

Ribble Valley Borough Council

SUMMARY OF THE LEGAL PROVISIONS RELATING TO POLITICAL BALANCE ON COMMITTEES ETC.

- 1 Sections 15-17 of the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990 contain detailed provisions designed to secure a political balance on the committees and sub-committees of local authorities. The provisions reflect recommendations made by the Widdicombe Committee of Inquiry into the Conduct of Local Authority Business.
- 2 Section 15 of the Act requires the Council to review at certain times (one of which is the Annual Meeting) the representation of different political groups on the bodies listed in Schedule 1 to the Act (so far as Ribble Valley is concerned the only relevant bodies are committees of the Council). The Council must then determine the allocation of seats between the different political groups and, in doing so, must apply the principles set out in paragraph 3 below.

The Council must then make appointments so as to give effect to the wishes of the political groups as to who is to be appointed.
- 3 The principles to be applied in the allocation of seats are as follows:-
 - (a) Not all the seats on the body concerned are to be allocated to the same political group.
 - (b) A group must have a majority of the seats on the body if it has a majority of the authority's membership.
 - (c) Subject to (a) and (b) above, the number of seats on the ordinary committees of an authority allocated to each political group out of the total number of committee seats is to be in proportion to the group's membership of the authority as a whole.
 - (d) Subject to (a), (b) and (c) above, the number of seats on each body allocated to each political group should be in proportion to the group's membership of the authority as a whole.
- 4 Section 16 of the Act provides that the requirement to give effect to group wishes as to the allocation to seats applies to vacancies which occur. The section also provides that authorities are to follow a group's wishes in determining whether and when to terminate appointments to seats allocated to the group. Finally, the section protects from legal challenge the decisions of a committee on the basis of alleged failure to comply with the allocation rules.
- 5 Section 17 together with the 1990 regulations allows an authority to apply different principles for the allocation of seats than those laid down in the Act but only if no member of the authority votes against the revised arrangements. The regulations require three days written notice to all members of any proposal for departure from the statutory principles.
- 6 The regulations define what is a political group, who are to be treated as members of a particular group and how the wishes of the group are to be expressed. A political group is not the same thing as a political party.

The regulations provide that a political group is constituted by two or more members signing and delivering, to the proper officer, a request in writing to be treated as a political group. The request has to state the name of the group and name one member as its leader. It may also name a member as authorised to act in the place of the leader when he/she is unable to act ("the deputy leader"). Any Council member who did not sign the original request in respect of a group may become a member of it by delivering to the proper officer a request signed by him/her and carrying the written consent of the leader or deputy leader of the group.

- 7 No member of the Council can be a member of more than one political group at the same time and a member ceases to be a member of a political group when he/she ceases to be a member of the Council, notifies the proper officer in writing that he/she is no longer a member of the group or gives the proper officer a further request asking to be treated as a member of another group.
- 8 The wishes of a political group are to be taken as the view expressed orally or in writing by the leader or the deputy leader of the group or the view expressed in writing signed by more than half of the members of the group. If there is any conflict between a view expressed by the leader or deputy leader, and a view expressed in writing by a majority of the members of the group the latter is to prevail.
- 9 The general principles require that the members of political groups be given a seat allocation which reflects the proportion of their membership of the Council. The Act does not say so, but this means in practice that independent or non-group members will similarly have to be given a seat allocation which reflects their proportion of the total membership. That does not, however, mean that each single member has to have his/her personal proportion of the total seats or that there is anyone whose wishes the Council will be required to follow in making the seat allocation, unless of course the non-group members decide to form themselves into a group for this purpose. The regulations nevertheless provide that in making appointments to seats which are not allocated to any political group the Council must only appoint from among those members who belong to no political group.
- 10 A High Court decision (R [East Riding of Yorkshire Council] v Joint Committee for the purpose of making appointments to the Humberside Police Authority 2001) (ACD44) has confirmed that the purpose of the Act is to regulate the political balance of the political groups and does not require independent members to be proportionally represented. This means that in carrying out the mathematical calculation, seats are allocated to the political groups according to their representation on the Council. Whatever seats are left over are then allocated between the independent members on the Council.
- 11 Guidance from the Department of the Environment suggests the following sequence for implementing the rules as to seat allocation:
- (a) determine the number of seats with votes on each ordinary committee and calculate the total;
 - (b) calculate the proportion that each political group forms of the total membership of the authority;
 - (c) apply those proportions to the total number of ordinary committee seats to give the aggregate entitlement of each group. Because the requirements are "so far as reasonably practicable", the Department of the Environment suggests that fractional entitlements of less than a half are rounded down and entitlements of a half or more are rounded up. If this results in a greater aggregate than the number of seats available, the fractional requirements closest to a half should be rounded in the other direction until entitlements balance the available seats;
 - (d) apply the proportions to the number of members on each ordinary committee to give a provisional entitlement to seats on that committee;
 - (e) where the provisional entitlement gives only one group seats on the committee, adjust the entitlement so that the next largest group has a seat;
 - (f) where one group has a majority of the membership of the Council but does not have a majority on any committee as a result of the provisional entitlement, increase its share on that committee so that it does have a majority;
 - (g) adjust the seats on each committee so that the total allocated to each group is as near as possible to their aggregate entitlement while preserving the results reached at steps (d) and (e).

- 12 The regulations lay down machinery covering detailed arrangements to ensure that seats are allocated in the accordance with the wishes of political groups. When a seat has been allocated to a political group by the Council or a Committee, the proper officer is to give notice of the allocation to the leader of the group and must also notify the group leader when a seat allocated to this group becomes vacant. Groups then have three weeks to express their wishes as to the persons to be appointed, failing which the Council or the Committee may proceed to appoint such persons as they think fit. August, or any additional holiday period appointed by the Council, is not to count for this purpose. Any decision of a political group to terminate an appointment is to be communicated by notice in writing to the proper officer and the person currently holding the seat.