



Open Report on behalf of Andrew Crookham, Executive Director - Resources

Report to:	County Council
Date:	9 December 2022
Subject:	Political Proportionality and Allocation of Seats to Committees and Sub-Committees

Summary:

Changes have been considered and recommended by the Pensions Committee to their composition and Terms of Reference for approval by Council.

Further, following the recent By-Election the Council may (if a change to political groups is made) be required to review the political proportionality affecting the allocation of seats on Committees and Sub-Committees.

This report invites the Council to consider changes to the Pensions Committee, to note the impact on the allocation of seats in accordance with the political balance rules of the changes to the Pensions Committee and the potential outcomes of the By-Election and accordingly, approve the necessary amendments to the allocations of seats on Committees, Sub-Committees, Panels, Boards and Working Groups.

Recommendation(s):

That the Council approves:-

- 1 the changes to the composition and terms of reference of the Pensions Committee set out in Appendix B;
- 2 that the Constitution be amended to substitute the wording in respect of the Pensions Committee set out in Appendix B for the wording relating to that Committee currently contained in Article 7.2 of the Constitution;
- 3 that accordingly the Pensions Committee be increased from 11 seats to 12 seats, by the addition of one co-opted member and retaining the allocation of these seats to elected members to 8; and
- 4 that the County Council approves the allocation of Committee seats (as detailed in Appendix C or D as the case may be) in accordance with the political balance rules.

1. Background

Pensions Committee

- 1.1 The Pensions Committee, at its meeting on 13 October 2022, considered a report proposing a change to the structure of the Pensions Committee to meet the upcoming requirements of the Scheme Advisory Board Good Governance Review. The changes to the structure involve the addition of a representative from the academy sector to join the Committee, increasing the overall size from eleven to twelve. The accompanying report presented to Pensions Committee is attached as **Appendix A**.
- 1.2 Council is requested to consider the proposal to add a further co-optee to the Pensions Committee.
- 1.3 In addition, the Committee considered its own terms of reference and have suggested changes for Council approval to the wording contained therein in order to better reflect the role of the Committee. The amended terms of reference are attached for Members' consideration at **Appendix B**. The original Terms of Reference are shown attached to the Report at Appendix A
- 1.4 Council is requested to approve the suggested amendments for incorporation into the Council's Constitution.

Proportionality

- 1.5 The County Council last agreed the overall proportionality figures and Appointments to Committees at its Annual Meeting in May 2022 for the ensuing municipal year.
- 1.6 The authority sadly lost Cllr Mrs Angela Newton MBE earlier this year, triggering a By-Election for the Spalding West Division. This will take place on Thursday 8th December 2022, the results of which will be announced at this meeting of Council.
- 1.7 The By-Election is being contested between candidates who describe themselves on the ballot paper as a Conservative and a South Holland Independent. If, immediately following the election the successful candidate notifies the proper officer of their wish to join the corresponding group on the Council, then the Council will be under a duty to review the allocation of seats on the Committees of the Council as soon as practicable after notification is received.
- 1.8 The first practicable opportunity to review allocation will be at the meeting on 9 December and it is deemed too significant a delay to wait to report this to the forthcoming meeting of Council on 17 February 2023.
- 1.9 By virtue of the Local Government and Housing Act 1989 and the Local Government (Committee and Political Groups) Regulations 1990 (as amended) this report brings forward a review of the allocation of places to political groups on Committees and Sub-Committees of the Council. In order to achieve political

proportionality as far as is reasonably practicable the 1989 Act requires the Council to apply certain principles as follows:

- not all the seats on the Committee are allocated to the same group;
- the majority of seats on the Committee are allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;
- the number of seats allocated to a political group on the Committees of the Council bears the same proportion to all the seats on such Committees as the membership of that group bears to the membership of the Council as a whole; and
- the number of seats allocated to a political group on an individual Committee bears the same proportion to the number of all the seats on that Committee as the membership of that group bears to the membership of the Council as a whole.

The membership of each group must be compared to the membership of the Council to establish the correct proportion to be used in the allocation of seats. Under Schedule 1 of the 1989 Act "membership" means the number of persons who are Members for the time being of the Authority. The number of Members at the time of this decision is 70.

1.10 Under Regulation 16 of the 1990 Regulations, where some of the Members of the relevant authority are members of one or more political groups and the others are not, the Council's obligations are as follows:

- i) to determine the proportion of the total membership of the Council who are members of one or more political groups and ensure that the same proportion of the total number of seats to be filled is allocated to each of the political groups in the proportion that the number of members of that group bears to the membership of the authority; and
- ii) to ensure that Non-Aligned Members are allocated any seats which do not fall to be earmarked for a political group under the above requirement.

A political group must have at least two members – i.e. there cannot be a group of one.

1.11 There are 130 Committee seats, and 14 seats on Sub-Committees that fall to be filled by the Council.

1.12 **Appendix C** sets out how the allocation of seats best meets the requirements of Section 15 of the 1989 Act and the requirements of the 1990 Regulations as far as is reasonably practicable in the event that the successful candidate in the by-elections serves notice on the proper officer prior to the Council meeting that they wish to join the Conservative group. This alternative would see a change to the existing allocation consisting of:

- one seat on the Audit Committee transferring from the South Holland Independent Group to the Conservative Group; and
- one seat on the Pensions Committee transferring from the South Holland Independent Group to the Conservative Group.

This would be the only change effected by the reallocation, other political group allocations, and the allocation of seats to unaligned Members remain unchanged.

- 1.13 **Appendix D** sets out how the allocation of seats best meets the requirements of Section 15 of the 1989 Act and the requirements of the 1990 Regulations as far as is reasonably practicable in the event that the successful candidate in the by-elections serves notice on the proper officer prior to the Council meeting that they wish to join the South Holland Independents group. This alternative would see no change to the existing allocation as it represents a return to the position before the seat became vacant.

2. Legal Issues:

Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision-making process.

There are no any equalities impacts arising out of considering and approving the allocation of seats on Committees and Sub-Committees to political groups on the Council.

Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS) in coming to a decision.

There are no implications for the JSNA or JHWS in relation to the allocation of seats on Committees and Sub-Committees to political groups on the Council.

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

There are no implications in relation to Crime and Disorder arising from the allocation of seats on committees and sub-committees to political groups on the Council.

3. Conclusion

It is a matter for the Council to agree the size and terms of reference for its Committees and allocate seats on Committees and Sub-Committees to the political groups on the Council, which it must do in accordance with the law relating to proportionality.

4. Legal Comments:

Council is required to allocate seats on the Committees of the Council to political groups in accordance with the law relating to proportionality as set out in the report. The Council is required by the provisions within its constitution to establish committees, and to approve changes to Committee Terms of Reference. The decision is within the remit of the Council.

5. Resource Comments:

There are no material financial implications from acceptance of the recommendations in this report.

6. Consultation

a) Has Local Member Been Consulted?

No

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

N/A

d) Risks and Impact Analysis

N/A

7. Appendices

These are listed below and attached at the back of the report	
Appendix A	Report to Pensions Committee 13 October 2022
Appendix B	Amendments to the Terms of Reference for Pensions Committee
Appendix C	Amended Political Proportionality 2022/23 (Conservative)
Appendix D	Amended Political Proportionality 2022/23 (South Holland Independents)

8. Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

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