

By: Benjamin Watts – General Counsel

To: Scrutiny Committee - 15 January 2019

Subject: CRR0045 – Effectiveness of Governance within a Member-led Authority.

Classification: Unrestricted

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Summary: The Chairman and spokespeople asked for further information on risk CRR0045 – Effectiveness of Governance within a Member-led Authority. An introduction to this risk is contained within this report and Members will have opportunity to ask questions of the General Counsel at the Scrutiny Committee meeting on 15 January.

Recommendations: That the Scrutiny Committee note the report.

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## 1. Introduction

(1) The Cabinet, at its meeting on 3 December 2018, noted a report on the Council's Corporate Risk Register. This report included the new risk CRR0045 – Effectiveness of governance within a Member-led authority.

(2) The report to Cabinet stated that *“over the past 12-18 months there have been numerous warnings from local authorities, auditors and professional bodies regarding the parlous state of local government finances, with the first section 114 notice in 20 years issued earlier this year. This brings into sharp focus the criticality of robust council governance.”*

(3) The relevant sections from the Corporate Risk Register – Summary Risk Profile are attached as Appendix 1.

(4) The General Counsel will be present at the meeting to update Members and answer questions about this risk.

<p><b>Recommendation:</b> That the Scrutiny Committee note the report.</p>
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Background Information: *none*



## Corporate Risk Register - Summary Risk Profile

Low = 1-6
Medium = 8-15
High =16-25

Risk No.*	Risk Title	Current Risk Rating	Target Risk Rating	Direction of Travel since July 2018
CRR0045	Effectiveness of governance within a Member-led authority	10	5	NEW

Risk ID	CRR0045	Risk Title: Effectiveness of governance within a Member-led authority				
<b>Source / Cause of risk</b>	<b>Risk Event</b>	<b>Consequence</b>	<b>Risk Owner</b>	<b>Current Likelihood</b>	<b>Current Impact</b>	<b>Target Residual Impact</b>
The continuation of a challenging financial and operating environment for Local Government (see risk CRR0009) will require difficult policy decisions to be made in a timely manner, which requires continued effective governance and robust internal control mechanisms.	Members are unwilling or unable to agree necessary policy (service) decisions to deliver a legally balanced budget and sustainable medium-term financial plan (MTFP).	Decisions challenged under judicial review on the appropriateness of the decision-making within KCC.	Paul Carter, Leader of the Council	Unlikely (2)	Major (5)	
At a strongly Member-led Authority such as KCC, this places dependency / risk on the effectiveness of the member governance of the Council. It is crucial that the Council avoids some of the inherent risks such as:	Members agree a budget requiring unrealistic and undeliverable efficiency savings leading to significant in-year overspends.	Monitoring Officer / Head of Paid Service statutory report to Council.	David Cockburn, Head of Paid Service	Very Unlikely (1)	Major (5)	
	Officers act on direction from members which has no basis in statutory decision making or the	Reputational damage to the Council.				
		S114 Notice issued by the S151 Officer.				

Over reliance on informal governance arrangements and political group meetings to direct officers and make decisions outside of formal statutory decision-making and scrutiny arrangements.

Policy options regarding the service offer of the Council are not adequately or appropriately considered within the budget development/approval process.

Failure of the governance structures of the of the council (Cabinet, Cabinet Committee, Full Council, Scrutiny Committee/Governance & Audit) to provide robust internal and external oversight, scrutiny and challenge of budget options and delivery of agreed MTFP savings programme.

Unwillingness of elected Members to appropriately consider advice from professional / statutory officers and / or professional / statutory officers failing in their duty to provide robust professional

Council's constitution.

Statutory officers (S151, Monitoring Officer, Head of Paid Service) are required to use their powers to intervene or alert the Council to inappropriate/illegal decision-making.

advice needed by Members to effectively discharge their member leadership role.	
<b>Control Title</b>	<b>Control Owner</b>
Strategic Statement agreed by County Council and published setting out medium-term objectives and priorities of the Council.	Paul Carter, Leader of the Council
MTFP and Budget Book agreed by Full Council and support/briefing provided for all political groups by officers on budget development options.	Zena Cooke, Corporate Director of Finance
Key and significant decision-making process in place for Executive decisions and appropriately published Forward Plan of Executive Decisions.	Ben Watts, General Counsel
Transformation plans and/or business cases for strategic change underpinning MTFP shared with non-executive members through Cabinet Committees as part of the executive decision-making arrangements.	David Cockburn, Head of Paid Service
Member and Officer codes of conduct in place and robustly monitored and enforced.	Ben Watts, General Counsel
Member development and training programme in place and overseen by Selection and Member Services Committee.	Ben Watts, General Counsel
Appropriate officer development and training programme in place and overseen by CMT.	Amanda Beer, Corporate Director – EODD
Appropriately detailed and timely financial monitoring reports considered by Cabinet and Cabinet Committees.	Zena Cooke, Corporate Director of Finance
Appropriate performance reporting of service and corporate performance to Cabinet, Cabinet Committee and Full Council.	David Cockburn, Head of Paid Service
Effective internal audit arrangements in place and robust monitoring arrangements for the delivery of internal audit recommendations to Governance & Audit Committee.	Zena Cooke, Corporate Director of Finance

Provision for Chief Officers to seek written direction from Executive Members within the KCC Constitution.	Ben Watts, General Counsel		
Annual Governance Statement (AGS) arrangements in place with returns made across both senior and statutory officers.	Ben Watts., General Counsel		
Appropriate and effective corporate risk management procedures in place for the Council.	David Whittle, Director – SPRCA		
Democratic Services appropriately resourced to support effective Committee governance and scrutiny arrangements.	Ben Watts. General Counsel		
<b>Action Title</b>	<b>Action Owner</b>		<b>Planned Completion Date</b>
Informal member governance arrangements authorised by the KCC Constitution, jointly agreed by the Head of Paid Service and the Leader and set out published document on KNet.	David Whittle, SPRCA	Director	December 2018
New 'operating standards' for KCC officers to be published on KNet.	David Whittle, SPRCA	Director	December 2018
Development of single Strategic Delivery Plan for KCC.	David Whittle, SPRCA	Director	March 2019
Refresh of the KCC constitution.	Ben Watts, General Counsel		April 2019