



Full Council Report

ISLE OF WIGHT COUNCIL

Date **17 JANUARY 2024**

Title **REVIEW OF POLITICAL PROPORTIONALITY, ALTERNATIVE ARRANGEMENTS, NOMINATIONS AND APPOINTMENTS**

Report of **MONITORING OFFICER**

Executive Summary

1. The need to review political proportionality has been triggered. This is due to Cllr Ed Blake joining the Conservative Group on the Isle of Wight Council following the by-election held last month. Details of this review are set out in this report.
2. The last review was held by Full Council in September 2023. In effect, it is status quo as the Conservative Group has gone back up to 16 seats on the Isle of Wight Council. However, the law requires that this review takes place and hence this report.
3. Alternative arrangements can be considered if there is no dissenting vote. But at the time of drafting this report (4 January 2024) no proposals for alternative arrangements have been put forward.
4. The report and appendix also sets out other vacancies for nominations and appointments to be duly made. At present there is a need to fill the vacancy on the Local Pension Board.

Recommendation

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| <ol style="list-style-type: none">5. That the review of political proportionality be agreed as set out in Appendix 1.6. That the appointments set out in Appendix 2 be agreed. |
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Background

7. On 21 December 2023 a by-election was held for the electoral division of Ventnor and St. Lawrence following the resignation of the previous incumbent.
8. Cllr Ed Blake was duly elected to serve as the Isle of Wight councillor for Ventnor and St. Lawrence, the declaration of acceptance of that office has been given, and

Cllr Ed Blake has joined the Conservative Political Group on the Isle of Wight Council.

9. The local authority is required to undertake a review of the political proportionality under section 15 of the Local Government and Housing Act 1989 as amended due to Cllr Ed Blake joining and being accepted into the Conservative Group. After the last review the Conservative Group reduced by one but has now been restored to a membership of 16.
10. Out of the total 39 elected councillors on the Isle of Wight Council, the overall proportion is now as follows:

Description	No. of seats	% of whole council
Alliance	13	33.333
Conservative	16	41.025
Empowering Islanders	4	10.256
Liberal Democrat	4	10.256
Non-aligned	2	5.128
Total:	39	

11. Whilst the above figures relate to the proportion of the whole council, the rules as to political proportionality as to seat allocation on certain bodies (to which the political proportionality rule apply and have not been disapplied without dissent) are dependent upon the application of the relevant statutory rules laid down in section 15 (5) of the Local Government and Housing Act 1989 as amended.
12. This means that the lay meaning of proportionality is replaced with a statutory meaning, and the application of the relevant section 15 (5) principles leads to a distortion of the proportionality figures.
13. Because no individual political group has a majority over any other political group, principle (b) of that subsection does not apply and has not applied since May 2021 when the local authority became a 'no overall control' local authority. [Principle (b) states: ' 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 authority's membership'.
14. The first principle to apply is principle (a), namely: 'that not all the seats on the body are allocated to the same political group'.
15. The second principle to apply is principle (c), namely: ' subject to paragraph (a) above, that the number of seats on the ordinary committees of a relevant authority which are allocated to each political group bears the same proportion to the total of all the seats on the ordinary committees of that authority as is borne by the number of members of that group to the membership of the authority'.
16. The third and final principle is principle (d), namely: 'subject to paragraphs (a) ...and (c) above, that the number of the seats on the body which are allocated to each political group bears the same proportion to the number of all the seats on that body as is borne by the number of members of that group to the membership of the authority'.

17. Where the statutory rules are applied, the local authority is to make determinations as to give effect, so far as reasonably practicable, to the relevant principles set out in section 15 (5) of the Local Government and Housing Act 1989. This is a statutory recognition that the number of seats are 'whole numbers', not fractions etc., and so the allocation of seats in accordance with the relative prioritised statutory principles is not an exact science from a strictly mathematical position.
18. Appendix 1 sets out the political proportionality review and seat allocation.
19. There remains a vacancy for an employer representative (an elected councillor) on the Local Pension Board to be filled. It is imperative that this outstanding vacancy be resolved, but please note that the nomination for the Local Pension Board vacancy cannot be someone who is currently serving on the Pension Fund Committee.
20. The Isle of Wight Council is the administering authority and scheme manager of the Isle of Wight Local Government Pension Scheme (LGPS). The Public Services Pensions Act 2013 established a Local Pension Board for the Local Government Pension Scheme (LGPS). The Act specifies that there must be an equal number of scheme member and employer representatives. For the Isle of Wight Local Pension Board membership comprises three scheme member representatives, three employer representatives and an Independent Chairman.
21. The Local Pension Board meets quarterly, and a detailed pre-existing knowledge of the Local Government Pension Scheme is not a requirement as training will be given. It is NOT a political appointment and so the elected councillor would be expected to act in a way that represents the interests of all scheme members and employers within the fund.
22. There are also ongoing vacancies for a non-aligned councillor on the Licensing Committee and also on the Policy and Scrutiny Committee for Neighbourhoods and Regeneration, but no nominations have been put forward and so the vacancies will continue.

Corporate Priorities and Strategic Context

23. Within the [Corporate Plan 2021 – 2025](#) there are key areas of activity that will be our main areas of focus for the lifetime of this plan which will need to be central to everything we do as a council. This report deals with appointments to relevant committees to enable to delivery of this plan and its aims.

Consultation

24. The leaders of the political groups and the two non-aligned councillors have been consulted.

Financial / Budget Implications

25. There are no additional costs associated with the proposals contained within this report. The recommendations accord with the overall budget agreed by Full Council in February 2023.

Legal Implications

26. Certain bodies are required to be politically proportionate unless alternative arrangements have been agreed without any dissenting vote under section 17 of the Local Government and Housing Act 1989 (the 1989 Act).
27. The duty to undertake a review of the political proportionality is triggered under section 15 (e) of the 1989 Act and regulation 17 of the Local Government (Committees and Political Groups) Regulations 1990 as amended due to the joining of a political group.
28. Under section 16 of the 1989 Act the power to appoint to committee seats is that of the local authority acting through the Full Council.
29. This power to appoint persons to committees (and indeed the power to remove persons from committees) cannot be delegated by the Full Council to a committee or to any officer of the council or indeed to any political group, but must be exercised by the Full Council itself. This is because the power to make delegated arrangements under section 101 of the Local Government Act 1972 is subject to express provision contained in that Act or in any subsequent enactment, and section 102 of the Local Government Act 1972 ('Appointment of committees') and section 16 of the 1989 Act are such express provisions.
30. It is the duty of the Full Council itself to exercise the power of appointment of elected councillors to its committees 'as soon as practicable'.
31. As it is only the Full Council that can make appointments to its committees (and only the Full Council has the power to remove) the council must, if it wishes to have any substitutes, appoint substitutes to its committees as political groups have no power to appoint, merely to nominate. The appointment of named substitutes (where such substitution is permitted by law and under the Constitution) has the merit of transparency and openness.
32. In the absence of alternative arrangements, the Full Council must appoint to the seats allocated to the relevant political groups in accordance with the expressed wishes of such groups, and must appoint seats allocated to the non-aligned (i.e. ungrouped) councillors in accordance with the proportion allocated to the ungrouped councillors (see section 16 (1) and section 16(2A) of the 1989 Act as modified by regulation 16 of the Local Government (Committees and Political Groups) Regulations 1990 as amended.
33. The local authority as the administering authority for the local government pension scheme has the power under regulation 107 of the Local Government Pension Scheme Regulations 2013 to appoint to the Local Pension Board (which is not a committee of the local authority). But as an exception to the rule that Full Council must appoint, the local authority as the administering authority may delegate the power to appoint under regulation 105 of the 2013 Regulations.

Equality and Diversity

34. The council as a public body is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It is not considered that this report has any negative impact upon any of the protected characteristics.

Options

35. Option 1 – That review of the political proportionality as set out in Appendix 1 be agreed.
36. Option 2 – That the review of the political proportionality as set out in Appendix 1 be not agreed.
37. Option 3 - That the nominations and appointments set out in Appendix 2 be agreed.
38. Option 4 - That the nominations and appointments set out in Appendix 2 not be agreed.

Risk Management

39. The recommendations are to ensure that the council meets its corporate governance requirements and responds to changing requirements and demands. These should lessen the risks arising from any challenge to the decision-making process by way of judicial review or other legal action.

Evaluation

40. The Council has no option but must respect the expressed wishes of the relevant political groups as regards their respective seat allocation and must appoint those duly nominated to their allocated committee seats which are politically balanced (in the absence of alternative arrangements being agreed without any dissenting vote).
41. Equally Council has no option (in the absence of alternative arrangements being agreed without dissent at the meeting).and must appoint any unallocated seats on committees which are politically balanced to ungrouped councillors, but it does have discretion as to which ungrouped councillor(s) to appoint. Such discretion has to be exercised properly and in good faith. Fairness requires ungrouped councillors to express their wishes for nomination and for nomination of substitutes.
42. An effective governance system for the council is essential to enable business to be transacted openly and in a timely manner. The appointment of elected councillors (including where appropriate substitutes) to its committees seeks to do this.

Appendices Attached

- 43. Appendix 1 details the political proportionality review.
- 44. Appendix 2 sets out the appointments.

Background Papers

- 45. None.

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