proportion to their respective numbers on the Council; and
 - Subject to the above three points, the number of the seats on each committee or sub-committee allocated to each group bears the same proportion to the number of all the seats on that committee as is in proportion to that groups relative numbers on the Council.
7. In summary, the Council should seek to maintain, as far as is reasonably practicable, political proportionality both across the total number of seats to be allocated and within each committee, whilst always ensuring that the majority group holds a majority of seats on each committee.
8. Certain committees are exempt from the rules of proportionality, these are:
- Cabinet
 - Standards Committee
 - Regulatory Sub-Committees
9. Should Council wish to allocate seats to a particular body on a different basis from that of political proportion, such arrangements can only be made where they are approved by Council without any Member voting against (known as a nem con vote by Council). Abstentions from voting do not invalidate the nem con vote. If such arrangements are to be made then it is necessary to give notice of such a possibility under Regulation 20 of the Local Government (Committees and Political Groups) Regulations 1990. Notice is, therefore, formally given on the agenda so that Council is not denied that opportunity.
10. It has been the practice in Herefordshire Council to take a nem con vote in respect of Overview and Scrutiny Committee (formally the Strategic Monitoring Committee), to enable the Committee to comprise the Chairmen and Vice Chairmen of the five Scrutiny Committees as specified within the Constitution of the Council.

Key Considerations

Constitution of Committees

11. Following the previously adopted convention of securing a nem con vote by Council in respect of Strategic Monitoring Committee, Council is requested to approve the overall constitution of committees as set out below, and requiring a total of 92 seats to be allocated proportionately across all committees as follows:

Planning Committee	19
Regulatory Committee	11
Environment Scrutiny Committee	11
Health Scrutiny Committee	11
Children's Services Scrutiny Committee	11
Adult Social Care and Strategic Housing Scrutiny Committee	11
Community Services Scrutiny Committee	11
Audit and Governance Committee	7
Total seats	92

Allocation of seats to political groups

12. Council is required to approve the allocation of seats to the political groups for the coming year. The total entitlement of each group assuming that Overview and Scrutiny Committee is excluded for the rules of proportionality (based on the current group membership of Conservative 31, Independent 11, Liberal Democrat 9, It's OUR County! 3 (IOC), Alliance 2, Labour 2) is as follows:

Conservative	49
Independent	17
Liberal Democrat	14
It's OUR County	5
Alliance	3
Labour	3
Unallocated	1
Total seats	92

13. Strict application of proportionate allocation of seats to all political groups across the committees, assuming the exclusion of Overview and Scrutiny Committee, is set out in the table 1 below together with a comparison of the total seats secured against the entitlement to the number of seats overall (as outlined in brackets).

	Con.	Ind.	LibDem.	IOC	Lab.	All.	Total
Planning	10.16	3.60	2.95	0.98	0.66	0.66	19
Regulatory	5.88	2.09	1.71	0.57	0.38	0.38	11
Env. Scrutiny	5.88	2.09	1.71	0.57	0.38	0.38	11
Health Scrutiny	5.88	2.09	1.71	0.57	0.38	0.38	11
Children's Scrutiny	5.88	2.09	1.71	0.57	0.38	0.38	11
Adult Scrutiny	5.88	2.09	1.71	0.57	0.38	0.38	11
Community Scrutiny	5.88	2.09	1.71	0.57	0.38	0.38	11
Audit	3.74	1.33	1.09	0.36	0.24	0.24	7
Total / (proportional allocation)	49.18	17.47	14.30	4.76	3.18	3.18	92

14. Clearly whole seats must be allocated. Therefore, applying the principles at paragraph 6 to the above Table 1, and assuming Council's agreement to a nem con in respect of the

Overview and Scrutiny Committee, the allocations should be as outlined in Table 2. Because of the number of total seats and the application of proportionality, the Conservative Group does not have a majority on the Regulatory Committee; this is compliant with the regulations as the principles have been applied as far as reasonably practicable.

							Table 2
	Con.	Ind.	LibDem.	IOC	Lab.	All.	Total
Planning	10	3	3	1	1	1	19
Regulatory*	5	3	2	1	0	0	11
Env. Scrutiny	6	2	1	1	1	0	11
Health Scrutiny	6	2	2	0	1	0	11
Children's Scrutiny	6	2	2	1	0	0	11
Adult Scrutiny	6	2	2	0	0	1	11
Community Scrutiny	6	2	1	1	0	1	11
Audit	4	1	1	0	1	0	7
Total / (proportional allocation)	49 (49)	17 (17)	14 (14)	5 (5)	4 (3)	3 (3)	92

15. Applying this and having received nominations from the political groups, Appendix 1 (to be circulated at the meeting) will show the proposed membership for each committee.
16. For information, in these circumstances following suspension of the proportionality rules, the political make-up of the Overview and Scrutiny Committee would be: Conservative 4, Independent 4, Liberal Democrat 3.
17. Should a nem con vote not be secured, requiring proportionality to be applied across all committees including Overview and Scrutiny Committee, the total number of seats for allocation rises to 103, resulting in a total entitlement of seats by group as follows:

Conservative	55
Independent	20
Liberal Democrat	16
It's OUR County!	5
Alliance	4
Labour	4
Over allocated	-1
Total seats	103

18. Application of the same proportionality rules by committee including Overview and Scrutiny Committee would result in the following seats being available to each group (as at Table 3):

							Table 3
	Con.	Ind.	LibDem	IOC	Lab.	All.	Total
Planning	10.16	3.60	2.95	0.98	0.66	0.66	19
Regulatory	5.88	2.09	1.71	0.57	0.38	0.38	11
Env. Scrutiny	5.88	2.09	1.71	0.57	0.38	0.38	11
Health Scrutiny	5.88	2.09	1.71	0.57	0.38	0.38	11
Children's Scrutiny	5.88	2.09	1.71	0.57	0.38	0.38	11

Adult Scrutiny	5.88	2.09	1.71	0.57	0.38	0.38	11
Community Scrutiny	5.88	2.09	1.71	0.57	0.38	0.38	11
Audit	3.74	1.33	1.09	0.36	0.24	0.24	7
O & S	5.87	2.09	1.71	0.57	0.38	0.38	11
Total / (proportional allocation)	55.05	19.56	16.01	5.33	3.56	3.56	103

19. In the absence of a nem con vote in respect of Overview and Scrutiny Committee, and maintaining the principles of proportionality as far as is reasonably practicable, the proposed allocation of seats across Committees is recommended (as at Table 4) :

							Table 4
	Con.	Ind.	LibDem.	IOC	Lab.	All.	Total
Planning	10	3	3	1	1	1	19
Regulatory	5	3	2	1	0	0	11
Env. Scrutiny	6	2	1	0	1	1	11
Health Scrutiny	6	2	2	0	1	0	11
Children's Scrutiny	6	2	2	1	0	0	11
Adult Scrutiny	6	2	2	0	0	1	11
Community Scrutiny	6	2	1	1	0	1	11
Audit	4	1	1	0	1	0	7
Overview and Scrutiny	6	2	2	1	0	0	11
Total / (prop.allocation)	55 (55)	19 (20)	16 (16)	5 (5)	4 (4)	4 (4)	103

20. Group Leaders' nominations of members to fill their Group's respective allocations will then be put into effect.

Appointment of Offices Reserved to Council

Appointment of Chairmen of Committees and other bodies

21. Subject to securing of a nem con vote in respect of Overview and Scrutiny Committee, details of the proposed appointments to Chairmen and Vice Chairmen positions are contained in Appendix 2 which will be distributed at the meeting.

Appointment of co-opted Members onto Scrutiny Committees

22. The new Constitution (Part 4.5.3) provides that co-optees are appointed by the Council annually, rather than by individual scrutiny committees.
23. In addition to the statutory co-optees (diocesan and parent governor representatives with voting powers) there are a range of other non-voting co-optees currently appointed to the scrutiny committees. Formal co-option provides for co-optees to attend every meeting of the relevant Scrutiny Committee and participate in its work in the same way as Councillors, except that under the Council's arrangements (unless statutorily required) they are non-voting. There

are also other mechanisms for targeted, flexible involvement from other interested groups or expert witnesses in the work of the Scrutiny Committees. It is recommended that the existing arrangements for co-option to the scrutiny committees continue in operation for 2010/11 (as at Appendix 3) and that this be considered within Phase 3 of the constitutional and governance review as part of the ongoing development of the scrutiny function.

Terms of References for Committees and Functions of Committees

24. The constitution at 4.1.5.2 requires that the Annual Council Meeting decides the terms of reference for Committees and agrees the functions of those committees set out in Part 3 (Sections 5 and 6) of the Constitution.

Community Impact

25. The Council needs to ensure that it complies with its statutory duties and the requirements as outlined in the Constitution.

Financial Implications

26. There are no financial implications

Legal Implications

27. The Council is required to ensure that the allocation of seats to committees are compliant with relevant rules contained in the legislation specified in paragraphs 3 and 4 above.

Risk Management

28. The Council is required to ensure that the correct legal processes are adhered to.

Consultees

29. The group leaders have been consulted on the contents of this report

Appendices

30. (1) Proposed appointment to membership of committees (subject to nem com vote) – to be circulated at the meeting
(2) Proposed appointment to Chairmen and Vice Chairmen position (subject to nem com vote) – to be circulate at the meeting
(3) Existing arrangements for co-option

Background Papers

The Council Constitution

Committee	Number	Co-optees
Adult Social Care and Strategic Housing	1	1-Voluntary Sector
Children's services	5 - Statutory	<p>Statutory Voting Co-opted Members</p> <p>PARENT GOVERNORS MEMBERS: 1 Representative each from:</p> <p>Secondary Schools</p> <p>Primary Schools</p> <p>Special Schools</p> <p>DIOCESAN MEMBERS 1 REPRESENTATIVE EACH FROM:</p> <p>Roman Catholic Church</p> <p>Church of England</p>
	6 non-statutory	<p>Non-voting co-opted representative:</p> <p>3 Head teacher Rep</p> <p>1 Teacher Rep</p> <p>1 Foster Care Rep</p> <p>1 Voluntary and Community Rep</p>
Community Services	4	<p>1 Herefordshire Association of Local Councillors rep</p> <p>1 National Farmers Union rep</p> <p>1 Visit Herefordshire rep</p> <p>1 Hereford and Worcester Chamber of Commerce rep</p>
Environment	0	None
Health	0	None
Overview and Scrutiny	0	None