



Direct Dial/Ext: 03000416892
e-mail: joel.cook@kent.gov.uk
Date: 22 May 2023

Dear Member

COUNTY COUNCIL - THURSDAY, 25 MAY 2023

I am now able to enclose for consideration at the Annual General Meeting of the Council on Thursday 15 May 2023 the following report that was unavailable when the agenda was published.

Agenda Item No

12 **Proportionality Report (Pages 1 - 8)**

Yours sincerely

A handwritten signature in black ink, appearing to read 'B. Watts', is written over a faint, illegible printed name.

Benjamin Watts
General Counsel

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By: Benjamin Watts, General Counsel
 To: County Council – 25 May 2023
 Subject: Proportionality and Appointments to committees and other bodies
 Classification: Unrestricted

Recommendation:

The County Council is asked to:

- (a) **DETERMINE** the total number of Committee places; the allocation of those places between the political groups; and the allocation of places on certain bodies;
- (b) **NOTE** that Selection and Member Services will make or confirm necessary appointments to outside bodies, except for those which fall to be made by the Leader of the Council; and
- (a) **CONFIRM** the continued delegated authority to the Democratic Services Manager, in consultation with the four Group leaders to adjust the allocation of committee places in order to conform to overall proportionality requirements and manage membership arrangements in line with the details set out in this report.

For Decision

Composition of the County Council

1. Following the two recent by-elections held in Hythe West and Sheppey Divisions, the composition of the County Council is as follows:

Political Group	Number of seats	Proportion of seats
Conservative	60	75
Labour	7	8.75
Green and Independents	7	8.75
LD	5	6.25
Independent	1	1.25
Total	80	100%

Note – the above proportionality is for held seats. The Council continues to have one vacancy, pending a further by-election. Proportionality will be reviewed following that election.

Committee Appointments

- 2. Following the arising of vacancies and the conclusion of relevant by-elections, the proportionality and seat allocation arrangements are here brought back for decision by the Council. The Council is invited to determine the number of Members to serve on each committee and the allocation of committee places between the political groups.

- 3. The Local Government and Housing Act 1989 requires committee places to be allocated between the political groups in accordance with the following principles:
 - a. the group with the majority of seats on the Council must have a majority of seats on each committee¹.
 - b. subject to (a) above, the number of seats on the total of all committees allocated to any political group must be proportional to the number of seats which that group holds on the Council;
 - c. subject to (a) and (b) above, the number of seats on each committee allocated to any political group must be proportional to the number of seats which that group holds on the Council.
 - d. Only political groups have an entitlement to seats on committees. A 'political group' is defined as two or more Members who inform the Monitoring Officer that they wish to be regarded as a political group.

- 4. Proposals for the size of each committee and the allocation of committee places between the political groups in accordance with these principles has been prepared for the County Council's approval in the table below. The table proposes the size of each main committee and gives the allocation of places on them between the four political groups if this were applied to each Committee.

Committee	Con	Lab	G&I	LD	Independent	Total
<i>Scrutiny Committee +5*</i>	10	1	1	1	0	13
<i>Health Overview and Scrutiny Committee +4\$</i>	10	1	1	1	0	13
<i>Governance and Audit Committee</i>	8	1	1	1	0	11

Committee	Con	Lab	G&I	LD	Independent	Total
<i>Electoral & Boundary Review Committee</i>	8	1	1	1	0	11
<i>Personnel Committee</i>	8	1	1	1	0	11
<i>Planning Applications Committee</i>	10	1	1	1	0	13
<i>Regulation Committee</i>	10	2	2	1	0	15
<i>Selection and Member Services Committee</i>	5	1	1	1	0	8
<i>Superannuation Fund Committee +3# (1/1/1)</i>	8	1	1	1	0	11
<i>Kent Flood Risk Management Committee</i>	5	1	1	0	0	7
<i>Standards Committee</i>	5	1	1	0	0	7
TOTAL	87	12	12	9	0	120
Proportionate Share of Total	90	10.5	10.5	7.5	1.5	120
Difference to Proportionate share	-3	+1.5	+1.5	+1.5	-1.5	0

* The Scrutiny Committee also has 3 diocesan representatives and 2 parent governor representatives with voting powers on education issues only. See paragraph 3, below.

§ The Health Overview and Scrutiny Panel also has 4 District Council representatives with voting powers.

The Superannuation Fund Committee also has 3 District Council representatives with voting powers.

5. The Council, while having to seek to achieve proportionality, may vary the allocations if necessary and appropriate. As shown in the table, the above would maintain a slight under-representation of the Conservative Group (-3 seats) and over representation of the Labour, Green & Independent and Liberal Democrat Groups of 1.5 each. While previous proportionality arrangements included equal entitlement to single seats, the updated figures do not require this on any of the Main Committees. No allocation is made for any Members not aligned to a Political Group (as per paragraph 3 (d) at the start of this report), despite any pure mathematical entitlements indicated in the Main Committee table. Consequently, all subsequent tables display only the proposed allocations to Political Groups.
6. As well as ordinary committees, the proposal covers the size and political composition of Sub-Committees. The County Council considered and agreed the previous set on 23 July 2021. Further to the update of the main committee proportionality, an updated proposal for sub-committees is set out below for consideration:

Sub-Committees	Con	Lab	GI	LD	Total
Regulation Committee Member Panels (enforcement, public rights of way, marriage premises, village/town greens)	4	0.5	0.5	0	5
Regulation Committee Transport Appeal Panels (school-related appeals - mainly transport)	4	0.5	0.5	0	5
Selection and Member Services Committee Governor Appointments Panel	5	1	1	0	7
Selection and Member Services – Training and Development Sub-Committee	5	1	1	1	8
Personnel Committee Member Appointment Panel	5	1	1	1	8
Scrutiny Committee Select Committees (or ad hoc sub- committees).	7	1	1	1	10

7. As a result of two Groups holding the equal highest number of minority seats, there is now an equal entitlement to single places on some sub-committees. Where equal entitlement to a single seat is indicated, the resolution of this, subject to approval of the proportionality by County Council, will be managed

through engagement with Group Leaders by Democratic Services. This affects both Regulation Sub-Committees (Member Panels). However, Council has already made specific arrangements to allow additional flexibility on the membership or attendance for these meetings, limiting any practical impact of the proportionality change – see paragraphs 9 and 10 for details. In the case of the Selection and Member Services Committee Appointments Panel, it is proposed that the Conservative Group relinquish one seat to allow equal representation from both the Labour and Green & Independent Groups.

8. The County Council has already given delegated powers to Officers to make the necessary adjustments following discussions between the political groups, such as confirming membership when equal entitlements to seats exists. This approach is to be maintained to allow for effective management of the committee seat allocations, always subject to engagement and consultation with Group Leaders.
9. The County Council last agreed on 23 July 2021 to maintain the approach allowing Members from Groups other than those allocated seats on the Regulation Committee Member Panel may sit on Panels on such occasions when one of the allocated Groups gives up a seat. No change is proposed.
10. Regulation Committee Transport Appeal Panels meet with such frequency that that Panel membership is determined by the availability of individual Members from all political groups subject only to the need for the largest Group to have a majority on each Panel. Membership of the Regulation Committee is not a requirement for its Panels either for individual Members or political groups. This was last confirmed at the 23 July 2021 Council meeting and not recommended for change.
11. The Selection and Member Services Governor Appointments Panel will only meet on very rare occasions. The Corporate Director of Education and Young People's Services has delegated powers to make Local Authority appointments/nominations to governing bodies in consultation with the Chairman when they meet the County Council's guidelines. On those occasions when the guidelines are not met, the Panel Members' views are sought. The Panel meets on those occasions when there is either no unanimity amongst the Panel Members or if they unanimously disagree with the Corporate Director's recommendations. The Panel also meets if it needs to consider a request for the removal of a Local Authority Governor.
12. The Mental Health Guardianship Sub-Committee is chaired by the Chairman of the Regulation Committee. The rest of its membership is drawn from volunteers from the Adult Social Care Cabinet Committee. It meets once a year to oversee the Guardianship Register. In the event that a decision is needed on the discharge of persons who are subject to guardianship, a Panel of 3 of its Members will meet. Due to the urgent need for a decision, membership of the Panel would be determined by the availability of Members to serve at very short notice.

13. The Scrutiny Committee is responsible for managing the Topic Review programme and sets up Select Committees as required, which are time limited and task specific, carrying out reviews and making recommendations. County Council agreed in July 2023 to ensure full cross-party representation and this remains unchanged. This also applies to any Short Focused Inquiries and will be the default expectation for any ad hoc sub-committees established by the Scrutiny Committee to undertake any of the main committee's functions (e.g. the Scrutiny SEND Sub-Committee).

Membership of Cabinet Committees

14. Cabinet Committees are executive advisory committees and do not form part of the proportional allocation of seats to political groups. The membership, terms of reference and number of Cabinet Committees are determined by the Leader in accordance with section 16.7 (and 6.5 and 6.6) of the Constitution. The Leader has determined that the following arrangements will apply:

Policy and Resources (17): 12 Conservative, 2 Labour, 2 Green & Independent, 1 Liberal Democrat

Adult Social Care (17): 12 Conservative, 2 Labour, 2 Green & Independent, 1 Liberal Democrat

Children's Young People and Education (17 + 5): 12 Conservative, 2 Labour, 2 Green & Independent, 1 Liberal Democrat – plus 3 Diocesan representatives and 2 Parent Governor Representatives as voting co-optees (making total voting Membership 21)

Health Reform and Public Health (17): 12 Conservative, 2 Labour, 2 Green & Independent, 1 Liberal Democrat

Environment & Transport (17): 12 Conservative, 2 Labour, 2 Green & Independent, 1 Liberal Democrat

Growth, Economic Development & Communities (17): 12 Conservative, 2 Labour, 2 Green & Independent, 1 Liberal Democrat

Other Authorities, Joint Committees and Partnership Bodies

15. The proportionality principles in the 1989 Act also apply to the appointments which the Council makes to various other authorities, joint committees and partnership bodies, as listed below:
- (a) Kent and Medway Fire and Rescue Authority (21 KCC Members);
 - (b) Standing Advisory Committee on Religious Education (4 KCC Members);
 - (c) Kent and Essex Inshore Fisheries and Conservation Authority (3 KCC Members);
 - (d) Kent and Medway NHS Joint Overview and Scrutiny Committee (4 KCC Members)

- (e) Pension Board (2 KCC Members who are not Members of the Superannuation Fund Committee)
- (f) Adoption Panels (6 Area Panels with 2 KCC Members serving on each), in respect of which the following provisions apply:
 - (i) *The 1989 Act does not apply but the Council's convention is that the 12 appointments overall should be proportional;*
 - (ii) *Members should have a knowledge or interest in Social Care or adoption issues;*
 - (iii) *To avoid the situation where Members frequently have to withdraw because, for example, they know prospective adopters, Members should not serve on the Panel covering their home area. It is therefore recommended that Members be nominated by the political groups for service on the Adoption Panels generally and the allocation of individual Members to particular Panels be left to the Adoption Panel Manager in discussion with the Members concerned.*

Authority, Joint Committee or Partnership Body	Con	Lab	GI	LD	Tot
Kent and Medway Fire and Rescue Authority	16	2	2	1	21
Kent and Essex Inshore Fisheries and Conservation Authority	3	0	0	0	3
Kent and Medway NHS Joint Overview and Scrutiny Committee	3	0.5	0.5	0	4
Standing Advisory Committee on Religious Education	3	0.5	0.5	0	4
Pension Board	2	0	0	0	2
Adoption Panels	9	1	1	1	12

Note – the proportionality of KCC appointments apply only to the seats allocated to KCC, not the full membership of the relevant authorities or partnership body.

Outside Bodies

16. The Selection and Member Services Committee is charged with making appointments to outside bodies on behalf of the Council. The 1989 Act principles do not apply to these appointments, but it is the Council's convention that the total number of appointments should be shared between the political groups on, so far as possible, a proportional basis. Selection and Member Services will consider the Outside Body appointments following Council's determination of Proportionality.
17. Some appointments to outside bodies fall to be made by the Leader of the Council in connection with a delegation by him of executive functions. The list of those appointments will again be submitted to the Selection and Member Services Committee where changes are required.

Recommendations

The County Council is asked to:

- (b) **DETERMINE** the total number of Committee places; the allocation of those places between the political groups; and the allocation of places on certain bodies;
- (c) **NOTE** that Selection and Member Services will review any required changes to appointments, subject to the County Council's decision at a future meeting; and
- (d) **CONFIRM** the continued delegated authority to the Democratic Services Manager, in consultation with the four Group leaders to adjust the allocation of committee places in order to conform to overall proportionality requirements and manage membership arrangements in line with the details set out in this report.

Joel Cook
Democratic Services Manager
03000 416892