

**Discussion Paper - Exemptions to Political Proportionality Rules: Urgency and Employment Committees**

<b>Final Decision-Maker</b>	Democracy Committee
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<b>Classification</b>	Public
<b>Wards affected</b>	All

**Executive Summary**

This report outlines the effects on the allocation of seats if the exemptions to political proportionality rules were removed from the Constitution for the Employment and Urgency Committees. The report is not asking for a decision but is provided for information so this issue can be considered as part of the review of the Committee structure that the Democracy Committee is currently carrying out.

**This report makes the following recommendations to this Committee:**

That the report is noted and the views of the Committee are taken into account as part of the review.

**Timetable**

<b>Meeting</b>	<b>Date</b>
Democracy Committee	14 November 2018

# Discussion Paper - Exemptions to Political Proportionality Rules: Urgency and Employment Committees

## 1. INTRODUCTION AND BACKGROUND

- 1.1 The Local Government and Housing Act 1989 ("the 1989 Act") applies rules of political proportionality to the allocation of seats on Committees. The rules require that in an authority with more than one party, the political balance on individual Committees and across all Committees as a whole reflects the political balance of the Council. The rules allow for a departure from the political balance rule, provided no member votes against the proposed allocations.
- 1.2 Maidstone Borough Council's Constitution prescribes that two Committees of the Council should be treated as outside of the political proportionality rules – Employment Committee and Urgency Committee (in accordance with the power under section 17(1) of the 1989 Act).
- 1.3 Urgency Committee consists of the group leaders of the five largest groups. Employment Committee consists of the group leaders of the five largest groups, plus seven other members. The terms of reference for each of these Committees are attached as Appendix A to this report.
- 1.4 As it stands, each Political Group on the Council is entitled to two seats on Committees per member. For smaller Political Groups, the provision that their Group Leader must sit on Urgency and Employment Committees uses up two seats of their allocation on these Committees. This means that these parties have less unallocated seats that can be negotiated with other parties for representation on other, more influential, Committees on the Council.
- 1.5 If Employment and Urgency Committees were politically proportionate, the smaller Political Groups would have more opportunities to negotiate seats on all Committees and therefore more influence. For example, Independent Maidstone currently have an allocation of four seats, two of which must be taken by their Group Leader on Urgency and Employment Committees and two of which must be allocated to other Committees. The effect of removing the requirements for Group Leaders to be represented on Urgency and Employment Committees would give this group four seats to negotiate with in total instead of just the remaining two unallocated seats.
- 1.6 The Urgency Committee comprises the Group Leaders of the five largest parties. Its purpose is to take urgent decisions in between scheduled meetings of Policy and Resources Committee. However there is no Constitutional requirement for Policy and Resources Committee to also have the Group Leaders of the five largest Political Groups on the Council represented on this Committee. Therefore there is a possibility that, depending on election results and negotiations following elections, a Political Group could be represented on the Urgency Committee but not on Policy

and Resources Committee.

- 1.7 As membership of the Urgency Committee must include the leaders of the five largest Political Groups, the constitution does not give guidance on what to do if there are more or less than five Political Groups represented on the Council.
- 1.8 There is also no guidance on the possibility of one Group gaining overall control. The Council could be in a situation where one Party had a majority on every Council Committee other than Urgency Committee. The Council could then be in a situation where the wishes of the majority Party on a matter of urgent business are overruled by the Group Leaders of the minority parties.
- 1.9 To illustrate the effect of making Employment and Urgency Committees politically proportionate, Appendices B and C are attached. Appendix B shows the current, unadjusted, allocation before negotiations including the requirements for Group Leaders to be represented on Urgency and Employment Committees. Appendix C shows an unadjusted allocation with Urgency and Employment Committees allocated on a politically proportionate basis.
- 1.10 Appendix C shows that, compared to Appendix B, Independent Maidstone have two additional seats, and the Labour Group have one additional seat, to negotiate with. This is due to their Group Leaders not being required to be represented on Employment and Urgency Committees. The political composition of Employment Committee would be the same as Licensing Committee (5 Conservative, 5 Liberal Democrat, 1 Labour and 1 Independent) and the Urgency Committee would be the same as Cobtree Manor Estate Charity Committee and Queens Own Royal West Kent Regiment Museum Trust Committees (2 Conservative, 2 Liberal Democrat and 1 Independent).
- 1.11 It is important to note that Appendix B shows the allocation **pre-negotiation**, and in effect shows where adjustments to the allocation are required to ensure that every Committee is fully constituted with the correct number of members, every Committee reflects the balance of the Council overall as much as reasonably practicable and that every Group has the total number of seats required for its overall entitlement.
- 1.11 Whilst the exception arrangements to the political balance requirements that applies to the Urgency and Employment Committees have been adopted by full Council and reflected in the Constitution, these arrangements will cease to have effect, if following a review, a member votes against the arrangements – section 17(1) (b) of the 1989 Act. The implications outlined in this report, in particular under paragraphs 1.5 and 1.6 should be noted.
- 1.12 The Council has a duty to allocate the seats to achieve proportionality, so far as reasonably practicable, taking into account the principles outlined under section 15(5) of the 1989 Act:

- (a) That not all the seats on the body are allocated to the same political group;
- (b) That the majority of the seats on the committee is allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;
- (c) That political balance on individual Committees and across all Committees as a whole reflects the political balance of the Council.

1.12 Following allocation of seats to the various political groups, the Council is required to make the appointments to the Committees and give effect to the wishes of the various political groups – section 16(1) of the 1989 Act. This enables negotiations between the various political groups to take place as described in paragraph 1.5 of this report.

## **2. AVAILABLE OPTIONS**

2.1 The Democracy Committee will need to consider the following options in its review of the Committee Structure, even though no decision is required to be taken now.

2.2 Retention of the current rules, as outlined in the Constitution. If this option is considered then some further amendments to the guidance in the Constitution is required to correct anomalies outlined in this report – namely ensuring that Group Leaders are also represented on Policy and Resources Committee, and an additional rule stating that if one party has overall control on the Council then Urgency Committee must be politically balanced.

2.3 Removal of the rules stating that Group Leaders must be represented on Urgency and Employment Committees. This would ensure that all Committees on the Council are politically balanced, but would mean that negotiations following reviews of seats could be more protracted with more seats to negotiate for the smaller Political Groups.

2.4 As the quorum for Policy and Resources Committee is four members (out of a membership of 15), and the quorum of Urgency Committee is three members (out of a membership of 5), it is likely that if urgent decisions are needed it should be just as possible to hold a quorate urgent meeting of Policy and Resources Committee as holding a quorate meeting of Urgency Committee to consider urgent business. Therefore a further option would be to decommission Urgency Committee, regardless of whether Employment Committee is politically balanced or not.

2.5 The impact of options outlined in paragraphs 2.2, 2.3 and 2.4 is outlined in the table on the following page.

Option	Impacts
<p>Retention of current proportionality rules in relation to Urgency and Employment Committees and addition of procedure rules ensuring the five largest parties are represented on P&amp;R Committee and that if one party gains overall control that they will also have overall control of the Urgency &amp; Employment Committees</p>	<ul style="list-style-type: none"> <li>• Smaller groups have less 'unallocated' seats that they can negotiate with for seats on Committees</li> <li>• Seats taken up automatically for smaller groups would be on the Urgency Committee (which meets infrequently), Employment Committee (which is not a Service Committee) and Policy and Resources Committee.</li> <li>• The effect of the above would make negotiations simpler following elections or other seat reviews.</li> <li>• The additional rules ensure that if a party is to gain overall control they will have overall control of all Committees with no anomalies, and that Parties are represented on both Urgency and Policy and Resources Committees</li> </ul>
<p>Ensure all Committees are politically balanced by removing the provision for Group Leaders to be represented on Urgency and Employment Committees</p>	<ul style="list-style-type: none"> <li>• Smaller Groups would have more seats to negotiate with. In a situation of no overall control, this would mean they would have a greater opportunity to sit on influential, policy making Committees.</li> <li>• With more seats not automatically allocated negotiations following elections or reviews of seats could be more complicated and take longer.</li> <li>• This option would remove the 'one member veto' situation that is currently in place, due to provisions in the Local Government and Housing Act 1989</li> </ul>
<p>Abolition of Urgency Committee, alongside either of the provisions above</p>	<ul style="list-style-type: none"> <li>• For the reasons outlined in the report, it could be argued that Urgency Committee is not necessary anyway due to the quorum rules and the duplication in membership across P&amp;R and Urgency Committee.</li> <li>• Removing this Committee would mean that when calculating seat allocations for groups, each member would be entitled to 1.93 seats on Committees rather than 2.02. This would apply whether Employment Committee remained politically balanced or not.</li> </ul>

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### **3. REPORT APPENDICES**

The following documents are to be published with this report and form part of the report:

- Appendix A: Terms of Reference for Urgency and Employment Committees
- Appendix B: Current, unadjusted allocation including Group Leaders on Urgency and Employment Committees
- Appendix C: Unadjusted Allocation with Proportionality Rules Applied for all Committees including the Employment and Urgency Committee.

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### **4. BACKGROUND PAPERS**

None