



# **THE NEWCASTLE CHARTER**

## **Part 7A – Guidance on Political Balance Requirements**

## **Notes:-**

**This section contains guidance and is not a formal part of the Council's Constitution**

## **Statutory Sources**

Local Government and Housing Act 1989, ss. 15 to 17 and sch. 1

Local Government Act 2000, s 9FA(6)

Local Government (Committees and Political Groups) Regulations 1990 [SI 1990 No 1553]

Local Government (Committees and Political Groups) (Amendment) Regulations 1991 [SI 1991 No 1398]

The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 [SI 2012 No 1019]

# Guidance on Political Balance Requirements

## What is meant by “Political Balance”?

1. Prior to the Local Government and Housing Act 1989 local authorities were free to appoint one-party committees and sub-committees. The 1989 Act introduced a requirement that certain appointments should be proportionate to the political composition of the Council.

## The Requirements

2. The detailed requirements are set out in legislation and regulations. In complex cases, it will always be necessary to refer to them. This guidance can only set out a broad outline of how the requirements operate.
3. The statutory provisions contain detailed rules as to how to identify whether councillors are members of political groups and how the wishes of the political groups are to be identified.
4. This note assumes that all councillors are members of a political group. Reference should be made to the statutory provisions should the situation change.

## Decision-Making

5. Where political balance requirements apply, Council or the Committee making the appointment must comply with the wishes of the political group.
6. Notwithstanding the lack of discretion, the proper appointing body must still pass a formal resolution – e.g. Council in the case of Committees and Council or Committees in the case of Sub-Committees.
7. Where a political group fails to express their wishes within the prescribed time, Council or the Committee may decide whom to appoint.

## Resolution to Vary Requirements

8. Where political balance requirements apply, the body making the appointment (whether Council or a Committee) may vary the requirements by resolution provided that no member of the Council or the Committee votes against the resolution.
9. Notice of the proposal to pass such a resolution must be given to every member of the Council or the Committee in the same way as Council is summonsed.

## When does the Requirement Apply?

10. The requirement applies to appointments to bodies listed in schedule 1 to the 1989 Act. This includes –
  - 10.1. ordinary committees and sub-committees

- 10.2. advisory committees and sub-committees
- 10.3. joint authorities \*
- 10.4. local fisheries committees \*
- 10.5. superannuation committees \*
- 10.6. certain joint committees (see below) \*.

Note – For political balance to apply, there must be at least three seats to be filled on the bodies indicated by an asterisk (\*).

- 11. Specific legislation may also apply the requirement to other bodies. This includes –
  - 11.1 Scrutiny committees – s.9FA(6) of the 2000 Act.

## **When does the requirement not apply?**

- 12. It does not apply to bodies not listed in legislation and where legislation specifically states that the requirement does not apply. This includes –
  - 12.1. Cabinet – s. 9GC of the 2000 Act
  - 12.2. Ward Committees – reg. 16A of SI 1990 No 1553.

Note – Ward Committees have responsibilities only for an area of the City.

All the voting members who are councillors must represent wards wholly or partly within the area of the Ward Committee.

- 12.3. The Licensing Committee and Licensing Sub-Committees appointed under the Licensing Act 2003 – these are not ordinary or advisory committees or sub-committees and the 2003 Act does not extend political balance requirement to them.

These are quasi-judicial in nature.

Political balance does apply to the former Licensing Committee (now called “Regulatory and Appeals Committee”).

- 12.4. In the case of those bodies marked with an asterisk (\*) in section 10, political balance requirements only apply if there are at least three seats to fill by the Council or a Committee.

## **Joint Committees**

- 13. Prior to the 2000 Act, joint committees were subject to political balance requirements.
- 14. Following the 2000 Act, there are complex regulations that must be followed [SI 2012 No 1019]. Broadly it depends on whether the joint committee is exercising executive functions, non-executive functions or both functions, whether

the appointment is made by Council or Cabinet, and whether Cabinet or non-Executive members may be appointed.

15. Article 12 and Part 3.12 of the Constitution deals with the appointment to specific joint committees and identifies whether political balance applies to such appointments.

## Time of Review

16. The statutory provisions contain detailed provisions as to when the Council or Committee must review the allocation of seats. Broadly this is at the Annual Meeting, after elections, where new political groups are constituted or where members change groups.

## How to Calculate Political Balance and Allocate Seats

17. The Council or the Committee must give effect to principles set out in the statutory provisions. The principles are –

- 17.1 All the seats must not be allocated to the same political group.
- 17.2 The majority of the seats must be allocated to the political group (if any) that holds the majority of seats on the Council.
- 17.3 Subject to 17.1 and 17.2, in the case of ordinary committees, the number of seats on the ordinary committees which are allocated to each political group must bear the same proportion to the total of all the seats on the ordinary committees as is borne by the number of members of that group to the membership of the Council.

Note – “Ordinary Committees” of this Council are Constitutional Committee, Planning Committee, Regulatory and Appeals Committee and Standards Committee.

Scrutiny committees are not “ordinary committees”.

This means that you add up the total number of seats on all the ordinary committees (say 40). If a group represents a quarter of the membership of the Council, it is entitled to a quarter of the total number of seats on all ordinary committees (i.e. 10).

This means that on some ordinary committees a group may have more members than the application of the next principle would justify. It provides an allowance for the fact that calculating the proportion will not usually lead to whole numbers.

The Council is responsible for deciding on which ordinary committee the balancing seats should be.

- 17.4 Subject to 17.1, 17.2 and 17.3, the number of seats on any body which are allocated to each political group must bear the same proportion to the number of all the seats on that body as is borne by the number of members of that group to the membership of the Council.

Note - Broadly this means that if a group represents a third of the membership of the Council, it is entitled to a third of the seats on the body.

18. The duty on the Council is to give effect to these principles **so far as reasonably practicable**. This recognises that there cannot be an exact application of the rules.
19. The attached table shows how the proportion is calculated based on the current composition of the Council.

Co-optees are ignored in calculating political balance except for any co-opted member with voting rights appointed to a committee with education functions under section 13(5) Local Government and Housing Act 1989 - see section 15 of that Act. The position may change if the Council decides to make a scheme (under paragraph 12 Schedule 1 of the Local Government and Act 2000) giving voting rights to other co-optees on scrutiny committees.

**Political Balance post election 8 May 2015**

	<b>No. Members</b>	<b>%</b>
Labour	53	67.94872
Liberal Democrat	22	28.20513
Independent	1	1.282051
Independent	1	1.282051
Independent	1	1.282051
<b>Total Councillors</b>	<b>78</b>	<b>100</b>

<b>Committee Size</b>	<b>Labour</b>		<b>Liberal Democrat</b>		<b>Other</b>		<b>total</b>	<b>total rounded</b>
	<b>exact</b>	<b>rounded</b>	<b>exact</b>	<b>rounded</b>	<b>exact</b>	<b>rounded</b>		
3	2.038462	2	0.846154	1	0	0	2.961538	3
4	2.717949	3	1.128205	1	0	0	3.948718	4
5	3.397436	3	1.410256	2	0	0	4.935897	5
6	4.076923	4	1.692308	2	0	0	5.923077	6
7	4.75641	5	1.974359	2	0	0	6.910256	7
8	5.435897	6	2.25641	2	0	0	7.897436	8
9	6.115385	6	2.538462	3	0	0	8.884615	9
10	6.794872	7	2.820513	3	0	0	9.871795	10
11	7.474359	8	3.102564	3	0	0	10.85897	11
12	8.153846	8	3.384615	4	0	0	11.84615	12
13	8.833333	9	3.666667	4	0	0	12.83333	13
14	9.512821	10	3.948718	4	0	0	13.82051	14

**Note**

There are currently no committees with more than 14 members