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<b>Subject:</b>	<b>REVIEW OF ALLOCATION OF SEATS TO POLITICAL GROUPS</b>
<b>Meeting and Date:</b>	<b>COUNCIL – 12 DECEMBER 2018</b>
<b>Report of:</b>	<b>JOINT REPORT OF THE CHIEF EXECUTIVE AND THE DIRECTOR OF GOVERNANCE</b>
<b>Classification:</b>	<b>UNRESTRICTED</b>

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**Purpose of the report:** The prompt and correct allocation of committee seats is vital to maintaining an effective and transparent governance framework.

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**Recommendation:** *That it be recommended to Council:*

- (a) *That the report setting out the recommended allocation of seats to political groups be adopted.*
- (b) *That the Dover Joint Transportation Board and the two Overview and Scrutiny Committees be considered as Ordinary Committees for the purposes of calculating the allocation of seats for political groups.*
- (c) *That the Council appoints its Committees with the sizes and allocation of seats between political groups as set out in Appendix 1 and 2 of the report, and invites the Group Leaders to make nominations to fill the seats on these Committees.*
- (d) *That the Council appoints to the seats on the committees to give effect to the nominations*
- (e) *That the Council determine the allocation of seats to the non-aligned members of the Council and makes appointments to the allocated seats.*
- (f) *That the Council appoints a Licensing Committee with 15 seats and, whilst noting that the duty to ensure political proportionality does not apply, resolves that the Licensing Committee should reflect the proportionality of the Council.*

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## 1. Summary

Consequent upon the giving of notices to the Council under the Local Government (Committees and Political Groups) Regulations 1990 ('the Regulations'), Councillors M R Eddy and P Walker have ceased to be members of the Labour group and formed a new political group on the Council, known as the Progressive Group. Where there is a change in the different political groups on the council the Regulations require the Council to review the allocation of seats on committees.

## 2. Introduction and Background

2.1 The political composition of the Council is currently 24 Conservative Group members, 16 Labour Group members, 2 Progressive Group members and 3 members who are not currently members of any political group. In this report these 3 members are

referred to as “non-aligned members” To be counted as a political group for the purposes of the political balance rules a group is required to have at least two members and have formally notified the authority that it is a political group. The Conservative, Labour and Progressive Groups meet this requirement. The Progressive Group provided notice to the Proper Officer of their intention to form a political group on 5 November 2018 at which point it met this requirement.

2.2 Section 15 of the Local Government and Housing Act 1989 (specifically subsections (3) to (5)) prescribes the Council's duty to determine the allocation of seats which states the basic principles of seat allocation.

2.3 In summary, these principles of determination are that:

- (a) All the seats are not allocated to the same group;
- (b) The majority of the seats go to the group (if any) which has an overall majority on the Council (i.e. 23 or more seats);
- (c) Subject to the above two principles, that the number of seats on the total of all the ordinary committees allocated to each group bears the same proportion to the proportion on the full Council; and
- (d) Subject to (a) to (c), that the number of seats on each ordinary committee and each Sub-Committee allocated to each group bears the same proportion to the proportion on the full Council.

#### **Section 15(3) of the Local Government and Housing Act 1989**

2.4 The determination of seats on the Council has been undertaken in accordance with the principles set out in Section 15(3) of the Act, which states as follows:

“15(3) Where at any time the representation of different political groups on a body to which this section applies falls to be reviewed under this section by any relevant authority or committee of a relevant authority, it shall be the duty of that authority or committee, as soon as practicable after the review ,to determine the allocation to the different political groups into which the members of the authority are divided of all the seats which fall to be filled by appointments made from time to time by that authority or committee.”

2.5 However, where the Council has members who are non aligned , this section is amended by regulation 16 of The Regulations to read as follows:

“15(3) Where at any time the representation of different political groups on a body to which this section applies falls to be reviewed under this section by any relevant authority or committee of a relevant authority, it shall be ***the duty of that authority or committee, as soon as practicable after the review to determine the allocation to each of those groups of such of the seats which fall to be filled by appointments made from time to time by that authority or committee as bear to the total of all of those seats the same proportion as is borne by the number of members of that group to the membership of the authority.***”

2.6 Additionally, where there are non aligned members, section 16(2A) of the Local Government and Housing Act 1989 has effect. This provides:

16(2A) *“Where appointments fall to be made to seats on a body to which section 15 applies otherwise than in accordance with a determination under that section, it shall be the duty of the authority or the committee, as the case may be, so to exercise their power to make appointments as to secure that the persons appointed to those seats are not members of any political group”*

2.7 The implications of these changes to paragraph 15(3) taken with section 16(2A) is to require that the Council must allocate seats to the non-aligned members in the same proportion that their number bears to the total membership of the Council.

### **Variations to Political Balance Principles**

2.8 Prior to the allocation of seats, the Council may make variations to the principles of political balance in cases where a decision is taken to do so with no members voting against it.

2.9 If a political group fail to express their wishes within a period of three weeks of being notified of its allocation (which shall be taken as commencing from 12 December 2018, the date of the Council meeting where this report is considered), the Council at its first meeting after this period may make such appointment as it sees fit by majority vote regardless of the principles of political balance.

### **Definition of Ordinary Committees**

2.10 The following are a list of the ordinary committees of the Council:

- Electoral Matters Committee
- General Purposes Committee
- Governance Committee
- Planning Committee
- Regulatory Committee

2.11 The total number of seats on the ordinary committees of the Council is 32 seats.

2.12 In addition to the above ordinary committees, the Council has historically treated the Dover Joint Transportation Board (district council seats only) and the two Overview and Scrutiny Committees as ordinary committees for the purposes of seat allocation.

2.13 It is the view of the Solicitor to the Council that Section 21 (11) of the Local Government Act 2000 (under which Scrutiny Committees are appointed), makes the Scrutiny Committees 'bodies' to which the political balance rules apply. What it does not do is to make them automatically 'ordinary committees' for the purposes of the political balance rules.

2.14 If the Dover Joint Transportation Board and the two Scrutiny Committees are considered to be ordinary committees of the Council it increases the number of places on ordinary committees to 59 seats.

### **Allocation of Seats – Non-Ordinary Committees**

2.15 In addition to the ordinary committees of the Council, there are three non-ordinary committees of the Council. Although these are not bound by the same requirements for political balance as the ordinary committees it should be noted that they have historically been allocated on that principle where possible.

- 2.16 The non-ordinary committees appointed on the basis of political balance are the Licensing Committee, the Joint Staff Consultative Forum and the Joint Health, Safety and Welfare Consultative Forum.

#### **Allocation of Seats – Licensing Committee**

- 2.17 Pursuant to Section 6 of the Licensing Act 2003, the Licensing Committee must have at least ten, but no more than fifteen, members. The current arrangement of fifteen members allows the Licensing Committee to appoint five broadly area-based sub-committees to conduct hearings and has functioned effectively since its introduction in 2003. An important reason for having 5 area-based sub-committees is that Members as a matter of convention do not sit on Licensing Sub-Committees considering applications relating to their wards. Accordingly, this report recommends the continued appointment of 15 councillors to the Licensing Committee.
- 2.18 The Licensing Committee is not subject to the requirements of the Local Government and Housing Act 1989 with regard to political proportionality, although this principle has voluntarily been applied in allocating the seats at the annual Council meetings held since May 2006. It is however at the discretion of the Council to set the size of the Licensing Committee and the allocation of seats, subject to the restriction mentioned above.

#### **Allocation of Seats – Joint Staff Consultative Forum and the Joint Health, Safety and Welfare forum**

- 2.19 In accordance with s.15(6) of the Local Government and Housing Act 1989, a seat on an advisory committee shall not be treated as being subject to the political balance requirements unless the authority have determined that it must be so filled. However, the Council has historically voluntarily applied the principles of proportionality in allocating seats to these fora.

#### **Allocation of Seats – Executive Committees**

- 2.20 The allocation of seats on the Executive and Executive Committees is a matter for the Cabinet and is outside the scope of this report.

#### **Allocation of Seats - South Kent Coast Health and Wellbeing Board**

- 2.21 The South Kent Coast Health and Wellbeing Board is a sub-committee of Kent County Council's Health and Wellbeing Board, although the operation of the Board is administered by Dover District Council's Democratic Services team. As such the two Dover District Council members appointed to it are outside the scope of this report.

#### **Allocation of Seats – East Kent Services Committee**

- 2.22 The terms of reference of the East Kent Services Committee specify that its membership must be composed of the Leader and Deputy Leader of the Council. As less than three members are appointed by the Council, it is not required to be politically balanced.

### **3. Identification of Options**

- 3.1 This report sets out three options for the allocation of seats, as follows:
- 3.2 Option 1 – To allocate seats to political groups with a variation to treat the Dover Joint Transportation Board and the two Scrutiny Committees as Ordinary

Committees. This is the historical position adopted by the Council and is set out in Appendix 1 and 2.

- 3.3 Option 2 – To allocate seats to political groups without any variation to treat the Dover Joint Transportation Board and the two Scrutiny Committees as Ordinary Committees.
- 3.4 Option 3 - To not adopt the recommendations set out in the report and make an alternative proposal within the statutory framework.

#### **4. Evaluation of Options**

- 4.1 Option 1 would require the unopposed approval of Council to agree the variations in respect of the Dover Joint Transportation Board and the two Scrutiny Committees without any member of the Council voting against. However, it would maintain the current approach taken to the allocation of seats to political groups and is considered the best method of fulfilling the principles set out in paragraph 2.3 of the report.
- 4.2 Option 2 would not require the unopposed approval of Council as there are no variations to agree. However, the Council has historically treated these committees as part of the overall number of ordinary committees. Should members be minded to pursue this option, it would be helpful if they could discuss this with the Director of Governance and Monitoring Officer in advance of the meeting.
- 4.3 Option 3 would also require the approval of Council to agree the variation(s) without any member of the Council voting against.

#### **5. Resource Implications**

- 5.1 None.

#### **6. Appendices**

Appendix 1 – Proposed Allocation of Politically Balanced Seats

Appendix 2 – Proposed Allocation of Non-Politically Balanced Seats

#### **7. Background Papers**

Localism Act 2011  
Local Government Act 1972  
Local Government and Housing Act 1989  
The Local Government (Committees and Political Groups) Regulations 1990  
Local Government Act 2000  
Licensing Act 2003  
The Licensing Act 2003 (Hearings) Regulations 2005  
Local Government and Public Involvement in Health Act 2007

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