

Item No. 7.1	Classification: Open	Date: 26 March 2014	Meeting Name: Council Assembly
Report title:		Section 15 of The Local Government and Housing Act 1989 – Review of Proportionality	
Ward(s) or groups affected:		All	
From:		Proper Constitutional Officer	

RECOMMENDATION

1. That following the formation of a new political group on the council, council assembly notes the review of proportionality and considers the following in respect of the representation of different political groups on the council's committees and panels:

Ordinary committees

2. That the overall number of seats on ordinary committees be increased from 35 to 37 to accommodate one extra Labour place and an All People's Party Group (APP) place. It is recommended that the two additional seats are allocated to standards committee as set out in Table 2 (see paragraph 17). The allocation of places to the Liberal Democrat and Conservative groups remain unchanged.

Other committees

3. That council assembly notes that the current allocation of places on the overview and scrutiny committee remains proportionate: Labour 6; Liberal Democrat 4; Conservative 1. No change is required.
4. That council assembly notes that the current allocation of places on the licensing committee remains proportionate: Labour 8, Liberal Democrat 6 and Conservative 1 place. No change is required.

Sub-committees

5. That council assembly notes that the current allocation of Labour 4 and Liberal Democrat 3 places on sub-committees remains proportionate. The allocation of seats on each sub-committee bears the same proportion to the number of the seats held by that group on the council.

Panels

6. That the memberships of council assembly business panel and constitutional steering panel (CSP) be changed to include the APP group whip and an extra Labour group place (see Table 5 and paragraph 26). No change is required to voluntary bodies appointments panel.

Pensions advisory panel

7. That it be noted that the membership of the pensions advisory panel is contained in the constitution. Council assembly would have to refer this issue to CSP to consider whether it wished to recommend any constitutional change to the membership of the panel. No change is recommended at this stage.

BACKGROUND INFORMATION

8. In a letter to the chief executive dated 18 February 2014, Councillors Althea Smith and Stephen Govier gave notice under The Local Government (Committees and Political Groups) Regulations 1990 of the formation of a new political group which is to be known as the All People's Party Group.
9. Councillors Althea Smith is the group leader. Councillor Stephen Govier is the deputy leader and chief whip of the new group.
10. In accordance with section 15 of The Local Government and Housing Act 1989, the council's monitoring officer has requested that the proper constitutional officer undertake a review of the representation of different political groups at committees of the council.

Process for making changes to proportionality

11. The council's constitution requires that any changes to proportionality must be approved by council assembly. Officers have reviewed the impact on the proportionality calculations on the council's committees for the remainder of municipal year 2013/14 and these are outlined within this report.

Division of seats

12. The division of seats and percentage allocation of each political group on the council is as follows:

Table 1: Division of seats

Group	Total	%
Labour	33	52.38
Liberal Democrat	25	39.68
Conservative	3	4.76
All People's Party Group	2	3.18
Total	63	100.00

KEY ISSUES FOR CONSIDERATION

Ordinary committees

13. The regulatory and other committees are the "ordinary committees" of the council. In May 2013 the annual meeting established the following:
 - Appointments committee
 - Planning committee
 - Audit and governance committee
 - Corporate parenting committee

- Standards committee.
14. The proportionality for ordinary committees is based on the total of number of seats on ordinary committees compared to the overall allocation of seats each political group has on the council. It will be for council assembly to determine the size and composition of the council's "ordinary committees" based on the total number of seats.
 15. The total number of seats is currently 37, but will need to be adjusted upwards to provide an additional place for the All People's Party Group (APP) on one of the ordinary committees and an extra place for the majority Labour group, to maintain a majority on each individual committee.
 16. Council assembly can agree an allocation that is disproportionate, provided no member votes against this.
 17. An increase to an overall total of 39 seats will provide a more proportionate allocation of seats. In the past the council has agreed to provide a seat on the standards committee to all political groups on the council because of the important nature of its business, i.e. general duty to "promote and maintain high standards of conduct by members and co-opted members" of the authority". Therefore in line with this practice the extra two places are allocated to the standards committee. The changes are shown in Table 2 below in bold.

Table 2: Ordinary Committees - Total number of seats 39

Note: The current allocation is shown in brackets with the proposed changes in bold.

Committee	Total	Lab	Lib Dem	Con	APP	Comment
Committee 1 Appointments Committee	7	4	3	0	0 (-)	No change.
Committee 2 Planning Committee	7	4	3	0	0 (-)	No change.
Committee 3 Standards Committee	11 (9)	6 (5)	3	1	1 (-)	APP allocated one seat.
Committee 4 Audit and Governance Committee	7	4	2	1	0 (-)	No change.
Committee 5 Corporate Parenting Committee	7	4	3	0	0 (-)	No change.
Total	39 (37)	22 (21)	14	2	1 (-)	

Other committees

18. The following council committees are not "ordinary" committees and are considered separately for the purposes of proportionality. These include:
 - Overview and scrutiny committee
 - Licensing committee

- Health and wellbeing board.
19. Separate legal arrangements exist for the composition of the health and wellbeing board and proportionality does not apply to this committee because this council has agreed that its council appointments will be made by the leader of the council.
 20. The allocation of seats on the overview and scrutiny committee and licensing committee¹ remain proportionate. No change is required.

Table 3: Allocation on other committees

Committee	Total	Lab	Lib Dem	Con	APP
Overview and scrutiny Committee	11	6	4	1	0
Licensing Committee	15	8	6	1	0
Health and Wellbeing Board	3	3	0	0	0

Sub-committees

21. The overview and scrutiny committee and planning committee both have sub-committees. The rules on proportionality apply to these meetings.
22. All existing sub-committees are comprised of a total of seven members: Labour group 4 places and Liberal Democrat 3. As a consequence of the proportionality review, there is no change to the allocation of places on any sub-committees.
23. Sub-committees are not “ordinary” committees and are each considered individually for the purposes of proportionality. So far as it is reasonably practicable to do so, the allocation of seats on each sub-committee bears the same proportion to the number of the seats held by that group on the council.
24. Licensing sub-committees are not subject to proportionality rules².

Review of the council’s panels

25. Panels are not required to be proportionate. This is a matter of local choice for the local authority.
26. Table 5 sets out the current allocation of places on the council’s panels and in bold show the proposed changes in light of the proportionality review to maintain

¹ Section 6 of the Licensing Act 2003 requires that each licensing authority must establish a licensing committee of at least 10, but no more than 15 members of the authority. There is no requirement in the Licensing Act 2003 that the licensing committee should be proportionate. The council in the past has established a proportionate committee of 15 members.

² In accordance with the constitution, a licensing sub-committee with delegated authority to hear licence applications including Licensing Act 2003, Gambling Act 2005, street trading and other licensing responsibilities granted by statute. The sub-committee to include members of the licensing committee with a quorum of three members and a reserve and are called upon when required and membership is based on the allocation process agreed by the licensing committee in December 2007.

the status quo in the allocation of places to political groups. As a result the council assembly business panel and constitutional steering panel will need to increase to six places to provide a place for the AAP group whip and an extra Labour group place. There is no change to the voluntary bodies appointment panel as the present composition of 3 Labour and 2 Liberal Democrat members remains the most proportionate allocation.

27. With regard to the pensions advisory panel, council assembly in May 2013 established a pensions advisory panel comprised of three members (one from each political group of the council at the time), officers, independent advisors and a trade union representative. The membership of this body is enshrined in the constitution; therefore any change to the membership would require prior consideration by CSP who may recommend a constitutional change. Therefore no proportionality or membership change is recommended at this stage.

Table 5: Allocation of places on council panels

Note: The current allocation is shown in brackets with the proposed changes in bold.

Committee	Total	Lab	Lib Dem	Con	APP
Council assembly business panel	6 (4)	3 (2)	1	1	1 (-)
Constitutional steering panel	6 (4)	3 (2)	1	1	1 (-)
Pensions advisory panel	3	1	1	1	0 (-)
Voluntary bodies appointment panel	5	3	2	0	0 (-)

Proportionality – The legal position

28. The size and composition of the council's regulatory and other committees are established in accordance with the number of seats each political group has on the council as a whole – this is known as "proportionality".
29. The Local Government and Housing Act 1989 covers the allocation of seats to political groups. It makes no provision for single independent councillors so they do not form part of the proportionality considerations.
30. Seats on committees and sub-committees must be allocated in accordance with the four principles of proportionality contained in sections 15, 16 and 17 of the Local Government and Housing Act 1989. There is a duty to give effect to the following principles, as far as is reasonably practicable:
- (i) That not all the seats on a committee or sub-committee are allocated to the same political group;
 - (ii) That the majority group must have the majority of seats on each committee or sub-committee;

Note: As the Labour Group has an overall majority on the council, this principle has been applied.

- (iii) Subject to (i) and (ii) above, it must be ensured that the proportion of each political group's seats of the total number of seats on "ordinary committees" reflects, as closely as possible, their proportion of seats on full council; and,

Notes: 1. The ordinary committees are appointments, planning, audit and governance and corporate parenting and the standards committee. The total number of seats on these committees must be allocated as proportionately as is reasonably practicable.

2. The licensing committee is appointed under the Licensing Act 2003, the overview and scrutiny committee is appointed under section 21 of the Local Government Act 2000 and the health and wellbeing committee is appointed under the Health and Social Care Act 2012 and is to be treated as if appointed under section 102 of the Local Government Act 1972. None of the committees are an ordinary committee.

- (iv) Subject to (i) to (iii) above, the proportion of each political group's seats on each committee and sub-committee reflects as closely as possible their proportion of seats on full council.

Note: This rule applies to all committees, sub-committees and joint committees, except for the licensing committee.

Appointments to seats

31. Section 16(1) of the Local Government and Housing Act 1989 provides that it is the duty of an authority or committee to exercise its power to make appointments in such a way as to give effect "to such wishes about who is to be appointed to the seats on that body which are allocated to a particular political group as are expressed by that group".
32. There is no requirement that a seat allocated to a particular group can only be filled by a member of that group. Therefore, groups have discretion to allocate seats as they wish, including to a member of another group, or an individual councillor or councillors sitting on the council.

Additional advice on ordinary committees

33. The size and composition of the council's regulatory and other committees known as "ordinary committees" is set out above. The proportionality is based on the total number of seats compared to the overall allocation of seats each political group has on the council. As the Labour Group has an overall majority on the council, it has been allocated a majority on each committee. The total number of seats on individual committees has had to be adjusted to ensure an overall proportionate allocation and ensure a majority on each committee.
34. Council assembly is exercising a matter reserved to it in Part 3A (4) of the constitution to establish committees. It is for council assembly to set the total number of seats and allocate them to the committees numbered 1 to 5 in the table 2 above.
35. At least one member of the cabinet shall serve on the appointments committee.

36. The constitution states no more than one member of the cabinet may be a member of the audit and governance committee and no cabinet member may chair the committee. The chair may be a deputy cabinet member as this role does not include the exercise of any delegated powers.
37. No more than one member of the overview and scrutiny committee may be a member of the audit and governance committee and no member of the overview and scrutiny committee may chair the committee. In 2013/14 no members of the cabinet sit on the audit and governance committee and Councillor Toby Eckersley is the overview and scrutiny committee member on the committee.

Reserve members

38. The council assembly, committee and overview and scrutiny procedure rules make provision for the appointment of reserve members to council committees and to scrutiny committees. There is no provision for reserves on the licensing committee, the health and wellbeing board or community councils.
39. Each political group can appoint reserve members. The number of reserve members a group can appoint is, with the exception of the overview and scrutiny committee and standards committee, one less than the number of places the group holds on the committee or sub-committee. If a political group holds only one place on a committee or sub-committee, that group may appoint one reserve member.
40. On the overview and scrutiny committee and the standards committee, the number of reserve members that each political group can nominate is equal to the number of places each group holds on the committee.

Community impact statement

41. There are no specific community impact implications.

Resource implications

42. There are no resource implications.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Council Assembly (Annual Meeting) 22 May 2013 – Agenda	160 Tooley Street, London SE1 2QH	Constitutional Team constitutional.team@southwark.gov.uk 020 7525 7228

APPENDICES

No.	Title
None	

AUDIT TRAIL

Lead Officer	Graeme Gordon, Director of Corporate Strategy	
Report Author	Ian Millichap, Constitutional Manager	
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Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Legal Services	Yes	Incorporated in report
Strategic Director of Finance and Corporate Services	No	No
Cabinet Member	No	No
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