

Wiltshire Council

Annual Council

14 May 2013

**Appointment of Committees and
Review of Allocation of Seats on Committees
to Political Groups**

Introduction

1. This report guides the Council in constituting and re-appointing committees and following the legal requirements in allocating seats to the political groups.

Review of Allocation of Seats to Political Groups

Legal Position

2. Under the Local Government & Housing Act 1989 (“the Act”) and subsequent Regulations, (“the Regulations”), the Council must review the representation of the different political groups on committees at the Annual Council meeting.
3. It is open to the Council when carrying out a review to adopt some arrangement other than that prescribed by the Act and the Regulations. Notice of such a proposal would have to be given in the Summons, and a decision would need to be made with no one voting against it. The remainder of this report assumes that the Council will not want an alternative arrangement to that prescribed by law.

Political Groups

4. There are currently 4 political groups on the Council. The respective strengths of those Groups are as follows:-

Name of Group	No. of Councillors in Group
Conservative	58
Liberal Democrat	27
Labour	4
Independent	8

5. Under the regulations, two or more councillors may form and register a group. Therefore the UK Independence Party councillor is regarded as an ungrouped councillor.
6. This report has been prepared on the basis of the strengths of the various political groups set out in paragraph 4 and 5.

Principles

7. The Act sets out four principles which must be followed so far as reasonably practicable. They are:
 - (a) *Preventing domination by a single group:* All the seats on a committee should not be allocated to the same political group.
 - (b) *Ensuring a majority group enjoys a majority on all committees:* If one political group has a majority in the full Council, that political group should have a majority on each committee.
 - (c) *Aggregating all committee places and allocating fair shares:* Subject to the above two principles, the total number of seats on all the committees of the Authority allocated to each political group should be in the same proportion as that political group's seats on the full Council.
 - (d) *Ensuring as far as practicable fairness on each committee:* Subject to the above three principles, the number of seats on each committee of the Authority allocated to each political group should be in the same proportion as that political group's seats on the full Council.

Application of Principles

8. The Council must review the establishment of its committees in accordance with the principles laid down in the Act. Immediately this is done, each political group should state the names of the councillors it wishes to take its allocated places on committees, including substitutes, and when those wishes are known, the Council is under a duty to make the appointment of those councillors as soon as practicable. This is dealt with specifically under the next item of business on the agenda.

Councillors not in a Political Group

9. In the case of councillors who are not members of a political group, a proportion of seats on committees equal to the proportion of Council members who do not belong to a political group, has to be reserved, with appointments to these seats being made by the Council at its discretion.

Committees of the Council

10. The Council's Constitution currently provides for the appointment of the following committees:-

- Strategic Planning
- Area Planning – East, North, South and West
- Licensing
- Standards
- Overview and Scrutiny Management
- Children's Select
- Health Select
- Environment Select
- Audit
- Appeals
- Staffing Policy
- Officer Appointments
- Pension Fund
- Police and Crime Panel

11. Outside the scope of this report is the Cabinet as the political proportionality rules continue to not apply to this body. See also paragraphs 15-19 below regarding the establishment of the Health and Wellbeing Board.

Area Boards

12. Area boards are appointed by the Council under Section 102 of the Local Government Act 1972. These are constituted as area committees within the meaning of Section 18 of the Local Government Act 2000 and regulations made under that section for the purpose of discharging functions delegated by the executive. They are not subject to the rules on political proportionality. A list of these area boards is set out at Appendix 1 to this report.
13. All unitary councillors representing the electoral divisions covered by the area board will be appointed to their relevant area board. This is dealt with specifically under the next item of business on the agenda.
14. Pewsey and Tidworth are established as a single area committee with two sub-committees, each of which operate as an area board known as Pewsey Area Board and Tidworth Area Board respectively.

Health and Wellbeing Board

15. Under the Health and Social Care Act 2012 the Council is required to appoint a Health and Wellbeing Board that works with partners, including GP's, to prepare a health and wellbeing strategy for the Council and to ensure that the commissioning of services is integrated. It was intended that the Board should formally be in place by April 2013 but as the regulations were not issued until mid February with guidance only issued even more recently, combined with

the elections in May, it was thought sensible to await the annual meeting of Council to formally appoint the board.

16. Appendix 2 to this report provides information in relation to the status, role and function of the Board. In essence the Board is to be regarded as an ordinary committee of the Council – so it is appointed by the Council, it reports to the Council and its membership is agreed by the Council. Also its proceedings are publicly accessible and its agenda and reports will appear on the Council’s website along with all other committees. Its voting members are also subject to the Council’s code of conduct.
17. However there are exceptions to this in that key areas of traditional legislation have been modified with regard to the Board as follows:-
 - the requirements of political proportionality are disapplied by the regulations although the Council can choose to appoint any councillors that it wishes;
 - officers are allowed to be members of the Board;
 - all members of the Board are permitted (including officers, GPs etc) to vote unless the Council directs otherwise.
18. The Health and Social Care Act also lays down the statutory membership of the Board as follows:-
 - at least one councillor from the relevant council
 - the director of adult social services
 - the director of children’s services
 - the director of public health
 - a representative of the Local Healthwatch organisation
 - a representative of each relevant clinical commissioning group (CCG)
19. The views of the shadow Health and Wellbeing Board have been sought in relation to membership and voting and these are set out below and in Appendix 3 to this report. The Board noted that this was an evolving issue and one that would need reviewing but initially their recommendations on voting and membership were as follows:-

Voting members

- The Leader of the Council
- Wiltshire Council Cabinet representatives with responsibility for Children, Adults and Public Health
- 4 representatives from the Clinical Commissioning Group (CCG)
- 1 representative from Healthwatch
- 1 Police and Crime Commissioner (PCC)
- 1 NHS England representative

Non-voting members

- Wiltshire Council officers with statutory responsibility for Children, Adults and Public Health services
- 3 Acute Hospital Trusts representatives (Salisbury Hospital FT, Great Western Hospital FT and Bath RUH FT)
- 1 South West Ambulance Service (SWAS) representative
- 1 Avon and Wiltshire Mental Health Partnership (AWP) representative
- 1 Wiltshire Police Chief Constable representative

Health Scrutiny

20. Regulations issued under the Health and Social Care Act also introduced flexibility as to how Councils wished to discharge its health scrutiny function.
21. The new legislation allows Council to choose to discharge this function through the full Council itself or through its existing health scrutiny committee.
22. Under the current Constitution (Part 2 Article 6) the existing Health Select Committee has the power of referral to the Secretary of State regarding the reconfiguration of services and it is recommended that the Council continue with this arrangement.
23. The wider implications of the Regulations for the way Health Scrutiny works will be considered as part of a broader review of the function.

Police and Crime Panel

24. The Council is required under the Police and Social Responsibility Act 2011 to appoint a Police and Crime Panel. This, despite its title, is a formal joint committee of Swindon and Wiltshire Councils and the two councils are required to meet a “balanced appointment objective” whereby its membership reflects both the geographical and political nature of the two councils plus the skills and experience required to fulfil the panel’s functions.
25. The main function of the panel is to hold the directly elected Police and Crime Commissioner to account for the effective policing of the force area. The role is primarily a scrutiny function but all councillors, both executive and non-executive, can be members as long as the balanced appointment objective is met.
26. The minimum size of the panel is 10 with the addition of two co-opted independent persons. Agreement was reached with Swindon and subsequently with the Home Secretary that Wiltshire’s PCP would comprise 11 councillors, plus two independent members, with the ratio of councillors 7:4 in favour of Wiltshire.

27. The membership of the PCP must reflect the political proportionality of the two councils when taken together. Swindon Borough Council's current political composition is as follows:-

Conservatives – 29

Labour – 23

Liberal Democrats – 4

Independent - 1

28. Taken together with Wiltshire's political composition (as set out in para 4) this gives the following figures:-

Conservatives – 87 or 56% of the seats

Labour – 27 or 17.4 % of the seats

Liberal Democrats – 31 or 20 % of the seats

Independent - 9 or 5.8 % of the seats

29. On this basis the 11 members breaks down as follows:

Conservative 6

Liberal Democrat 2

Labour 2

Independent 1

30. Swindon Borough Council have already appointed 2 Conservative and 2 Labour councillors so that leaves Wiltshire Council to appoint 4 Conservatives, 2 Liberal Democrats and 1 Independent. The schedule of committee places (to follow) has been drawn up to reflect this allocation. It has to be stressed that not only has the Council to meet the balanced appointment objective, failure to do so would result in the Secretary of State making the appointments or instructing the Council to do so.

Children's Select Committee

31. This Committee must include nominees of the Church of England, the Roman Catholic Church and a number of elected parent governor representatives (historically there have been 3 appointed representatives – one from each school sector). They will be voting members. In accordance with the principle set out at 7(b) above the majority group are entitled to appoint additional councillors to ensure it enjoys a majority. This entitlement has been waived in the past. The Council also has discretion to appoint an unlimited number of co-opted members onto this committee as representatives of children's organisations/agencies (historically this has been on a non-voting basis). The

actual appointments are dealt with under the next item of business on the agenda.

Method of Calculating the Allocation of Places to Political groups

32. The principles in paragraph 7 can be applied in the following sequence:
- (i) Calculate the total number of seats with votes on all the ordinary committees and any Joint Committees.
 - (ii) Calculate the proportion that each political group forms of the total membership of the Authority. Reserve an appropriate number of seats for ungrouped members.
 - (iii) Apply those proportions to the total number of ordinary committee seats to give the aggregate entitlement of each group; the requirement to apply the proportions “so far as reasonably practicable” can be met by rounding down fractional entitlements of less than half, and rounding up entitlements of a half or more; if this results in a greater aggregate than the number of seats available, the fractional entitlement(s) closest to a half should be rounded in the other direction until entitlements balance the available seats.
 - (iv) Apply the proportions to the number of councillors on each ordinary committee to give provisional entitlement to seats on that committee.
 - (v) If the provisional entitlement gives only one group seats on the committee, adjust the entitlement so that the next largest group has a seat (thus applying principle (a) in paragraph 7).
 - (vi) Finally, adjust the seats on each committee so that the total allocated to each group is as near as possible to their aggregate entitlement, whilst preserving the results reached at steps (iv) and (v) (thus applying principle (c) in paragraph 7).
33. The Council is free to adopt any aggregate number of places on ordinary committees so long as it follows the principles in paragraph 7 and the sequence in paragraph 32. A draft scheme of committee places will be discussed with Group Leaders and will be submitted to Council in due course.
34. Attached at Appendix 4 to this report is a numerical guide to proportional representation on Committees.

Matters for Decision

35. The Council is asked:
- (a) To note this report and the legal requirements.
 - (b) To appoint/re-appoint the following committees with the terms of reference as set out in the Constitution:-

Strategic Planning
Area Planning – East, North, South and West
Licensing
Standards
Overview and Scrutiny Management
Children’s Select
Health Select
Environment Select
Audit
Appeals
Staffing Policy
Officer Appointments
Pension Fund
Police and Crime Panel

- (b) To appoint those Area Boards, constituted as area committees as set out in paragraphs 12 to 14 and Appendix 1 of this report and within the Constitution, to comprise the Unitary Councillors for that area.
- (c) To approve a scheme of committee places which sets out the number of seats available to members of the Council and to political groups.
- (d) To formally appoint the Health and Wellbeing Board with the
 - (i) terms of reference as set out in paragraph 4 to Appendix 2 to this report
 - (ii) membership and voting arrangements as set out in paragraph 19 of this report
 - (iii) Leader of the Council being the chairman.
- (e) To confirm that in accordance with the current Constitution, the power of referral to the secretary of state in relation to the reconfiguration of services continues to be delegated to the Health Select Committee.

Ian Gibbons
Solicitor to the Council and Monitoring Officer

Report Author: John Quinton, Head of Democratic Services

Unpublished documents relied upon in the production of this report: NONE
Environmental impact of the recommendations contained in this report: NONE

Appendices

Appendix 1 – List of Area Boards
Appendix 2 - Report to the Health and Wellbeing Board – 2 April 2013
Appendix 3 – Recommendations of the Health and Wellbeing Board – 2 April 2013
Appendix 4 - Numerical Guide to political proportionality