

By: Benjamin Watts, General Counsel  
To: County Council – 23 May 2019  
Subject: Proportionality and appointments to Committees and other bodies  
Classification: Unrestricted

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Summary: Mr Messenger has recently left the Conservative Group and become an Independent Member (not part of the Independent Group). In addition, the Sittingbourne North By-Election was won by Mr James Clinch as an Independent (Swale Independent) at the expense of the Conservative Group. This report considers the minor changes which need to be made to reflect the proportionality on the date of publication.

For Decision

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### **Composition of the County Council**

1. (1) Mr Messenger has recently ceased to be a Member of the Conservative Group and has become an Independent Member (not part of the Independent Group).

(2) The recent Sittingbourne North By-Election was won by Mr James Clinch as an Independent (Swale Independent) at the expense of the Conservative Group. The composition of the County Council is therefore:

| <b>Political Group</b> | <b>Number of seats</b> | <b>Proportion of seats</b> |
|------------------------|------------------------|----------------------------|
| Conservative           | 65                     | 80.24%                     |
| Liberal Democrat       | 7                      | 8.64%                      |
| Labour                 | 5                      | 6.17%                      |
| Independent Group      | 2                      | 2.47%                      |
| Mr Clinch              | 1                      | 1.24%                      |
| Mr Messenger           | 1                      | 1.24%                      |
| <b>Total</b>           | <b>81</b>              | <b>100%</b>                |

### **Committee Appointments**

2. In order to reconstitute the Council's committees in accordance with the committee structure set out in the Constitution, the County Council is invited to agree the revised 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 is allowed to have a majority of seats on each committee;
- (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.

4. The Local Government and Housing Act 1989 only gives an entitlement to political groups to have seats on committees. A 'political group' is defined as two or more Members who inform the Proper Officer that they wish to be regarded as a political group and have a leader. Therefore, Mr Clinch and Mr Messenger have no automatic right to any seats on committees. The Council may decide either to allocate 3 seats on its committees to Mr Clinch and/or Mr Messenger or to leave them vacant. Seats not granted to Independent Members will stand un-allocated as they cannot be allocated to any of the four political groups.

5. In the table set out below, the **current** representation on each Committee is given in bold.

| <b>Committee</b>                            | <b>Con</b> | <b>Lib Dem</b> | <b>Lab</b> | <b>Ind</b> | <b>Mr Clinch</b> | <b>Mr Messenger</b> | <b>Total</b> |
|---|------------|----------------|------------|------------|------------------|---------------------|--------------|
| Scrutiny Committee +5*                      | <b>9</b>   | <b>2</b>       | <b>2</b>   | <b>0</b>   | <b>0</b>         | <b>0</b>            | <b>13</b>    |
| Health Overview and Scrutiny Committee +4\$ | <b>11</b>  | <b>1</b>       | <b>1</b>   | <b>0</b>   | <b>0</b>         | <b>0</b>            | <b>13</b>    |
| Governance and Audit Committee              | <b>8</b>   | <b>1</b>       | <b>1</b>   | <b>1</b>   | <b>0</b>         | <b>0</b>            | <b>11</b>    |
| Electoral & Boundary Review Committee       | <b>7</b>   | <b>1</b>       | <b>1</b>   | <b>0</b>   | <b>0</b>         | <b>0</b>            | <b>9</b>     |
| Personnel Committee                         | <b>8</b>   | <b>1</b>       | <b>1</b>   | <b>0</b>   | <b>0</b>         | <b>0</b>            | <b>10</b>    |
| Planning Applications Committee             | <b>10</b>  | <b>1</b>       | <b>0</b>   | <b>1</b>   | <b>0</b>         | <b>0</b>            | <b>12</b>    |
| Regulation Committee                        | <b>12</b>  | <b>1</b>       | <b>0</b>   | <b>1</b>   | <b>0</b>         | <b>0</b>            | <b>14</b>    |
| Selection and Member                        | <b>6</b>   | <b>1</b>       | <b>1</b>   | <b>0</b>   | <b>0</b>         | <b>0</b>            | <b>8</b>     |

| <b>Committee</b>                          | <b>Con</b> | <b>Lib Dem</b> | <b>Lab</b> | <b>Ind</b> | <b>Mr Clinch</b> | <b>Mr Messenger</b> | <b>Total</b> |
|---|------------|----------------|------------|------------|------------------|---------------------|--------------|
| Services Committee                        |            |                |            |            |                  |                     |              |
| Corporate Parenting Panel +4@             | <b>8</b>   | <b>1</b>       | <b>1</b>   | <b>0</b>   | <b>0</b>         | <b>0</b>            | <b>10</b>    |
| Superannuation Fund Committee +3# (1/1/1) | <b>8</b>   | <b>1</b>       | <b>1</b>   | <b>0</b>   | <b>0</b>         | <b>0</b>            | <b>10</b>    |
| Kent Flood Risk Management Committee      | <b>6</b>   | <b>1</b>       | <b>0</b>   | <b>0</b>   | <b>0</b>         | <b>0</b>            | <b>7</b>     |
| Standards Committee                       | <b>6</b>   | <b>1</b>       | <b>0</b>   | <b>0</b>   | <b>0</b>         | <b>0</b>            | <b>7</b>     |
| <b>TOTAL</b>                              | <b>99</b>  | <b>13</b>      | <b>9</b>   | <b>3</b>   | <b>0</b>         | <b>0</b>            | <b>124</b>   |
| <b>Proportionate Share of Total</b>       | 100        | 11             | 8          | 3          | 1.5              | 1.5                 | 124          |
| <b>Difference to Proportionate share</b>  | -1         | +2.            | +1         | 0          | -1.5             | -1.5                | 0            |

*The rounded-up figures are:*

*Conservative 99.51 (100); LD 10.71 (11); Labour 7.65 (8); Independent 3.06 (3); Mr Messenger and Mr Clinch taken together 3.08 giving a total of 125.1. The additional 0.1% arises because the rounding-up/down process does not work out exactly.*

6 (1) As will be seen, the Conservative Group will now be under-represented by 1 seat (this figure was previously 4). The LD and Labour Groups continue to each be over-represented by 2 and 1 seat(s) respectively. The discrepancy is made up by the 3 seats that are unallocated to Mr Clinch and Mr Messenger. As the decision to grant additional representation to the Labour and Liberal Democrat Groups has been made by the County Council, a new decision will need to be taken as to which Group should give up the places that need to be allocated either as vacancies or to Mr Clinch and Mr Messenger.

(2) The County Council has on previous occasions given delegated powers to the General Counsel to make the necessary adjustments following discussions between the political groups. It is recommended that this course of action is followed unless agreement can be reached at this meeting of the County Council.

(3) The size and political composition of Sub-Committees is unaffected. The table below sets out the agreed allocation of seats when proportionality is strictly applied.

| <b>Sub-Committees</b>  | <b>Con</b> | <b>Lib Dem</b> | <b>Lab</b> | <b>Ind</b> | <b>Total</b> |
|--|------------|----------------|------------|------------|--------------|
| Regulation Committee Member Panels (enforcement, public rights of way, marriage premises, village/town greens) | 4          | 1              | 0          | 0          | 5            |
| Regulation Committee Transport Appeal Panels (school-related appeals - mainly transport)                       | 4          | 1              | 0          | 0          | 5            |
| Personnel Committee Member Panel   | 4          | 1              | 1          | 0          | 6            |
| Scrutiny Committee Select Committees   | 7          | 1              | 1          | 0          | 9            |

(4) The County Council has agreed that Labour Group and Independent Group Members can sit on a Regulation Committee Member Panel if any of the groups is willing to give up one of its places. giving greater flexibility in terms of finding Members to serve on these Panels. This is an informal arrangement and only applies if one of the Groups cannot fill a seat on the panel (which are often arranged at short notice).

(5) Regulation Committee Transport Appeal Panels meet with such frequency that it has been the agreed practice throughout the previous Council that Panel membership is determined by the availability of individual Members from all political groups subject only to the need for the Conservative 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.

(6) The Personnel Committee Member Panel has traditionally consisted of Members from each of the political groups. The proportionality rules have been varied for these Panels so that the Conservative Group has 4 seats, the Liberal Democrat Group 1 seat and the Labour Group 1 seat. An Independent Group representative is also able to participate in a non-voting capacity.

(7) 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.

(8) The Scrutiny Committee also sets up Select Committees which are time-limited and task specific, carrying out reviews and making recommendations.

## Membership of Cabinet Committees

7. (1) As membership, terms of reference and number of Cabinet Committees is determined by the Leader, there will be no change to the current arrangements.

## Other Authorities, Joint Committees and Partnership Bodies

8. (1) 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 set out in the table below. These figures are unaffected by the changed overall proportionality.

| Authority, Joint Committee or Partnership Body              | Con | Lib Dem | Lab | Ind | Tot |
|---|-----|---------|-----|-----|-----|
| Kent and Medway Fire and Rescue Authority                   | 17  | 2       | 1   | 1   | 21  |
| Kent and Essex Inshore Fisheries and Conservation Authority | 3   | 0       | 0   | 0   | 3   |
| Kent and Medway NHS Joint Overview and Scrutiny Committee   | 7   | 1       | 0   | 0   | 8   |
| Standing Advisory Committee on Religious Education          | 3   | 1       | 0   | 0   | 4   |
| Pension Board   | 2   | 0       | 0   | 0   | 2   |

## Recommendations

9. The County Council is asked to:

(a) decide whether to allocate 3 committee places to Mr Clinch and Mr Messenger or whether these places are to become un-allocated; and

(b) give delegated powers to the General Counsel to make the necessary adjustments following discussions between the political groups.

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