

OPTIONS FOR MEMBERSHIP REPRESENTATION - REPORT BY THE TECHNICAL TEAM OF THE STATUTORY CAUCUS : 1994-03-04

Points of Departure:

1. The area used for this exercise is the Western Cape RSC area - i.e. the area provisionally identified by Work Group 1. Figures could be calculated for a smaller area if required.
2. The Act must be accepted as is at this stage - it is not likely to be changed.
3. Although the Act lays down that membership of the Forum is available to all members of local government bodies, not all of them need sit on the Forum if all affected parties agree to a smaller forum. It has been strongly argued by some that the spirit of the Act was that organisations (including local government bodies) should be seen as the members and be represented by individuals rather than that individuals would be seen as the members. It is understood that Johannesburg is operating on this principle, although it appears possible that Durban will go in the other direction and initially have all members of local government bodies on their forum for purposes of founding it. It is suggested that consideration be given to accepting that the organisation (not its members) should be seen as the member and that no local government body should be denied at least 1 representative.
4. In the examples used, with one major exception, 10 has been added to the statutory side on the assumption that political parties will accept 1 representative each and ratepayers' associations will be represented via an umbrella body.
5. The largest likely form could be some 1 400 delegates. This would be if all members were to take up seats. The Local Government Body contingent alone would be some 505 (excluding the Western Cape RSC). Ratepayers Associations are then likely to seek individual representation rather than via umbrella bodies and political parties will also want a larger representation than at present. This could lead to a statutory component in the vicinity of 700 members and a similar number on the other side. A forum of this size would be unwieldy and would require all negotiation and work to be done by committees/working groups.

6. The smallest likely form could be some 160 delegates (80 on each side). Although a Forum of approximately the present size is theoretically possible, this would require local government bodies to be grouped for the purposes of representation and this would clearly not be acceptable as very few if any of the 71 local government bodies (including the Western Cape RSC) entitled to membership would accept less than one representative.
7. The present Forum constituted before the passage of the Act to get a process under way provided for each municipality to be represented by one delegate, with Cape Town having 8, Bellville 2 and the Western Cape RSC 2. The fringe area towns failed to take up seats. Assomac was given 2 seats, local and rural councils 2, the Good Hope Alliance 1 and each of the then registered political parties 1, but the CP failed to take up its seat. This led to a statutory component of 31 and a total Forum of 62.
8. Where population figures have been used for any calculation, population in management committee areas has been deducted from that of the relevant municipality.
9. Where membership has been used for the purposes of any calculation Black local authorities which have administrators and any other body with less than the minimum number of members which qualifies for a representative have each been accorded 1 representative.
10. It is understood that in some instances unified local government bodies have been formed and thus that separate representation for a municipal council and a Management Committee would be replaced by representation for the unified body. The list we used is thus probably out of date and minor adjustments may thus have to be made to some of the figures given.
- 11. Schedules comparing some of the options examined is annexed. The Western Cape RSC has provisionally been reflected as having 2 representatives in all alternatives shown. The Comparative Schedule also has figures reflecting omission of the entire fringe area, while the Alternative Schedule shows omission of part of the fringe area.

Options

1. Seeking to keep the Forum to approximately its present size with a total statutory component of 30 (or perhaps increased to say 40), basing the division of seats on the assumption that ratepayers associations and political parties will have to be given some seats. This could lead to representation in the vicinity of 9 for all municipalities, 8 for all management committees, 5 for all Black local authorities and 2 for all local and rural councils. This means that each grouping would have to allocate representatives in such a way that individual local government bodies would in most instances have to share a single representative with other local government bodies.

Comment: This does not appear to be practical and is likely to be unacceptable to almost all of the stakeholders.

2. Every member of every local government body having a seat on the Forum, with ratepayers associations, political parties and the like being accommodated in an equitable way in the light of the local government body representation. This would lead to a statutory component of possibly 700 and a total Forum of possibly 1400.

Comment: This would lead to an extremely large and unwieldy forum, require a very large venue for meetings, very costly circulation of documentation and a complex structure of committees/working groups and secretariat staff to enable the work to be done.

3. Dividing the metropolitan area into geographic sub-areas, allocating a number of representatives to each geographical sub-area and requiring the municipality in each sub-area to convene a meeting of all the statutory stakeholders in that sub-area to negotiate a fair division of the representation for that sub-area amongst themselves.

Comment: This is unlikely to be acceptable to most players and agreement may not be achievable within some sub-areas.

4. Each local government body to be given 1 and only 1 representative. Each registered political party accepted as being on the statutory side would get 1 representative and ratepayers associations jointly also 1 or at most a very small number.

Comment: This is not in the spirit of the Act which appears to envisage some form of proportional representation (see later options) and could be argued to be inequitable. It could be used if all players agree to it, but is likely to be unacceptable to at least some of them.

5. Accepting present membership as is on the basis that it is inequitable to take away from people what has already been granted and adding representation for local government bodies not yet directly represented on the basis of 1 delegate per additional local government body, with 1 delegate also for each registered political party accepted as being on the statutory side and say 3 for ratepayers associations jointly. This would lead to a statutory caucus of 91 and a Forum of about 180.

Comment: This is unlikely to be accepted by all players; but could be used if all of them agree to it. On the other hand, change to existing representation is likely to be resisted by some current members and reducing it may make agreement difficult to reach. This does build on the present Forum which was constituted on the basis of population figures for each municipal area when allocating seats to the municipalities and is a political solution rather than one based on a truly scientific formula.

6. Allocating 1 representative per local government body, but with the larger bodies receiving additional representation proportionate to population within their areas based on accurate proportionate representation according to multiples of the local government body with the smallest population.

Comment: This would lead to a very large Forum and is also likely to be contentious in that the accuracy of the population figures used might be contested by local government bodies close to cut-off points.

7. Allocating 1 delegate per local government body, with the larger local government bodies being given additional proportionate representation based on population, but with a cut-off point at a higher level than the smallest local government body's population. The present Forum was to the best of our recollection based on population units of 125 000. The lowest population unit which could be used without leading to disputes regarding the accuracy of population figures might well be in the vicinity of 70 000 or 75 000. For the purposes of comparison, an example using population units of 100 000 was calculated - i.e. each local government body was allocated 1 representative and any local government body with

100 000 population or more was allocated 1 additional representative for each 100 000 of population. On this basis Cape Town got an additional 4 representatives (total 5), Athlone and District Management Committee an additional 2 (total 3), Mitchells Plain Management Committee an additional 2 (total 3), Lingeletu West an additional 2 (total 3) and Nyanga/Crossroads an additional 1 (total 2). This led to a representation of some 84 for local government bodies and when representation is added for political parties etc. a total statutory side of some 94 and a total Forum of about 190. The figure would of course be higher if a lower cut-off point were used, while a higher cut-off point would appear to serve little useful purpose.

Comment: This is similar to the formula for present membership and could thus be acceptable to most present members, although a couple of them would lose some representation. This formula also gives recognition to the larger new members. If the cut-off point in this formula were to be brought below say 70 000 population, it is possible that local government bodies close to it might dispute the accuracy of the population figures used. On the other hand, the lower the cut off point the more inclusive or representative the Forum becomes, but also the bigger it becomes.

8. Allocating 1 representative to each local government body and according proportional representation to the larger bodies based on present membership. This could lead to a Forum of varying size as may be desired, but an example has been done using the figure in Option 7, i.e. 81 local government body representatives (later adjusted to 84), as the base so as to be able to compare the result with that of Option 7. The formula for calculating representation in Section 88 of the Constitution Act has been used for the purposes of this example (That formula requires that the desired number plus 1 be divided into the total number and the resulting factor be divided into each local government body's number of members. Each body would then be given the number of representatives equal to the full number achieved and the remaining seats would be allocated to those with the highest remainders). A schedule detailing the result is annexed. It will be seen from this that all local government bodies would have one representative with the exception of Bellville Municipality with 2, Cape Town Municipality with 5, Parow Municipality with 2, Strand Municipality with 2, Athlone and District Management Committee with 3, Melton Rose/Blue Downs/Blackheath Management Committee with 2 and Constantia Urban/Non-Urban Council with 2.

Comment: The result achieved is similar to that under Option 7. However, this formula does use the Act as its basis - Section 4(a) of Schedule 1 is based on membership numbers in that it makes representation available to all members of local government bodies and the eventual TMC will have to maintain existing balances, most frequently argued at present to mean membership balances (although this has been disputed by some). Johannesburg has rejected the use of membership figures as the basis for its forum this is seen as an arbitrary basis which distorts the true relationship between local government bodies. While this appears to be a valid argument, the Act does use membership as one of its bases.

9. Allocating each local government body 1 representative, with the larger local government bodies being given additional representation proportionate to budgetary or financial factors. No example has been calculated on this basis.

Comment: Budgetary factors does give a reflection of responsibility levels and is one of the factors used in the grading system for local government bodies. However, this would probably be seen as an unacceptable measure by some players.

10. Proportional representation based on RSC voting powers, with a minimum of 1 delegate per local government body.

Comment: This formula also uses a basis which reflects levels of responsibility. However, in view of current voting proportions on the RSC this could lead to a very large Forum and would probably be unacceptable to some of the players. It would almost certainly be labelled as undemocratic.

Conclusion

A number of possible formulas for seeking an equitable basis of representation for all local government bodies have been identified. The question of which one to adopt is a political one, but as it is unlikely that any single option will be acceptable initially to all players will require negotiation to achieve agreement. Although the ultimate option is likely to be based on one of the formulas examined, there will no doubt be some adjustments to make the result more acceptable to as many players

as possible. It seems likely that options 1, 3, 4, 6 and 10 would be rejected by most players almost immediately, leaving options 2, 5, 7, 8 and 9 for possible further discussion if favoured by any of the players. The schedule compares options 2, 5, 7 and 8. Adding 9 would require further research.

COMPARATIVE SCHEDULE : 1994-03-06

BODY \ OPTION	2 ALL SEATS	5 PRESENT + 1 FOR EXTRAS	7 1 EACH + 1 FOR EACH 10 0000 POP.	8 1 EACH + EXTRAS BASED ON SEATS	9 BUDGET- ARY PROPOR- TIONS	POPULA- TION
Municipality:						
Bellville	12	2	1	2		
Brackenfell	8	1	1	1		
Cape Town	34	8	5	5		
Durbanville	8	1	1	1		
Fish Hoek	8	1	1	1		
Franschhoek *	6	1	1	1		
Goodwood	10	1	1	2		
Gordons Bay *	6	1	1	1		
Kraaifontein	8	1	1	1		
Kuilsrivier	8	1	1	1		
Milnerton	10	1	1	1		
Paarl *	10	1	1	1		
Parow	11	1	1	2		
Pinelands	6	1	1	1		
Simons Town	8	1	1	1		
Somerset West *	8	1	1	1		
Stellenbosch	10	1	1	1		
Strand *	12	1	1	2		
(191) Wellington *	8	1	1	1		
Man Com.:						
Bellville	6	1	1	1		
Athlone & Dist.	18	1	3	3		
Kensington	6	1	1	1		
Mitchells Plain	5	1	3	1		
Retreat	6	1	1	1		
Rylands	5	1	1	1		
Schotschekloof	6	1	1	1		
Strandfontein	5	1	1	1		
Walmer/Woodstock/ Salt River	6	1	1	1		
Wittebome/Wynberg	6	1	1	1		
Morningstar	6	1	1	1		
Kraaifontein	6	1	1	1		
Sarepta	8	1	1	1		
Paarl East *	8	1	1	1		
Ravensmead	6	1	1	1		
Cloetesville/ Idas Valley *	8	1	1	1		
Temperance Town *	5	1	1	1		

BODY	OPTION	2 ALL SEATS	5 PRESENT + 1 FOR EXTRAS	7 1 EACH + 1 FOR EACH 100 000 POP.	8 1 EACH + EXTRAS BASED ON SEATS	9 BUDGET- ARY PROPOR- TIONS	POPULA- TION
(191)	Wellington *	8	1	1	1		
	Atlantis *	7	1	1	1		
	Elsiesrivier/ Uitsig	8	1	1	1		
	Matroosf./Bishop Lavis/Nooitgedacht	8	1	1	1		
	Belhar	5	1	1	1		
	Grassy Park	10	1	1	1		
	Ocean View	6	1	1	1		
(49)	Cravenby	5	1	1	1		
	Kylemore *	5	1	1	1		
	Sir Lowry's Pass *	6	1	1	1		
	Scottsdene	6	1	1	1		
	Melton Rose/Blue Downs/Blackheath	14	1	1	2		
	Macassar *	10	1	1	1		
(44)	Johannesdal *	3	1	1	1		
(5)	Klapmuts South *	5	1	1	1		
Town Councils:							
	Nyanga/Crossroads	1	1	2	1		
	Ikapa/Langa/ Gugulethu	1	1	1	1		
	Khaya Mandi *	7	1	1	1		
	Lingeletu W/ Khayelitsha	0	1	3	1		
	Lwandle *	1	1	1	1		
	Mbekweni *	1	1	1	1		
(12)	Mfuleni	1	1	1	1		
Local/Rural C:							
	Atlantis *	7	1	1	1		(ind.)*
	Bloubergstrand	8(8)*	1	1	1		(1750)*
	Constantia	12	1	1	2		(23000)*
	Kommetjie	4(4)*	1	1	1		(2100)*
	Llandudno	5	1	1	1		
	Mamre *	8	1	1	1		
	Melkbosstrand *	7	1	1	1		
	Otteny East	5(4)*	1	1	1		(1630)*
	Pniel *	7	1	1	1		
	Scarborough	4	1	1	1		(625)*
	Cape Rural *	6	1	1	1		
	Paarl Rural *	6	1	1	1		
(85)	Stellenbosch Rural*	6	1	1	1		
	Total	510	80	82	82		
	W Cape RSC	2	2	2	2		
		512	82	84	84		

Factor:

6.71621

Excluding Fringe:

331

57

57

57

(*) figure per membership application

* fringe area

ALTERNATIVE SCHEDULE : 1994-03-07

BODY	OPTION	2	5	7	8	9	POPULATION
		ALL SEATS	PRESENT + 1 FOR EXTRAS	1 EACH + 1 FOR EACH 10 0000 POP.	1 EACH + EXTRAS BASED ON SEATS	BUDGET- ARY PROPOR- TIONS	
Municipality:							
	Bellville	12	2	1	2		
	Brackenfell	8	1	1	1		
	Cape Town	34	8	5	5		
	Durbanville	8	1	1	1		
	Fish Hoek	8	1	1	1		
	Franschhoek *	6	1	1	1		
	Goodwood	10	1	1	2		
	Gordons Bay *	6	1	1	1		
	Kraaifontein	8	1	1	1		
	Kuilsrivier	8	1	1	1		
	Milnerton	10	1	1	1		
	Paarl *	10	1	1	1		
	Parow	11	1	1	2		
	Pinelands	6	1	1	1		
	Simons Town	8	1	1	1		
	Somerset West *	8	1	1	1		
	Stellenbosch	10	1	1	1		
	Strand *	12	1	1	2		
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Man Com.:							
	Bellville	6	1	1	1		
	Athlone & Dist.	18	1	3	3		
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	Retreat	6	1	1	1		
	Rylands	5	1	1	1		
	Schotschekloof	6	1	1	1		
	Strandfontein	5	1	1	1		
	Walmer/Woodstock/ Salt River	6	1	1	1		
	Wittebome/Wynberg	6	1	1	1		
	Morningstar	6	1	1	1		
	Kraaifontein	6	1	1	1		
	Sarepta	8	1	1	1		
	Paarl East *	8	1	1	1		
	Ravensmead	6	1	1	1		
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	Ocean View	6	1	1	1		
(49)	Cravenby	5	1	1	1		
	Kylemore *	5	1	1	1		
	Sir Lowry's Pass *	6	1	1	1		
	Scottsdene	6	1	1	1		
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	Ikapa/Langa/ Gugulethu	1	1	1	1		
	Khaya Mandi *	7	1	1	1		
	Lingelethu W/ Khayelitsha	0	1	3	1		
	Lwandle *	1	1	1	1		
	Mbekweni *	1	1	1	1		
(12)	Mfuleni	1	1	1	1		
Local/Rural C:							
	Atlantis	7	1	1	1		(ind.)*
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Factor:

6.71621

Excluding Fringe:

366

62

62

62

() * figure per membership application

* fringe area