

National Assembly for Wales

[Business Committee](#)

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Cynulliad
Cenedlaethol
Cymru

National
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Wales



A report on the Business Committee's consideration of the impact of a Member leaving a political group on committee membership and the allocation of chairs

Background

1. On 19 September, the Plaid Cymru group suspended Neil McEvoy from membership of the group. On 21 September, based on the information available to her, and following discussion with the Plaid Cymru Business Manager, the Llywydd informed the Member and Business Managers that, in accordance with Standing Order 1.4, she had concluded that Neil McEvoy could no longer be considered a member of the Plaid Cymru group for the purposes of Assembly business.
2. Under Standing Order 17.12 a vacancy is created on a committee when a member joins or leaves a political group, and so vacancies have existed on the Petitions Committee and the Public Accounts Committee (PAC) from that time.

The Role and Functions of Business Committee

3. Under Standing Order 17.13, when a vacancy occurs on a committee, the Business Committee must consider the effect of that vacancy on the membership of that committee and of any other committee. Following that consideration it must table a motion proposing changes to the membership of the committee(s) on which the vacancy has occurred, and may also propose changes to the membership of other committees.
4. Additionally, the Business Committee may, if it considers it appropriate, carry out any of its functions under Standing Order 17.2R. Those functions include considering the effects of the vacancy on the balance of chairs between political groups and, if necessary, proposing to change the political group from which the chair of any committee is elected. Standing Order 17.2B requires the Business Committee, in tabling any motion to allocate a committee chair to a political group 'to have regard to the need to ensure that the balance of committee chairs across committees reflects the groups to which Members belong'.
5. This is the third time during the Fifth Assembly that the Business Committee has been required to carry out its functions under Standing Order 17.13 due to a vacancy created by a Member joining or leaving a political group, and the second time that it has considered the effect of such a vacancy on the balance of chairs between political groups.
6. Business Managers have also considered how to fulfil the requirement of Standing Order 17.10(i) that Neil McEvoy, as a Member who does not belong to a political group, should be offered at least one committee place.

The effects of a Member leaving a political group

7. The Business Committee first considered a paper on these matters at its meeting of 26 September, and the Llywydd asked Business Managers to discuss it both with their groups and with each other outside of committee.

8. When Business Managers returned to the paper on 3 October, it was clear that while there could be agreement in principle on the questions of filling the vacancies on the Petitions and Public Accounts Committees, and offering Neil McEvoy a committee place, there was no consensus on the issue of the allocation of chairs between groups. Paul Davies indicated that he believed all of the relevant issues should be considered together.

9. The Llywydd reminded Business Managers that the current allocation of committee chairs no longer accurately reflects the relative sizes of the party groups, and that they must have regard to the need to ensure that the allocation of chairs reflects the balance of groups. The Llywydd asked Business Managers to give further thought as to how that could be done in line with Standing Orders, and informed the Committee that she would be putting the paper on the agenda for the following week.

10. At the meeting of 10 October, Business Managers returned to the paper, and following a third discussion it became clear that no agreement would be reached on resolving the allocation of committee chairs. The Llywydd therefore proposed that the Committee lay a report setting out its consideration of these questions, the different views expressed by different Business Managers, and the issues brought to the fore by their consideration.

The Allocation of Committee Chairs

11. The current allocation of committee chairs and of committee places is based on a cross-party agreement arrived at the start of the Fifth Assembly in June 2016, with some modifications in the meantime as a result of Members joining and leaving political groups. The table below outlines the current situation, with the numbers as they were at the time of the original cross-party agreement in brackets.

Group	Members	Total Committee Places	Chairs
Labour	29	37	6
Plaid Cymru	10 (12)	17	3

Conservatives	12 (11)	16	2
UKIP	5 (7)	11 (12)	1
Members not belonging to a group	4 (1)	2 (0)	-

12. The changes to the allocation of committee places since June 2016 have been:

- Since September 2016, there has not been a UKIP member of the Constitutional and Legislative Affairs Committee, while Nathan Gill (Independent) has been a member of it since that time;
- In November 2016, Dafydd Elis-Thomas (Independent) was elected as an member of the Constitutional and Legislative Affairs Committee;
- In April 2016, the chair of the Climate Change, Environment and Rural Affairs Committee (CCERA) became vacant when Mark Reckless left the UKIP group to join the Conservative group. In June 2016, the allocation of the CCERA chair was changed from UKIP to Labour, while the chair of the Petitions Committee was changed from Labour to UKIP, leaving the total allocation between groups unchanged.

13. The Business Committee consideration of how to fill the vacant chair on CCERA between April and June 2017 also resulted in the Committee failing to reach a unanimous decision on how the vacant chair should be filled. As the Llywydd stated in the Chamber on 20 June:

During our deliberations in the Business Committee, the relevant provisions of the Standing Orders... all members of the Business Committee have been made aware of those provisions. And I have encouraged Members to reach agreement as soon as possible as to how the vacancy should be filled. After numerous discussions within the committee, over a period of weeks—and, I'm sure, outside the committee as well—the motion before you this

afternoon represents the proposal that has the greatest degree of cross-party support.

14. Some of the issues raised during the Business Committee's most recent deliberations were also considered during those earlier discussions.

Business Committee Consideration

15. Business Managers have been aware since April 2017, when the Conservative group became larger than the Plaid Cymru group, that the allocation of committee chairs between political groups has not reflected the balance of groups to which Members belong. That situation has been compounded by Neil McEvoy's suspension from the Plaid Cymru group.
16. Throughout the discussions, the Llywydd has made clear to Business Managers that the current situation does not reflect the balance of groups to which Members belong, and that they must consider the need for a solution that has regard to this balance.
17. Paul Davies's position throughout has been that one of the three chairs currently held by Plaid Cymru should be re-allocated to the Welsh Conservatives to reflect the fact that they are now the larger of the two groups. No specific proposal has been made in Committee as to which chair that should be.
18. Jane Hutt and Rhun ap Iorwerth's positions have been that they have not been convinced a change should be made to the allocation of committee chairs under the current Standing Orders. Under the Standing Order 11.5(ii) provisions for voting in Business Committee, together they carry a majority of votes on the Committee and so it is this view that has prevailed. The Llywydd cannot direct the Committee to come to a particular decision.

19. In making their case for no change, Jane Hutt and Rhun ap Iorwerth have advanced the following arguments:

- The new procedure for having committee chairs elected directly by the Assembly was designed to give chairs greater authority and autonomy, and protect them from being removed by their groups as has happened in the past, and as can still happen for other committee members. The continuing ability of the Business Committee, to re-allocate chairs during an Assembly conflicts with this aim of ensuring that chairs have security of tenure, and does not provide for a stable and effective committee system;
- The current allocation of chairs reflects the balance of groups to which Members belonged at the time it was agreed unanimously by the Assembly. Whilst that balance has changed, it would be undesirable to cause upheaval within a committee by removing its chair because of changes in the political make-up of the Assembly. The tenure of committee chairs should not be at the mercy of the political actions of other Members.

20. In addition, Jane Hutt has raised the question of the permanence of the current balance, given that Neil McEvoy is currently suspended – rather than expelled – from the Plaid Cymru group, and the possibility that the allocation of chairs may therefore need to be revisited again. The Llywydd has made clear that her decision under Standing Order 1.3 means there can be no uncertainty regarding Neil McEvoy’s current status for the purposes of Assembly business.

21. Gareth Bennett supports the principle that the allocation of chairs should reflect the balance of groups, but is also mindful that Standing Orders should not provide a perverse incentive for Members to change groups during the course of an Assembly. He also recognises that there is an argument that the membership of committees, and the chairs of

committees, should reflect which political parties the electorate of Wales actually voted for in the Assembly election.

Membership of the Public Accounts Committee and Petitions Committee

22. At its meeting of 10 October, the Business Committee decided by a majority vote that Plaid Cymru should be invited to nominate Members to fill the vacancies on the Public Accounts and Petitions Committees.

23. Paul Davies objected to the proposal on the basis that the Business Committee should not be making a decision on this matter without first having resolved the issue of allocating balanced allocation of committee chairs.

A Committee Place for Neil McEvoy

24. At its meeting of 10 October, the Business Committee decided by a majority vote that Neil McEvoy should be offered a place on the Petitions Committee as an additional member, bringing the total membership of that committee to five.

25. Paul Davies objected to the proposal on the basis that the Business Committee should not be making a decision on this matter without first having resolved the issue of allocating balanced allocation of committee chairs.

Llywydd's Conclusions

26. The Assembly finds itself in a position where the allocation of committee chairs between groups does not accurately reflect the balance of groups, but where there is no majority on the Business Committee for any proposal to re-allocate chairs in a way that would rectify that situation.

27. The Llywydd is of the view that this impasse is unsatisfactory. Whilst the immediate cause is the inability of Business Managers to agree on a re-allocation, in the background are combination of events unprecedented in the Assembly.

28. The introduction of directly elected committee chairs through a secret ballot of all Assembly Members is one of the most far-reaching procedural reforms introduced during this or any other Assembly. It was designed to strengthen the independence and effectiveness of committees by ensuring that committee Chairs cannot be removed by the political parties. The need for the allocation of chairs to reflect the balance of groups is also a principle which has always been supported by all, and which was quite rightly carried over from the old procedure into the new one.

29. It is reasonable to expect the balance of groups to be relatively stable throughout the lifetime of an Assembly, and that has certainly been the experience of past Assemblies. The first eighteen months of this Assembly however have seen four Members leave the political groups they belonged to at the start of the Assembly: three to sit as independent Members and one to join a different political group. As a result, the relative size of the Plaid Cymru and Conservative groups has been reversed, with the former having been replaced by the latter as the largest opposition group.

30. The Llywydd considers that the Standing Orders are clear as to the requirement the Business Committee has regard to the need to ensure that the allocation of chairs reflect the balance of groups, and so a situation where the Plaid Cymru group has more chairs than the Conservative group is clearly anomalous. Whilst the Llywydd is satisfied that Business Managers have been aware of that requirement during their discussions, she does not agree with the majority view on the Committee that the current allocation is acceptable in fulfilling that requirement.

31. The Llywydd is also of the view that a tension exists within the Standing Orders between the independence of committee chairs on the one hand, and the need for their allocation between groups to reflect a potentially ever-changing political balance on the other. Given the unprecedented fluidity of group membership in this Assembly, that tension was not foreseen at the time the reforms to directly elect committee chairs were introduced.

32. While it is not possible for Standing Orders to provide for every possible situation which might arise, the Llywydd will be asking Business Committee to review the Standing Orders around the election of committee chairs, and especially their allocation between groups where the party balance changes during an Assembly. Such a review will not provide a solution to the current impasse, but its aim will be to ensure that such a situation does not arise again.

33. The Business Committee will report to the Assembly on the outcome of that review in due course.