

Committee:	Full Council			
Date of Meeting:	03 September 2026			
Subject:	Proportionality and the allocation of seats on Committees			
Report Author:	Director of Governance and Monitoring Officer			
Contact Officer:	Mark Turner			
Implications:	Legal	☒	Community Safety	☐
	Equalities	☐	Environment	☐
	Financial	☐	Consultations	☐
	Staffing	☐	Other	☐
Wards Affected:	All			

Purpose

- The purpose of this report is to respond to a question raised at the Full Council meeting held on 12th August 2026 regarding the allocation of seats on Committees in accordance with the provisions of the Local Government and Housing Act 1989 (“the 1989 Act”) and the Local Government (Committees and Political Groups) Regulations 1990 (“the Regulations”) relating to proportionality and political balance.

Recommendations

- Full Council is recommended to:**
 - note the report as a written response by the Leader of the Council to Councillor Shaw; and**
 - resolve to continue with the current method of calculating the allocation of seats on committees subject to the requirements of section 15 of the 1989 Act.**

Background

- At the meeting of Council held on 12th August 2026, Councillor Shaw asked the Leader of the Council, Councillor Saleem, why non-aligned independent Members (“NAIMs”) (that is, those Members of the Council who are not members of a political group) were excluded from the calculation for the allocation of seats on those committees of the Council where political balance has not been disapplied.
- The Leader of the Council undertook to provide a written response to the question, and this report is that written response.
- The committees of the Council that are relevant to this report are Administration and Regulation Committee, Audit and Governance Committee, Constitution Committee, Development Management Committee and the Petitions and Representations Board. Two other bodies, the Investigation and Disciplinary Committee and Disciplinary Appeals Committee are required by law to be politically balanced and are included in the allocation of seats, but they will only ever meet in the event of a substantiated

complaint against the Chief Executive, Monitoring Officer or Section 151 Officer, For the sake of clarity and simplicity, these two bodies have been excluded from the calculations used in this report. The composition of the Council shown in the Tables and Appendix A is that on 12th August 2026. It is acknowledged that there have been changes subsequently; whilst these affect the numbers, they do not affect the principles considered in this report, and to include the effect of those changes would possibly be confusing.

6. This report will set out the legislative background and the principles of proportionality and will explain why the calculations are made in the way they are. It will acknowledge that there is no single method used by local authorities for the calculation and will identify options for Full Council to consider should it wish to change the method used by Luton Council.

Report

The Legislative Background

7. The rules governing political balance are set out in sections 15 to 17 of the 1989 Act. The Regulations provide greater detail on the constitution, membership and rights of political groups.
8. For the purposes of the 1989 Act and the Regulations, a political group must consist of two or more members. The members of a political group can be drawn from differing political parties or none. Individual Members, whether independent or members of a political party who are unaffiliated to a political group, cannot be a political group. They are referred to in this report as non-aligned independent Members (“NAIMs”).
9. Section 15 of the 1989 imposes a duty on the Council to allocate seats to **political groups**. This means that the Council must, at its Annual Council meeting and at any other time when there is a change in the composition of the Council affecting any political group represented on the Council, review and allocate seats on committees based on the relative strength of political groups. It must do in accordance with the principles set out at paragraph 16 below, to ensure that the allocation reflects the composition of the Council overall, with the majority group getting most seats on each committee and minority groups getting a fair share.
10. Case law¹ established that reference in the Police Act 1996 and by extension in all legislation relating to political balance to political parties or groups was taken, both by the strict construction of the meaning of the statute and the intention of Parliament in making it, to refer to formally constituted political groups. Consequently, authorities do not have a legal duty under Section 15 of the 1989 Act to factor NAIMs into calculations for proportional representation on committees.
11. Section 16 of the 1989 Act imposes a duty on the Council to give effect to allocations, that is formally to appoint members to the relevant committees in accordance with the wishes of the political group to which the allocation has been made.

¹ R (East Riding of Yorkshire Council) v Joint Committee for the purpose of making appointments to the Humberside Policy Authority, 2001

12. Section 17 of the 1989 Act provides for the Council to disapply the requirements of Sections 15 and 16 of the 1989 Act, provided that no Member of the Council votes against such a proposal. Members will be aware that at the annual meeting, the Council is asked to approve such a proposal and that there are a range of committees, such as Overview and Scrutiny bodies and Standards Committee, where the strict, mathematical requirements of proportionality do not apply. Such a “different provision” (as section 17 refers to it) allows Councils to include NAIMs in the allocation of seats that would otherwise be allocated to groups.
13. Regulation 16 (2) modifies Section 15 (3) of the 1989 Act to provide for the inclusion of NAIMs to be included in the calculation for the allocation of seats. However, any such allocation remains notional, and the seats will be allocated to political groups notwithstanding unless Regulation 16 (3) comes into effect.
14. Regulation 16 (3) reads as follows: “Where appointments to be made on a body to which section 15 applies *otherwise than in accordance with a determination under that section*, it shall be the duty of the authority... to exercise their power to make appointments as to secure that the persons appointed to those seats are not members of any political group.” (*emphasis added*)
15. The phrase “otherwise than in accordance with a determination under that section” means that the Council must unanimously have resolved to make a different provision under section 17 of the 1989 Act. Luton Council has not hitherto made any such resolution as political groups have wished to take up their full entitlement to seats on committees. Accordingly, the practice of not including NAIMs in the calculation for the allocation of seats is consistent with the requirements of section 15 of the 1989 Act.

Principles of Proportionality

16. Section 15 (5) of the 1989 Act sets out four principles which must be followed so far as reasonably practicable. These are:
 - (a) Preventing domination by a single group: All the seats on a committee should not be allocated to the same political group.
 - (b) Ensuring a majority group enjoys a majority on all committees: If one political group has a majority in the full Council, that political group should have a majority on each committee.
 - (c) Aggregating all committee places and allocating fair shares: Subject to the above two principles, the total number of seats on all the committees of the Council allocated to each political group should be in the same proportion as that political group’s seats on the full Council.
 - (d) Ensuring as far as practicable fairness on each committee: Subject to the above three principles, the number of seats on each committee of the Authority allocated to each political group should be in the same proportion as that political group’s seats on the full Council.
17. The Council’s duty to comply with (a) and (b) above takes precedence over a mathematically balanced distribution of Committee seats as described in (c) and (d). As there will inevitably be rounding up and down in the allocation of seats, the aim will be to ensure that representation on committees is as close as possible to that on the

Council overall, and a difference of or no more than plus or minus 1% is a desirable, if not always achievable, governing principle.

Proposal/Options

18. This report will examine three options for calculating the allocation of seats on those committees where the requirement for political balance is not disapplied.
19. Option One is the status quo position where NAIMs are not included at all in the calculation. This option complies with section 15 of the 1989 Act and appears from a review of other local authorities to be the most common method used (8 of the 13 surveyed by Tendring District Council in the report to its Full Council addressing the same question). The initial calculation is carried out as if the Council had, in effect, 45 members rather than 48. The current method of calculating the allocation of seats results in the same outcome even if NAIMs are included in the calculation, as shown in the following two tables.
20. Table One shows the current practice, that is, excluding NAIMs altogether, whilst Table Two shows the outcome if NAIMs are included for the purpose of the calculation but not the allocation. As can be seen, the outcome is the same in both cases, but the calculation at Table Two is less clear and potentially more confusing with its notional allocation of seats to NAIMs to which they are not legally entitled.

Table One: NAIMS not included in the calculation					
			Seats on		
	Seats on the		Committees		
	Council	%	Entitlement	Current	Variance
Political Groups					
Labour	22	48.9	26	26	0
Liberal Democrat	14	31.1	17	17	0
Independent Alliance	6	13.3	7	7	0
Conservative	3	6.7	4	4	0
Total - Political Groups	45	100.0	54	54	0

Table Two: NAIMS included in the calculation but not the allocation of seats					
			Seats on		
	Seats on the		Committees		
	Council	%	Entitlement	Current	Variance
Political Groups					
Labour	22	45.8	26	26	0
Liberal Democrat	14	29.2	17	17	0
Independent Alliance	6	12.5	7	7	0
Conservative	3	6.3	4	4	0
Sub-total - Political Groups	45	93.8	54	54	0
Non-aligned Independents	3	6.3	3		
Total - whole Council	48				

21. Should the Council decide to exercise its powers under section 17 of the 1989 Act to adopt a different provision, that is, in effect to disapply the rules set out in section 15 of the 1989 Act, there are two further options for the allocation of seats to NAIMs.

22. Option Two is simply to include them in the calculation, as shown in Table Three below. This identifies the number of seats allocated to NAIMs in the same way as is done for political groups. Full Council would then decide who of the NAIMs is allocated to which seat, presumably based on expressions of interest. Full Council can, however, dispose of these seats in whatever way it sees fit. It could, for example, appoint the same NAIM to each seat or it could allocate the seats equitably across all NAIMs.

Table Three: NAIMS included in th calculation and the allocation of seats					
			Seats on		
	Seats on the		Committees		
	Council	%	Entitlement	Current	Variance
Political Groups					
Labour	22	45.8	25	26	1
Liberal Democrat	14	29.2	16	17	1
Independent Alliance	6	12.5	7	7	0
Conservative	3	6.3	3	4	1
NAIMS	3	6.3	3	0	-3
Total	48	100.0	54	54	0

23. Option Three is to allocate any left-over seats to NAIMS once the allocations to political groups have been taken up. This is a rather more complicated calculation, requiring, for the illustrative purpose of this report, to be conducted at the level of detail of individual committees rather than an aggregate position. It is, therefore, shown at Appendix A rather than in the body of the report.
24. This method involves strict adherence to the proportions of representation on the Council overall as applied to the membership of each committee. The resultant figures are then rounded up or down as appropriate. Even this approach, however, can result in discrepancies. The calculation shows that, in two instances, a political group is entitled to 1.38 seats on a committee. Taken individually, these are rounded down to one seat on each committee. However, taken in aggregate, the total is 2.76 seats, rounded up to 3. As a result, the strict application of the mathematical principle results in a under-allocation of one seat to that political group, and an over-allocation of left-over seats to the NAIMs. Even here, therefore, a manual adjustment needs to be made which introduces a degree of uncertainty and subjectivity into the process. It is assumed that where such a discrepancy occurs it should be resolved in favour of the political groups affected, in accordance with the requirements of section 15 of the 1989 Act.
25. In both cases where NAIMs are given an allocation of seats, whether by proportion or left-over, political groups would have to relinquish seats that they currently occupy, as shown in both Table Three and Appendix A.
26. Regulation 15 of the Regulations provides for the Council to appoint in whatever way it sees to any seat where a political group has failed, within three weeks of being notified of its entitlement, to take up, in whole or part, any allocation of seats made to it. In this instance, a political group could simply choose not to take up a seat, and the Council could appoint to it a NAIM or a member of a different political group. Unlike Options Two and Three, this would only apply to the political group that had chosen to act in such a way.

27. It should also be borne in mind when considering any change to current practice that, unlike many local authorities, Luton Council has not hitherto experienced a high and consistent level of independent Members. None have been elected; all have become independent for one reason or another. Whilst their role as representatives is no less important than that of those Members who are in political groups, it is important to remember that the strict application of the mathematical principles in carrying out the political balance calculations gives certainty and predictability to the political composition of the Council's committees.

Bodies not subject to political balance

28. A review of a small selection of the practices of other local authorities suggests that Luton has used the provision at section 17 of the 1989 Act to disapply political balance to greater extent than most. There are examples in other local authorities of even overview and scrutiny bodies being subjected to the political balance calculation. Whilst the freedom regarding appointments to those bodies that disapplication gives has not hitherto been consistently used to the benefit of NAIMS, it could be, provided political groups are prepared to relinquish seats.
29. The bodies where the political balance requirement has been disappplied are:
- a) the Overview and Scrutiny Committee and its Sub-Committee(s); and
 - b) the Taxi and Private Hire Licensing Committee and its Sub-Committee(s); and
 - c) the Appointments Panel; and
 - d) the Standards Committee and its Sub-Committee(s); and
 - e) the Housing Appeal & Review Panel; and
 - f) the Joint Health Overview & Scrutiny Committee (BLMK STP); and
 - g) the Joint Health Overview & Scrutiny Committee (Mount Vernon).

Conclusion

30. It is recommended that, at the present time, no change is made to the method of calculating the allocation of seats but that the matter is kept under review until after the Borough election in May 2027 when, as is traditional in Luton, there may be no NAIMs to consider. In the meantime, any political group could at any time choose voluntarily to relinquish a seat to which it is entitled.

Appendix

31. Appendix A – Illustration of Option Three.

List of Background Papers - Local Government Act 1972, Section 100D

32. Local Government and Housing Act 1989
33. Local Government (Committees and Political Groups) Regulations 1990