

SCRUTINY COMMITTEE

Thursday, 25th September, 2014

10.00 am

**Darent Room, Sessions House, County Hall,
Maidstone**





AGENDA

SCRUTINY COMMITTEE

Thursday, 25th September, 2014, at 10.00 am Ask for: **Joel Cook**
Darent Room, Sessions House, County Hall, Telephone: **01622 694764**
Maidstone

Membership

Conservative (6): Mr R J Parry (Chairman), Mr J E Scholes (Vice-Chairman),
Mr E E C Hotson, Mr A J King, MBE, Mr L B Ridings, MBE and
Mrs P A V Stockell

UKIP (2) Mr H Birkby and Mr R A Latchford, OBE

Labour (2) Mr G Cowan and Mr R Truelove

Liberal Democrat (1): Mrs T Dean, MBE

Church Mr D Brunning, Mr Q Roper and Mr A Tear

Representatives (3):

Parent Governor (2): Mr P Garten and Mr G Lawrie

Refreshments will be available 15 minutes before the start of the meeting

Timing of items as shown below is approximate and subject to change.

County Councillors who are not Members of the Committee but who wish to ask questions at the meeting are asked to notify the Chairman of their questions in advance.

Webcasting Notice

Please note: this meeting may be filmed for live or subsequent broadcast via the Council's internet site – at the start of the meeting the Chairman will confirm if all or part of the meeting is being filmed.

By entering the meeting room you are consenting to being filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes. If you do not wish to have your image captured then you should make the Clerk of the meeting aware.

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

A - Committee Business

- A1 Introduction/Webcast Announcement
- A2 Substitutes
- A3 Declarations of Interests by Members in items on the Agenda for this Meeting
- A4 Minutes of the meeting held on 15 July 2014 (Pages 5 - 10)

B - Any items called-in

C - Any items placed on the agenda by any Member of the Council for discussion

D - Items for discussion

- D1 Commissioning Select Committee Implementation Plan (Pages 11 - 34)
- D2 Select Committee Process report (Pages 35 - 48)

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Peter Sass
Head of Democratic Services
(01622) 694002

Wednesday, 17 September 2014

Please note that any background documents referred to in the accompanying papers maybe inspected by arrangement with the officer responsible for preparing the relevant report.

KENT COUNTY COUNCIL

SCRUTINY COMMITTEE

MINUTES of a meeting of the Scrutiny Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Tuesday, 15 July 2014.

PRESENT: Mr R J Parry (Chairman), Mr J E Scholes (Vice-Chairman), Mr H Birkby, Mr G Cowan, Mrs T Dean, MBE, Mr E E C Hotson, Mr A J King, MBE, Mr R A Latchford, OBE, Mr L B Ridings, MBE, Mrs P A V Stockell and Mr R Truelove

ALSO PRESENT: Mr D L Brazier

IN ATTENDANCE: Mr T Read (Head of Highway Transport), Mr B Haratbar (Head of Programmed Work), Ms D Fitch (Democratic Services Manager (Council)) and Mr J Cook (Scrutiny Research Officer)

UNRESTRICTED ITEMS

48. Introduction/Webcast Announcement
(Item A1)

49. Substitutes
(Item A2)

50. Declarations of Interests by Members in items on the Agenda for this Meeting
(Item A3)

51. Minutes of the meeting held on 12 June 2014
(Item A4)

1. RESOLVED that the minutes of the meeting held on 12 June 2014 be approved as a correct record and that they be signed by the Chairman.

52. St Dunstan's and Westgate Towers - Canterbury - Traffic Management Scheme
(Item D1)

1. The Chairman summarised the issue being considered by the Scrutiny Committee in terms of the following two points:
 - Why was the plan and decision to implement the post consultation changes not taken to the Canterbury Joint Transportation board on 10 June 2014?
 - Under what authority was the decision made after the consultation?
2. Under the process of formal submission of questions and by prior agreement, the Chairman invited Mr MacDowall to ask Mr Brazier three questions;
 - a) Why was a full report published not after the consultation?
 - b) Were the minutes of the St Dunstan's Regeneration Scheme Steering Group made publicly available?

- c) Have the local area elected members from district and county councils have been given an opportunity to comment on the proposals for the scheme?
3. Mr Brazier provided an overview, beginning with the instigation of a trial traffic management scheme on 27 March 2012 which prevented any vehicular travel through the Westgate Towers. The trial had been requested by Canterbury City Council and was put in place without any formal decision being taken. The Joint Transportation Board was informed of progress during the trial but did not take a formal role in approving the scheme. The trial was ended after 12 months by KCC's Leader Paul Carter due to local reaction against the impact of the traffic management.
 4. To address the unsustainable post-trial situation, Mr Brazier set up the St Dunstan's Regeneration Scheme Steering Group to review the matter in partnership with senior stakeholders in the area with a view to developing a formal public consultation on possible traffic management options. The Steering Group included KCC, Canterbury City Council, local business groups and community interests. The consultation was launched in September 2013 and closed in December 2013. The initial results of the consultation were taken to Cabinet in December where they were considered by the Leader and all Cabinet members. The overwhelming support for Option E (allowing traffic through Westgate Towers) convinced Cabinet to announce that KCC would be supporting its implementation while the peripheral issues included in the consultation such as 20 mph limits and weight restrictions would be considered after further analysis had been conducted when the Steering Group next met in January 2014.
 5. Mr Brazier emphasised that this Traffic Scheme, like others of its kind, fall within delegated power and could be implemented without a formal cabinet decision by senior Highways Officers. It was emphasised that the current scheme is reflective of the proposal endorsed in the public consultation and the scheme should already have been implemented but was delayed due to design work. Mr Brazier had decided against taking the proposed scheme to the Joint Transportation Board for further comment due to the need for progress to be made after earlier delays and the concern that it would raise expectation that JTB and CCC comments would have a significant impact on the scheme when the formal consultation had already taken place.
 6. Mr Latchford thanked Mr Brazier for his summary of events then outlined the concerns that had been raised to him in his capacity as leader of the opposition, referring to an email record. Mr Latchford stated that the Canterbury Area Member Panel (CAMP) had asked for a formal consultation report to be taken to the Joint Transportation Board; that this had not been done and the six bullet point summary that had been provided to CAMP was not deemed sufficient in place of a full report. Mr Latchford asked that an appropriate Officer attend the next CAMP meeting on 21st July.

7. Mr Brazier responded to this and follow up questions from members; explaining that he had been consistently responding to correspondence, outlining that the formal consultation had provided ample opportunity for residents, councillors and all interested stakeholders to comment and contribute to the decision making process and that all relevant information that would constitute a 'consultation report' has been available on KCC's website. Officers were not available to attend CAMP on the 21st but Mr Brazier stated that while he was already otherwise committed, he would try to attend. He added that Stagecoach is a private commercial concern and KCC had no direct influence in terms of bus routes.
8. In answer to specific questions about the involvement of the Canterbury JTB, Mr Brazier explained that the JTB is an advisory body and that he almost invariably takes on board the JTB's recommendations but that he is not beholden to do so. In this instance, when there is already two years' worth of debate, research and correspondence, additional JTB advice was not required to influence traffic measures to be handled under delegated authority.
9. Further questions were raised in relation to the membership of the Steering Group and concerns that local traders were not sufficiently represented. Mr Brazier challenged this robustly, referring this to the involvement of significant Trade Associations from Canterbury.
10. In response to reiterated concerns about the decision not to take the St Dunstan's scheme to the Canterbury JTB, Mr Brazier stated that the response to the current plan was positive, barring a small number of active correspondents who still oppose the plan. Ongoing updates from stakeholders have supported the view that the proposals will benefit the St Dunstan's area. Furthermore, claims that the traffic scheme had directly led to businesses failing were challenged as oversimplifications and argued against. It was emphasised again that the decision to run buses on any route in Kent was a matter for the relevant bus company and not influenced by KCC, instead basing such decisions on commercial interests.
11. Members commented that other local members were supportive of the content of the proposals but were concerned that local members and that it was likely that the public expected the scheme to be discussed in public at the JTB.
12. Mr Brazier again stated that the JTB is most useful when supporting the taking of formal decisions but reiterated that in this instance, no such decision was required. It was also explained, through rhetorical questioning, that further debate at a future JTB would not be helpful as so much had already been done to find the best solution that it would not be practical to begin re-negotiating with dissatisfied parties at this stage.

13. A discussion took place considering various options to progress the matter, including a request for Mr Brazier to attend a later Scrutiny Committee with an update after having taken the scheme to the Canterbury JTB and that Mr Brazier or relevant Highways representatives attended the CAMP meeting on 21 July.
14. Members commented that the concerns about the appearance of democratic involvement and engagement processes not being followed were understandable but it was agreed that nothing illegal or constitutionally improper had taken place.
15. A Member stated that the process and communication issues raised so far were justified concerns but that demanding further reports to the Scrutiny Committee would not be helpful. Instead it was suggested that a strong attempt is made for a relevant individual to attend the upcoming CAMP on the 21st July and that Mr Brazier take his proposals to the next JTB for consideration.
16. Mr Brazier stated that the communication work undertaken was sufficient and that further engagement with the small number of dissatisfied parties would not resolve the matter. His focus was delivering the plan rather than discussing it further though he would still attempt to attend the CAMP on 21 July. Similarly, a further update to the Scrutiny Committee on the matter would not be beneficial as it would amount to an update on practical work undertaken as the scheme was being implemented in early September.
17. The Chairman summarised the situation, namely that despite a small number of dissenting voices in the community, there was widespread support for the plan which would now be implemented. The Chairman suggested that the committee consider providing a recommendation for Mr Brazier and that the committee thank him for his attendance and note his report.
18. Motion proposed by Mr Hotson and seconded by Mr Scholes, that a written report be submitted to the JTB.

RESOLVED that the Scrutiny Committee note Mr Brazier's report and request that he provide a written report to the next Canterbury JTB on the St Dunstan's traffic management scheme featuring a schedule of works with a proposed completion date.

53. Capacity of Highways Drainage System and its impact on Flood Risk Management
(Item D2)

1. The Chairman summarised the issue under consideration as a perceived failure for Highways to include a Drainage report in the recent Cabinet paper despite assurances to Mrs Dean that such a report would be present. A supplementary

report has since been provided to the Scrutiny Committee. Mr Brazier was asked to comment on why Highways and Transportation did not provide the report in the Cabinet paper.

2. Mr Brazier explained that Highways had not been asked to contribute to the Flood Risk Management Committee Report and that the previous Scrutiny Committee records did not indicate a requirement for any Highways action to contribute to the Cabinet paper. This was to clarify that he believed that there had been no failure on the part of Highways and to confirm that the final Cabinet Paper will feature a drainage section. There was a request made at Cabinet that Highways and Transportation look into the issue of Highways drainage in future which is being done with support of the KCC Drainage & Flood Manager, Katie Lewis, who will be attending the next committee meeting. Highway drainage will feature in the next Highways and Transportation committee meeting.
3. Mrs Dean stated that the concern was one that had been raised to Members from the community with regards to smaller scale, anecdotal flood experiences that were perceived to be caused by silting, calcification and highway drainage issues. An assurance had been given by officers to Mrs Dean that these issues would be addressed in the Cabinet paper. The following questions had been prepared for Mr Haratbar with a view to addressing these concerns.
4. Mrs Dean welcomed Behdad Haratbar's report. Clarification was requested on what the enhanced cleansing regime for identified gullies was and whether it now more targeted. What is the cleansing schedule and how is calcification of pipes being managed?
5. Behdad Haratbar explained that areas identified as hotspots are cleansed every three months or six months depending on severity of issues. Hotspot data is reviewed regularly based on a range on information from quantitative data to anecdotal reports. Calcification was among several maintenance issues that were dealt with on a case by case basis.
6. Mrs Dean highlighted a perceived discrepancy between the surface water scheme plans for her division and where the local residents have reported incidents of flooding and evidence of surface water. It was asked how the surface water scheme is updated and whether a priority list for planned works existed.
7. Behdad Haratbar stated that such local issues are better addressed outside the meeting on a case by case basis and that work was prioritised based on needs assessments. Long term work was planned but was contingent on funding available which prevented a formal schedule being published. Local members are welcome to raise issues with Highways for consideration and potential inclusion in works schedules; a schedule of proposed works have for the financial year 2014/15 was disseminated to Members in March for comment and information. Mr Haratbar explained that use of Combined Members Grant fund to

support local highways priorities was welcome and that Members and residents can find information and guidance on flood resilience in the supplementary report he had produced as well on the KCC website.

8. Mrs Dean requested details as to the use of enforcement powers by Highways to deal with landowners that do not meet their legal obligations to mitigate flood issues arising from their property.
9. Behdad Haratbar explained that the enforcement process managed delicately, normally seeking solutions through engagement with landowners, educating them about their legal obligations and only using enforcement powers where such discussions break down.
10. Members praised the clarity provided by Mr Haratbar on a range of issues; the supplementary report in particular, was identified as an excellent document that was clear, concise and accessible.
11. Mr Scholes recommended that the paper provided by Behdad Haratbar be noted; motion seconded by Mr Hotson.

RESOLVED that the Scrutiny Committee note the Highways Drainage report and thank Mr Brazier and his officers for attending.

From: Cabinet

To: **Scrutiny Committee**, 25 September 2014

Subject: Response to the Recommendations of the Commissioning Select Committee 'Better Outcomes, Changing Lives, Adding Social Value'

Summary:

This report provides a response to the Commissioning Select Committee Report 'Better Outcomes, Changing Lives, Adding Social Value'. It provides an outline of proposed actions against each of the recommendations and indicative timescales.

1. Introduction:

1.1 This paper provides the Executive's response to the recommendations set out in the final report of the Commissioning Select Committee; 'Better Outcomes, Changing Lives, Adding Social Value'. It sets out proposed actions to deliver the recommendations within the final report and indicative timescales. A progress report will be sent to the Select Committee in one year.

1.2 The terms of reference agreed by the Select Committee on 16th December 2013 were:

- a) to determine what KCC needs to do to become a better commissioning authority, with a particular focus on removing barriers to entry for the provision of KCC services from new providers, particularly small to medium sized enterprises (SMEs) and members of the voluntary, community and social enterprise sector (VCSE).
- b) to consider if the authority is using its commissioning processes to ensure it meets its duties under the Social Value Act
- c) to examine how, in becoming a commissioning authority the voluntary, community and social enterprise sector (VCSE) can play a more important role in the provision of KCC services
- d) to make recommendations around the role of KCC as a commissioning authority and the programme of activity through Facing the Challenge that will move the authority to have a commissioning focus and improve how we do commissioning.

1.3 Whilst the Public Services (Social Value) Act 2012 requires the authority to consider '*how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area*' there are however limitations to the Act which must be considered. The Act only applies to public services above the relevant monetary thresholds in the Public

Contracts Regulations (2006) whether they fall under Part A or B of those regulations, this is £173,934. Although not covered commissioners could consider economic, social and environmental well-being in lower value contracts. The Act does not cover goods and works, but services only.

1.4 The 2014 EU procurement directives are also of considerable significance to the Commissioning Select Committee. These have now been adopted by the EU institutions and came into force on the 17 April. The implementation of the directives will need to take place over the next 2 years.

2. Findings and Recommendations:

2.1 The overall findings and recommendations of the Select Committee are strongly welcomed given the effective challenge the report provides to the organisation. The report acts a timely reminder that a shift in culture is critical to our success as we strive to become an excellent commissioning authority. We must embed a collaborative culture, working with other commissioners internally and externally to ensure we secure positive outcomes and value for money for residents, whilst better working relationships with providers will facilitate greater innovation and effective contract management.

We accept and support the six key points set out in the report that KCC can:

- Improve its commissioning
- Develop a mixed economy –eclectic, using both big and small providers from all sectors and KCC in-house provider units, with key role for VCSE and SME's
- Further support and encourage VCSE and SME's to provide services directly or as part of the supply chain
- Support social and micro enterprises to grow and deliver outcomes
- Improve contract monitoring and contract management
- Take more account of social value

2.2 'Facing the Challenge: Whole Council Transformation' approved by County Council in July 2013 and the more recent 'Towards a Strategic Commissioning Authority' paper which went to County Council on the 15th May, support these assertions and have set KCC on a path to strengthening our capability to become an excellent commissioning authority. The recommendations made by the Committee are therefore considered in the wider context of these papers and our proposed actions will support the strategic direction of the authority as defined within these reports, whilst acknowledging the financial challenge the local authority faces.

3. Response to the recommendations:

3.1 The committee made 27 recommendations and the detailed response to each of these is set out in **Appendix 1** of this report. Due to the number of recommendations we have provided a summary set out below, clustered by the key themes provided in the report.

Commissioning Landscape (Recommendation 1)

3.2 KCC spends £1billion on goods and services from external suppliers carrying out commissioning across a wide range of people and place based services. Our commissioning should not start with a preconception that services should be provided by a particular sector but through our commissioning we should find the most efficient and effective way to meet the needs of residents and achieve the identified outcomes, this should be based on sound customer intelligence and where appropriate through co-production.

3.3 Excellent commissioning will enable a mixed and vibrant economy in Kent and will ensure that KCC gets the right provider and that our services are innovative and efficient, offering value for money. In many cases the VCSE and SME may be the most effective provider and this should be identified by ensuring that KCC has the right skills and sufficient capacity to understand the market of potential providers, through comprehensive market engagement, including the benefits and expertise the VCSE and SME providers can offer. This will include looking at ways to breakdown silos between differing types of provision and exploring the potential for prime integration partners and local networks of supply; the VCSE will be a key partner in this. We will also be looking at how we can improve the skill base of our commissioners and the commissioning support specialisms needed to support them.

KCC as an excellent commissioner (Recommendation 2-7)

3.4 Whilst our commissioning and procurement arrangements have been appropriate to date, as we move towards a strategic commissioning authority model we recognise the need to strengthen our capacity and capability in these areas.

3.5 The May County Council paper recognised that there is a need to provide clarity on the strategic outcomes of the authority and to develop a council wide strategic commissioning framework. The development of these will help to define the roles and responsibilities within the commissioning cycle and will ensure that commissioning is carried out to the same high standard across the authority. The current review of both commissioning and procurement will provide an opportunity to strengthen these functions and ensure that the appropriate skills and resources are in place; this includes ensuring that there is a strong contract management function across the Council.

3.6 Whilst it is the responsibility of operational commissioners to work with potential providers to explore and encourage where appropriate opportunities for greater collaboration, it should not be the role of the County Council to dictate how the sector/potential providers should operate. It is however the responsibility of KCC to help shape the market in Kent and make it aware of

our commissioning intentions. Whilst sub- contracting can be a useful and effective way of commissioning services we recognise that we must put mechanisms in place to manage the supply chain and ensure that all providers are equally treated and that smaller VCSE entities can benefit from subcontracting arrangements. In our new commissioning framework we will make clear how we will support the VCSE sector to engage effectively in KCC procurement exercises, and what we expect of all providers both internal and external which are commissioned by KCC, this will include looking at how we can support sub- contracting and consortia arrangements.

3.7 We recognise that better engagement with partners provides opportunities to identify innovative models of service delivery and we are moving towards closer joint commissioning arrangements with colleagues in Health and we must ensure that we have the right arrangements in place to encourage greater collaboration in the future. We also expect commissioners to engage with providers who very often have innovative ideas about how to deliver services which are not focused on organisational boundaries. The adoption of a strategic outcomes framework will span client groups and define outcome which will drive commissioning and service activity, encouraging collaboration across the council.

Engagement and Communication (Recommendation 8-13)

3.8 There are already some good examples of co-production across the local authority, where commissioners have worked with service users and the VCS to design services or develop contracting models. However, the development of a commissioning framework will provide a set of principles which will ensure that we are delivering excellent commissioning across the authority. This will be achieved by ensuring that we commission services based not only on the evidence of need, but also on intelligence gathered through engagement and co-production with residents who use our services, the VCS and private providers.

3.9 Fundamental to this will also be the development of quality service specifications and we acknowledge that we must get better at designing specifications, engaging providers and service users early so that they can inform their design. However it is vital that a balance is struck so that our specifications are proportionate and flexible enough to ensure that we do not limit the innovation of providers, nor limit the opportunity for smaller scale providers from the SME and VCS to become providers of KCC services. An outcomes focus to our specifications will help to ensure that we are clear about what KCC expects from the services commissioned but is not prescriptive about how these outcomes are achieved.

Procurement Process (Recommendation 14-17)

3.10 We agree with the principles set out around simplifying and standardising our procurement processes and we will be looking at how these

issues will be addressed within the Phase 2 review of procurement currently underway.

3.11 Whilst we understand the principle and reason for using lower value contracts (£5K), spending the Councils Money already allows officers to purchase or contract services under £8k without 3 quotes and without the need for a disproportionately resource intensive process. We agree that this should be done in a transparent manner and we will expect our procurement function to ensure that they hold the intelligence on a range of VCSE and SME providers and work with commissioning colleagues at an early stage to offer advice on who can provide these lower value services. We will also ensure that lower value contracts over £5k are reported and that this information is transparent in accordance with legislation.

Support to develop the market and build capacity (Recommendation 18)

3.12 The development of a VCS policy for KCC will provide a set of principles and guidance to commissioners working with the VCS. Within this we will set out our commitment to supporting the sector both as a service provider and in their role in supporting communities. Similarly the new KCC commissioning framework will make clear the role of commissioners in supporting all providers (including the VCS and SME's) to engage effectively with KCC procurement exercises for example through clear specifications and what commissioners can practically do (within legislative constraints) to support the local market and build capacity.

Contracts and Grants (Recommendation 19-25)

3.13 The County Council supports a mixed economy of provision, funded through grants and contracts as appropriate. KCC recognises that there will always be a place for grant funding and the vital role grants play in supporting the VCS to carry out activities and run services which benefit the residents of Kent. The KCC VCS policy being developed, will recognise the vital role the VCS plays in Kent and will set out our commitment to grant funding, delivering a set of principles which commissioners will be expected to follow when awarding grants. This will ensure that our grant funding is open, transparent, and accessible and that we can monitor the impact of our funding.

3.14 The management of contracts is integral to the success of a commissioning authority and we already have examples of good practice within the local authority, for example Highways. However we recognise that this is an area where we need to strengthen our skill set. It is essential that the contracts put in place are of a high quality and enable the authority to act when standards are not being met or to improve performance when needed through the close monitoring of contract delivery.

3.15 As set out in our Whole Council Transformation paper in 2013, KCC as a commissioning authority must have a strong understanding of the outcomes it wants to achieve and the capability of providers including in-house to deliver these. In- house providers will therefore be expected to deliver against service

specifications with no differentiation in the way our contracts are managed between internal and external providers.

3.16 KCC also supports the principle that our contract spend should be transparent and we will take forward as a matter of urgency the improvement of our contracts register. The Local Authorities (Data Transparency code) will require the local authority to publish details of any contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreement with a value that exceeds £5,000. We will expect our procurement function to put in place plans to ensure that this information is collected and made available.

Member Role (Recommendation 26)

3.17 It is recognised that becoming a commissioning authority will have implications on the role of Members and the way that they discharge their role. The move to a commissioning model presents an opportunity for all members to become actively involved in the design, contract and performance management and review of commissioned services through effective engagement at each stage of the commissioning cycle.

3.18 The May County Council paper accepted that there was a need to further examine the role of the Member in a commissioning authority. The Leader has established a cross-party Member Working Group, chaired by Eric Hotson, to examine the issues flagged in this recommendation, and report back through Selection and Member Services Committee to County Council on the changes that might be appropriate to secure and enhance the Member role in commissioning. The Member Working Group will recommend the most appropriate mechanism and approach for engaging all Members in commissioning decisions, in particular ensuring Members have the ability to influencing commissioning and procurement specifications as early in the commissioning process as possible.

Social Value (Recommendation 27)

3.19 KCC is committed to considering social value within our commissioning however there are limitations to the Social Value Act which must be acknowledged. The Act only applies to public services above the relevant monetary thresholds in the Public Contracts Regulations (2006) whether they fall under Part A or B of those regulations, this is £173,934. However the new commissioning framework will propose that social value is considered wherever appropriate to the service being commissioned (i.e. not just above OJEU thresholds). It is therefore for operational commissioners to determine how they will recognise social value where appropriate and evidence it on a case by case basis during the pre-procurement process.

3.20 We will expect all commissioning specifications, where appropriate to evidence how social value has been considered and what is being recommended in the specification with regards to social value and will amend

the standard specification template to incorporate considerations of social value. This must be relevant to what is proposed to be procured.

3.21 We are therefore committed to producing a social value toolkit which is being developed by operational commissioners to offer guidance to commissioners about how social value can be considered and evidenced within the procurement process. This will need to be clear and transparent so that all potential providers, regardless of the sector can demonstrate their added value.

Recommendation:

The Scrutiny Committee is asked to discuss and agree the actions set out in the implementation plan at Appendix 1.

Report Author

David Whittle
Head of Policy and Strategic Relationships
Tel: 01622 696969
E-mail: david.whittle@kent.gov.uk

Lydia Jackson
Policy Manager – Policy and Strategic Relationships
Tel: 01622 694414
E-mail: Lydia.jackson@kent.gov.uk

This page is intentionally left blank

Appendix 1: Action Plan

Select Committee Recommendation	Proposed Actions	Timescales	Responsible owner
Commissioning Landscape			
R1. Support the development of a balanced and mixed economy of potential service providers, balancing cost and maximising where appropriate the use of VCSE and SME organisations with the capacity and skills needed to achieve the outcomes required.	KCC is striving to be an excellent commissioning authority, this means being focused on the delivery of our strategic outcomes, having a strong understanding of the customer needs and that we consider all options in striving to get the best services that are value for money for our residents. By working in this way we will support a mixed economy, with no provider bias. The strengths of the VCS and SMEs will be recognised by having the appropriate intelligence on the services they deliver, their expertise and skills to make informed decisions on service delivery. We will be looking at how we can improve the skill base of our commissioners and the commissioning support specialisms needed to support them. We will also ensure that commissioners are supported to robustly appraise all delivery options available to them during the early commissioning stages.	Early 2015	<ul style="list-style-type: none"> • Transformation Team • Procurement • Commissioning
KCC as an excellent commissioner			
R 2. Clarify KCC Commissioning objectives and approach, and develop a KCC Commissioning Strategy.	As referenced in the Facing the Challenge reports to County Council in May, KCC is developing a new Strategic Outcomes Framework and Commissioning	April 2015	<ul style="list-style-type: none"> • Corporate Policy with Commissioning and Procurement

Select Committee Recommendation	Proposed Actions	Timescales	Responsible owner
	<p>framework. These will define what it means for KCC to be a strategic commissioning authority including the functions and capabilities needed and will also set out the strategic outcomes for the authority. The framework will provide clear guidance to commissioners, providers and partners about what good commissioning will look like for KCC.</p>		
<p>R3. Define roles, responsibilities and relationships in commissioning cycle, agree who is best placed to carry out the different tasks, and decide when and how legal advice should be considered in the procurement cycle.</p>	<p>The analysis of roles and responsibilities within the report is welcomed and should be used as a basis to review the procurement and commissioning function in the Phase 2 reviews and to inform the development of our commissioning support. It is recognised that we need to define clearly our Commissioning and procurement functions and make a distinction between commissioning and the role of service managers.</p> <p>The development of a Commissioning Framework for the authority will provide clarity on the process KCC uses for commissioning, setting out the key steps, good practice and defining roles and responsibilities at each stage of the cycle. It will also illustrate the resources available to commissioners to draw upon.</p>	<p>Early 2015</p>	<ul style="list-style-type: none"> • Policy • Commissioning • Transformation Team • Procurement
<p>R4. Develop the culture of commissioning and contract management, with an ethos of collaborative relationships.</p>	<p>Whilst it is the responsibility of operational commissioners to work with potential providers to explore and encourage where</p>	<p>Ongoing</p>	<ul style="list-style-type: none"> • Commissioning

Select Committee Recommendation	Proposed Actions	Timescales	Responsible owner
	<p>appropriate opportunities for greater collaboration, it should not be the role of the County Council to dictate how the sector/potential providers should operate. It is however the responsibility of KCC to help shape the market in Kent and make it aware of our commissioning intentions. Whilst sub- contracting can be a useful and effective way of commissioning services we recognise that we must put mechanisms in place to manage the supply chain and ensure that all providers are equally treated and that smaller VCSE entities can benefit from sub- contracting arrangements. Our new commissioning framework will make clear how we will support the VCSE to effectively engage in KCC procurement exercises and what we expect of all providers both internal and external which are commissioned by KCC, this will include looking at how we can support sub- contracting and consortia arrangements.</p>		
<p>R 5. Extend the Kent Compact or similar agreement to include private sector providers working with the VCSE organisations.</p>	<p>Whilst we are sympathetic to the points raised in relation to sub-contracting we do not believe that the Compact is the right mechanism for managing how the private sector works with the VCSE in potential sub-contracting arrangements. This should be achieved through the development of good contracts and through the</p>	<p>Ongoing</p>	<ul style="list-style-type: none"> • Commissioning • Procurement

Select Committee Recommendation	Proposed Actions	Timescales	Responsible owner
	management of the supply chain, ensuring that all providers are treated fairly and equally, as stated in R4.		
R 6. Invest time defining the desired outcomes and measures (quantitative and qualitative), ensuring these are user and communities focused and evaluate impacts (not outputs), using Co-production of outcomes and measures where appropriate.	<p>We absolutely agree that defining outcomes is critical for specifying and securing the right services. This should be based on a blend of quantitative and qualitative measures and we recognise the need to improve our evaluation with regards to qualitative analysis. We also support that wherever possible outcome measures should be co-produced.</p> <p>The development of a Strategic outcomes framework will provide the foundation for aligning commissioning objectives of clients and services to the strategic outcomes KCC wants to achieve as a county at a population level.</p> <p>The strategic outcomes framework will be informed by public consultation. The new commissioning framework will also set out how we will ensure that each contract established by KCC links directly to the new outcomes framework.</p>	On going	<ul style="list-style-type: none"> • Commissioning • Policy
R 7. Improve how we join up commissioning across the authority. There is a need for better collaboration and partnership building across silos and with providers.	The strategic commissioning plan and outcomes framework will span client groups and define outcome which will drive commissioning and service activity, encouraging collaboration across the council. The county wide commissioning framework will ensure that there is	April 2015 and ongoing	<ul style="list-style-type: none"> • Corporate Policy • Commissioning

Select Committee Recommendation	Proposed Actions	Timescales	Responsible owner
	<p>consistency in the way we commission and will set out how we will commission with partners.</p> <p>We recognise that better engagement with partners provides opportunities to identify innovative models of service delivery and we are moving towards closer joint commissioning arrangements with colleagues in Health in this way. We also expect commissioners to engage with providers who very often have innovative ideas about how to deliver services which are not focused on organisational boundaries.</p>		
Engagement and Communication			
R 8. Provide more opportunities to co-design and co-produce services where appropriate, to capture the value of what organisations are already doing, and ideas to innovate.	The development of a KCC commissioning framework will set out the principles underpinning our commissioning including our commitment to involving residents in the co-production of services and monitoring the effectiveness of commissioned services. There will be an expectation that operational commissioners will work alongside customers and organisations to ensure that we are clear on the outcomes we are seeking to effect through our services and that we build upon best practice.		<ul style="list-style-type: none"> • Commissioning
R 9. Need to ensure that specifications are 'fit for purpose' and reflect market engagement, identify level of need and	We agree that service specifications are a critical product to driving effective commissioning. We acknowledge that we	Autumn 2014	<ul style="list-style-type: none"> • Commissioning

Select Committee Recommendation	Proposed Actions	Timescales	Responsible owner
desired outcomes, allow innovation and flexibility, leading to better contracts.	must get better at designing them and at how we arrive at our specifications, engaging providers and service users. However our specifications must also be proportionate and flexible to ensure that we do not limit the innovation of providers. Our commissioning framework will recognise this balance but there will always need to be an element of judgement made by the commissioner to ensure that we get the right specifications and better contracts as a result.		
R 10. Actively consider how service users and stakeholders can have greater input and influence in the specification, and service users in the evaluation of tenders.	There are already examples where KCC has successfully involved service users and stakeholders in the development of specifications and we strongly support this approach wherever possible. Our commissioning framework will place great importance on the analyse and review stages of the commissioning cycle and our approach to commissioning will be underpinned by the principles of co-production and service user engagement throughout the cycle. It will be the responsibility of operational commissioners to ensure that there are opportunities for input and influence in the specification wherever appropriate and this should be built into the commissioning timetable. There will be an expectation that commissioner will be able to evidence	On going	<ul style="list-style-type: none"> • Commissioning

Select Committee Recommendation	Proposed Actions	Timescales	Responsible owner
	service users and customer input into the design of the commissioning specification wherever appropriate.		
R 11. Ensure appropriate and timely communication throughout the market engagement and tendering processes – about timeliness, communicating reasons for changes, levels of awareness.	We strongly support the principle of engaging early with the VCSE and private sector to inform our commissioning plans and specifications. This will enable commissioners to understand what the sector can provide and will ensure that they are well informed of our commissioning intention. This is vital to the delivery of innovative services based on quality specifications.	On going	<ul style="list-style-type: none"> Commissioning
R 12. Promote contracting opportunities to VCSE and SMEs and Better or enhanced promotion of the Kent Business Portal to increase awareness (including with small and micro enterprises), and for the Portal to be more easily navigable.	The effectiveness of the portal should be considered within the phase review of procurement to ensure that the portal is responsive and easily accessible.	Starting Summer 2014	<ul style="list-style-type: none"> Transformation Team Procurement
R 13. Extend the use of the portal to enable other local Authorities to promote contract and subcontracting opportunities, broadening potential access for VCSE and SMEs.	Procurement will explore the possibility for the portal to be used by other local authorities outside of the County.	Ongoing	<ul style="list-style-type: none"> Procurement
Procurement process			
R14. Strengthen our processes to access and utilize knowledge of Commissioners and potential providers - KCC should consider within the current Tendering process and complying with procurement law how KCC can strengthen our	KCC's commissioning framework will set out our required standards and principles throughout the commissioning cycle and will place equal importance on the review element of the cycle. Commissioners will be expected to review the performance	Ongoing from Autumn 14	<ul style="list-style-type: none"> Procurement Commissioning

Select Committee Recommendation	Proposed Actions	Timescales	Responsible owner
<p>understanding of the local knowledge and experience of organisations, for example by incorporating:</p> <ul style="list-style-type: none"> - visits to existing services of potential providers - reflecting knowledge of past performance/experience of working with a provider, both good and not so good. 	<p>and effectiveness of commissioned services and use this intelligence to inform re-commissioning of services and future service specifications. This should also include using the experience of other local authorities where providers have already undertaken similar services on their behalf.</p>		
<p>R 15. Simplify and standardise procurement processes further to remove or minimise procurement process barriers by:</p> <ul style="list-style-type: none"> - introducing reduced and less onerous requirements for low value contracts (e.g. financial evidence - self certification/documentation for low risk/low value followed by a more detailed analysis if proceed to award stage, proportionate pre papers or discontinuing PQQ where appropriate) - simplifying and standardising the core and online PQQ, retaining the flexibility to add additional questions for more complex service areas - better co-ordination of Commissioning and co-ordinating the diary of tenders across KCC where possible and introducing a plan of tenders - giving earlier notice of intention to put contract out to tender and more time for the completion and submission of tenders. 	<p>We agree with the principles set out and will look at how these issues will be addressed and the viability within the Phase 2 review of procurement.</p>	<p>Ongoing from summer 14</p>	<ul style="list-style-type: none"> • Procurement • Transformation Team
<p>R 16. Promote opportunities to VCSE and</p>	<p>Whilst we understand the principle and</p>	<p>On going</p>	<ul style="list-style-type: none"> • Procurement

Select Committee Recommendation	Proposed Actions	Timescales	Responsible owner
SMEs through publication of lower value contracts (i.e. £5K) and greater transparency regarding low value contracts that are available.	reason for lower value contracts, Spending the Councils Money already allows officers to purchase or contract services under £8k without 3 quotes and without the need for a disproportionately resource intensive process. However we agree that this should be done in a transparent manner; procurement should ensure that they hold the intelligence on a range of VCSE and SME provider and can offer advice on who can provide these lower value services. They should also ensure that lower value contracts over £5k are reported.		
R 17. Reflect Social Value sufficiently in our procurement decisions – need to actively consider how much of each procurement decision should be assigned to Social Value, and not only between price and quality.	KCC is committed to considering social value within our commissioning however there are limitations to the Social Value Act which must be acknowledged. The Act only applies to public services above the relevant monetary thresholds in the Public Contracts Regulations (2006) whether they fall under Part A or B of those regulations, this is £173,934. However we will ensure that social value is considered in all commissioning exercises where it is relevant to the service being commissioned, irrelevant of contract value, to ensure that community benefits are maximised. It is therefore for operational commissioners to determine how they will recognise social value where appropriate and evidence it on a case by case basis	Ongoing	<ul style="list-style-type: none"> • Commissioning • Procurement

Select Committee Recommendation	Proposed Actions	Timescales	Responsible owner
	<p>during the pre-procurement process. We will expect all commissioning specifications, where appropriate to evidence how social value has been considered and what is being recommended in the specification with regards to social value. This must be relevant to what is proposed to be procured.</p> <p>A social value toolkit is being developed by operational commissioners which will offer guidance to commissioners about how social value can be considered and evidenced within the procurement process. This will need to be clear and transparent so that all potential providers, regardless of the sector can demonstrate their added value.</p>		
Support to develop the market and build capacity			
<p>R 18. Actively consider how best to support the development of the market and build capacity, particularly how best to provide support to VCSE and to SMEs.</p>	<p>KCC is committed to supporting the growth of SME's and the VCS and values the vital role they play in Kent. However we also recognise that the local authority must act within procurement law.</p> <p>Adult social care's recent purchase of a short term (18 month) market development service to support the VCS is welcomed. However it is important that we consider the support needs right across the VCS, therefore we will be reviewing our support</p>	<p>Winter 2014</p>	<ul style="list-style-type: none"> • Corporate Policy • Commissioning

Select Committee Recommendation	Proposed Actions	Timescales	Responsible owner
	to the sector as part of the development of our VCS Policy. This will require us to review the existing infrastructure support which is funded through KCC and how this can best meet the future needs of the VCS sector.		
Contracts and grants			
R 19. Break down larger contracts into smaller lots, wherever practical.	Whilst it is right that commissioners consider the most appropriate process for securing the best outcomes and best value for residents it will not always be appropriate or cost effective to break contracts down into smaller lots. In some cases a grant arrangement may be more appropriate for small scale niche services and the development of our VCS Policy will help to set standards around the use of grants and contracts with the VCS.	Autumn 2014	<ul style="list-style-type: none"> • Corporate Policy
R 20. Requirement for prompt payment terms all the way down our procurement supply chain continues to be built into contracts; and improve monitoring of this requirement to ensure compliance.	KCC now has a target for paying contractors in 14 days which has been delivered within 90% of contracts. We recognise that there is always room for improvement and the importance of prompt payment in particular for SME's and VCS organisations who have limited access to credit. We will therefore, through our procurement department put in place plans to ensure that delivery upon this target continues to improve.	On going	<ul style="list-style-type: none"> • Procurement
R 21. Recognise there is a clear role for 'smart' grants that are innovative, and	KCC recognises the value of grant funding in supporting the vital role of the VCS in	Autumn 14	<ul style="list-style-type: none"> • Corporate Policy • Commissioning

Select Committee Recommendation	Proposed Actions	Timescales	Responsible owner
outcome based. Need to ensure that their use is transparent and are time and task specific, and monitored /evaluated for success.	Kent. We are developing a VCS policy which will set out principles and standards around our engagement with the sector, including setting out standards around the appropriate use of grants and contracts. By having a standardised approach to grants and a transparent process in place we will be able to monitor the impact of our funding and provide clarity to the sector about the use of grants. It will be for commissioners to ensure that they are operating in accordance to these principles and that we are using the most effective and appropriate funding mechanism for each of our services.		
R 22. Improve the capabilities to performance manage contracts; and ensure the capacity to monitor and evaluate performance and support improvement when appropriate.	The management of contracts is integral to the success of a commissioning authority and we already have examples of good practice within the local authority, for example Highways. However we recognise that this is an area where we need to strengthen our skill se. It is essential that the contracts put in place are of a high quality and enable the authority to act when standards are not being met or to improve performance when needed through the close monitoring of contract delivery.	On going	<ul style="list-style-type: none"> • Commissioning • Procurement
R 23. Stipulate that all contracts have clearly scheduled performance reviews and evaluate	KCC agrees that the review function is vital; effective commissioning authorities use their data analysis information and	On going	<ul style="list-style-type: none"> • Commissioning

Select Committee Recommendation	Proposed Actions	Timescales	Responsible owner
outcomes/outcome evaluations – for instance ensure contracts have schedule of reviews.	expertise to test and question the effectiveness of services at regular intervals. This can lead to ‘fine tuning’ or even major changes to specifications before re-commissioning, to learn from what has worked and not worked. It is also recognised that we need to focus our contract management and evaluation on outcomes rather than outputs and this is something we will take forward.		
R 24. Complete the Contracts register to include all contracts over 50k – and include details of the named contract manager, and Lead Director	We agree with this recommendation and will take this forward as a matter of urgency. The Local Authorities (Data Transparency code) will become mandated when regulations under section 3 of the Local Government, Planning and Land Act 1980 come into force. This will require the local authority to publish details of any contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreement with a value that exceeds £5,000. This will need to include a range of information including details of the goods or services being provided and the department responsible and whether or not the supplier is a small or medium sized enterprise and/or a voluntary or community sector organisation. Procurement will be putting in place plans to ensure that this information is collected and made	Early 2015	<ul style="list-style-type: none"> • Procurement

Select Committee Recommendation	Proposed Actions	Timescales	Responsible owner
	available.		
R 25. Manage internally provided Services with as much rigour for outcomes, and performance management as other providers.	As set out in our Whole Council Transformation paper in 2013, KCC as a commissioning authority must have a strong understanding of the outcomes it wants to achieve and the capability of providers including in-house to deliver these. In- house providers will therefore have to compete to deliver contract specifications with external suppliers, with no differentiation in the way our contracts are managed between internal and external providers.	On going	<ul style="list-style-type: none"> • Commissioning • Performance and Risk
Member role			
R 26. Further work is undertaken to the member role and what mechanism would best strengthen member oversight of commissioning, procurement and contract management; and member involvement earlier in the process and pre market engagement; and members are supported through training.	The May 2014 County Council paper accepted that further work on the role of the Member in a commissioning authority was urgently needed, and to that end the Leader has established a cross party Member Working Group on Commissioning, chaired by Eric Hotson, which will examine the key issues raised in this recommendation, and which will report back through Selection and Member Services Committee to County Council. The Group will also consider the appropriate training required for Members in a commissioning authority. It is expected to report its final recommendations before the end of the year.	December 2014	<ul style="list-style-type: none"> • Corporate Policy
Social Value			

Select Committee Recommendation	Proposed Actions	Timescales	Responsible owner
R 27. To maximise and give greater recognition to Social Value, incorporate consideration of social value questions in tender evaluation criteria and procurement decisions where possible, and develop a Social Value Charter.	<i>Refer to action under recommendation 17.</i>	Autumn 2014	<ul style="list-style-type: none"> • Commissioning

This page is intentionally left blank

From: Mr R Parry – Chairman of Scrutiny Committee
Peter Sass – Head of Democratic Services

To: **Scrutiny Committee – 25 September 2014**

Subject: **Select Committees – review of process**

Classification: **Unrestricted**

Summary: This report comments upon the current process for producing Select Committee reports and asks the Committee to make recommendations to review and improve the existing process.

Recommendations: Any amendments that the Committee wishes to make to the current Select Committee process set out in Appendix 4 Part 4 of the Constitution be recommended for approval to the Selection and Member Services Committee.

1. Introduction

1.1 The current process for carrying out Select Committee topic reviews has been in place for the past 13 years and during that time [33 reviews](#) have been carried out. These reviews have had covered topics as diverse as Dementia and Home to School Transport and have had a positive impact on the work of the County Council in serving the people of Kent.

1.2 During this time, the process for carrying out topic reviews has evolved. Although it is based on the process set out in Appendix 4 Part 4 of the Constitution, a pragmatic approach has been taken where necessary to carrying out the review, focusing on producing positive, achievable outcomes.

1.3 Given the passage of time that has elapsed since the rules for Select Committees were first introduced, it is timely to examine that process to ensure it is fit for purpose for the future and to decide whether any amendments to it are necessary.

2. Select Committee process

Current KCC process for Select Committees

2.1 Select Committees are sub-committees of the Scrutiny Committee and as such the statutory requirements relating to formal committee meetings apply, e.g. publication of reports and an agenda giving 5 clear working days' notice of the meeting, etc. The press and public have a right to attend formal Select Committee meetings unless the Select Committee agrees by resolution that exempt information is likely to be disclosed.

2.2 The “Additional Rules Applying to the Scrutiny Committee and Select Committees” set out in the Constitution (Appendix 4 Part 4) need to be updated to reflect current practise (as illustrated in the tracked changed version of Appendix 4 Part 4 attached as **Appendix A**) and to incorporate any other amendments to the process recommended by this Committee.

KCC’s process for developing the Select Committee report

2.3 KCC’s Select Committee process is based upon the Parliamentary Select Committee process, and is followed by a number of other authorities who carry out Select Committee-type topic reviews.

2.4 KCC Select Committee evidence gathering sessions, where witnesses are invited to attend to give evidence to the Select Committee, are held in public unless it is likely that exempt information will be disclosed. Full minutes of these open meetings are published on the KCC website.

2.5 Once a KCC Select Committee has finished its evidence gathering, i.e. its open hearing sessions to receive oral evidence from witnesses, carrying out any visits it deems necessary and receiving any written evidence from witnesses, it then moves on to develop its report.

2.6 In the Constitution the rules applying to Select Committees do not stipulate how this next stage should be carried out. To date, a pragmatic approach has been taken in order to achieve a report that all Members of the Select Committee give their approval to within the required timescale. At KCC this process is started by the holding an initial informal meeting of the Members of the Select Committee, which is not open to the press and public. The informal/private nature of this meeting enables these Members, supported by the Research Officer, to have a free and frank exchange of information and views about the areas on which they would wish to make recommendations in their report.

2.7 Following this initial meeting, the Research Officer will draft initial recommendations and, depending on the clarity of Members’ wishes at the meeting referred to in 2.6, the Research Officer may obtain further clarification via email or, if s/he feels that they have enough guidance from the Select Committee, may produce a first draft of the report.

2.8 Once the first draft of the report has been produced, the Select Committee then meets again with the Research Officer, supported by a Democratic Services Officer, to discuss this initial draft. Again, this is an informal meeting to which the press and public are not invited.

2.9 The reasons for this are:

(1) if this was a formal meeting of the Select Committee to which the rules in relation to the publication applied, the first draft of the report including draft recommendations would need to be made public before the Select

Committee had had the opportunity to discuss and decide if this accurately reflected their wishes;

(2) it may inhibit any frank discussion the Committee may wish to have on the recommendations and report.

A number of such meetings may be required. If only minor amendments are required, the Research Officer may carry some of this process out with Select Committee Members via email.

2.10 Once a report has been produced which the Select Committee has informally indicated it is happy to own then, normally due to time constraints, approval to this final version is sought via email prior to it being submitted to Cabinet and County Council. Exceptionally, where there is sufficient time to do so, such as with the recent Select Committee on Commissioning, a short formal public meeting is held to approve the report, with the final draft being published 5 clear working days in advance of this meeting. A key question now is whether such formal approval at a public meeting should be incorporated into each topic review timetable.

Parliamentary Select Committees – process for developing and finalising their report

2.11 The only meetings that Parliamentary Select Committees carry out in public are their evidence gathering/witness sessions. All of the meetings to develop their recommendations and reports, including the approval of the final report of the Select Committee, are carried out in private.

2.12 Once a Parliamentary Select Committee has gathered its evidence, private meetings of the Committee are held where the Members consider their recommendations and what they would like to see in their report. The support staff will then produce a draft heads of agreement and sometimes draft recommendations which will be considered at a further private meeting. As a result the support staff will then draft the report and submit it to the Chairman of the Select Committee for their agreement, when this is obtained it then becomes the Chairman's report. A further private meeting of the Select Committee is held to discuss/approve and if necessary amend the Chairman's draft report. The report then becomes the report of the Select Committee. There are very brief minutes produced of the private meeting with approves the report which are included as an appendix to the published report.

Other local authorities' processes for developing and finalising topic review reports.

2.13 Other local authorities that carry out some form of topic review have been asked to supply information on their process. It should be noted that there is no statutory process for carrying out these reviews and therefore not all authorities carry out this work and those that do have processes that vary in length, depth and scope.

2.14 The most common approaches used by other authorities are:

- a) A similar process to KCC and Parliament, with a formal meeting in public for evidence gathering and a series of private meetings to develop and finalise the report.
- b) The “Select Committee” being an informal working group of the Scrutiny Committee – tasked with evidence gathering and producing a report for submission to the Scrutiny Committee.

In this case, there is no legal requirement for any of the working groups’ meetings to be held in public, including the evidence gathering sessions. In most cases where this process is followed, all meetings of the working group are held in private, including the evidence gathering/witness session, with a final report being submitted to the Scrutiny Committee for approval and adoption as a report of the Scrutiny Committee.

- c) Hybrid – informal groups meeting in public for evidence gathering, but with no legal requirement to do so, and in private to formulate recommendations and report, which is then submitted to their Scrutiny Committee.

Onward Pathway for the Select Committee report

2.15 The process once the Select Committee has produced its final report is set out in Appendix 4, Part 4 of the Constitution:

“The Chairman of the Select Committee, the Chairman of the Scrutiny Committee and the relevant Cabinet Member, in discussion with the Leader of the Council, will agree the order of the submission of the report to the Cabinet, Scrutiny Committee, or any other Committee.”

2.16 What has become established practise is a Select Committee report is submitted to Cabinet, where it is either noted or endorsed, and then submitted to County Council where it is discussed and commented upon.

2.17 It would be helpful to clarify this process. Although Select Committees often make recommendations about Executive functions, they are sub-committees of the Scrutiny Committee and are non-Executive bodies. Therefore, Select Committee reports should only be submitted to Cabinet after being endorsed by County Council, and only then if they contain recommendations about Executive functions.

2.18 If the Committee is minded to retain the submission of the Select Committee report to Cabinet, it would be helpful for the Select Committee rules are amended to clarify that the report is for noting only.

2.19 An option for the Scrutiny Committee to consider is amending the Select Committee process so that the final report is only submitted to County Council. It can then be discussed by all Members, giving the opportunity for it to receive welcome publicity. The County Council could then endorse the report and recommend it to Cabinet Member(s) for them to respond to the Scrutiny Committee, within three months of the County Council meeting, on each of the recommendations and how they are going to implement them

3. Conclusions

3.1 The Scrutiny Committee is invited to consider the current process for producing Select Committee reports and to decide if it wishes to recommend any amendments to this process. Any amendment would need to be considered by the Selection and Member Services Committee for recommendation to County Council as an amendment to the Constitution.

3.2 Members may wish to consider making amendments in the following areas:

The Select Committee process:

a) Whether the Select Committees should continue to be formal sub-committees of the Scrutiny Committee, with all the statutory requirements relating to their formal meeting;

or whether it wishes topic reviews to be carried out by informal groups, which would submit their report to the Scrutiny Committee for approval and adoption as a report of the Scrutiny Committee.

b) If it is decided that they should remain as sub-committees, the Scrutiny Committee is invited to consider setting rules for the process for the formulation of Select Committee reports. In order to enable Select Committees to have free and frank discussions around their recommendations and reports, it is suggested that they hold informal meetings with the Research Officer during the drafting stages of the report.

c) If it is decided to remove the provision for Select Committees to be formal sub-committees of the Scrutiny Committee, but instead approve a provision for informal member groups to gather evidence and produce a report, it would be necessary to decide if these groups were going to gather evidence and/or hold their recommendation/report formulation meetings in public, as there would be no legal requirement for them to do so. Provision would also need to be made for the working group to submit interim reports to the Scrutiny Committee on the progress with their work and also to submit their final report to the Scrutiny Committee for approval and ownership.

Sign off process

d) In relation to the final sign off of the report by the Select Committee, if it was decided that Select Committees could continue to have the status of sub-committees, then it is suggested that usually a short formal public meeting be held to approve the report, with the final draft being published 5 clear working days in advance of this meeting.

Submission of the report to Cabinet/County Council

e) Whether to amend the Select Committee rules to remove the requirement to submit the Select Committee report to Cabinet but instead to submit the report to County Council for discussion and recommendation (if appropriate) to the Cabinet Member.

4. Views of previous Select Committee Chairmen

4.1 The views of the Chairmen of the last two Select Committees on the above issues have been sought and are attached as **Appendix B**.

5. Recommendations

That any recommendations of the Scrutiny Committee on amendments to the rules relating to Scrutiny Committees be submitted to the Selection and Member Services Committee for recommendation to County Council.

6. Background Documents

None

7. Contact details

Peter Sass
Head of Democratic Services
(01622) 694002
peter.sass@kent.gov.uk

APPENDIX A

Appendix 4 Part 4: Additional Rules applying to the Scrutiny Committee and Select Committees

- 4.1 (1) These rules apply only to the Scrutiny Committee and Select Committees.
- (2) Members of a Cabinet Committee may serve as an ordinary or substitute member of the Scrutiny Committee unless the Scrutiny Committee is dealing with an item that has been considered by the Cabinet Committee on which they serve. In these circumstances, they should take no part in the debate or vote on the item.
- (3) Deputy Cabinet Members may not serve as ordinary or substitute members of the Scrutiny Committee or of Select Committees dealing with issues that are within their own areas of responsibility.
- (4) Reports or recommendations to the Leader, Cabinet Member, Cabinet, Council or officer may include the views of Members dissenting from the majority recommendation of the Committee.
- (5) These committees may:
- (a) require Members and officers of the authority to attend before them to answer questions and
 - (b) invite other persons to attend meetings
- (6) It is the duty of any Member or officer to comply with a requirement in (5)(a) above. However, officers below Senior Manager level are not required to attend meetings except with their agreement and that of the relevant Senior Manager.
- (7) If a Cabinet Member is unable to attend as requested, a Deputy Cabinet Member may attend on their behalf. Cabinet Members and officers will normally attend together for questioning.

Requests for information

- 4.2 (1) This procedure shall be used by Members when seeking information on matters that the Scrutiny Committee is capable of considering.
- (2) Any requests for information shall be made in writing through the Clerk who will acknowledge receipt.
- (3) Members are encouraged to use the resources of the KCC Intranet and Corporate Library to identify information that is already available before instigating a request under this procedure.
- (4) A request for information will be forwarded by the Clerk to the relevant Senior Manager. The information requested will be supplied to the Clerk as soon as possible or an indication given when it will be available.

(5) If an officer feels unable to supply information requested, or considers it inappropriate to do so, the Senior Manager must be consulted. If the Senior Manager agrees, he will then supply to the Clerk a written explanation of why the information requested cannot be supplied. The Clerk will give this explanation to the Member and inform the Member of his right to request the Chairman of the Scrutiny Committee or their group spokesman on the Committee to have the matter considered by that Committee.

Agenda Planning

4.3 The agenda for ordinary meetings of the Scrutiny Committee shall be set through the procedure set out in Procedure Rules 7.10-7.17, below.

Questioning

4.4 The Chairman may permit a Member not on the Scrutiny Committee (including Cabinet Members and Deputy Cabinet Members) to speak and ask questions if a matter on the agenda has a particularly significant impact on the Member's division or if the Member has not been supplied with information under Procedure Rule 4.2(5).

4.5 Members should endeavour not to request detailed information from officers at meetings of the Committee, unless they have given prior notice through the Clerk. If, in the course of question and answer at a Committee meeting, it becomes apparent that further information would be useful, the officer being questioned may be required to submit it in writing to the Scrutiny Committee members through the Clerk.

4.6 In the course of questioning at meetings, officers other than Senior Managers may decline to give information or respond to questions on the ground that it is more appropriate that the question be directed to the relevant Senior Manager.

4.7 Cabinet Members and officers may decline to answer questions in an open session of the Committee on the grounds that the answer might disclose information that would be exempt or confidential as defined in the Access to Information Procedure Rules. In that event, the Committee may resolve to exclude the media and public in order that the question may be answered in private session.

Formulation of Recommendations and Reports

(4.8 and 4.9 only apply to the Scrutiny Committee)

4.8 After answering questions, the Cabinet Member, Deputy Cabinet Member and Officers may remain but should not normally be invited to speak during debate unless it seems likely the Committee will be proposing an action on which they have not commented and on which advice is either sought or should be given in order to protect the Council's interests or for the purposes of clarification.

4.9 At the debate stage, the Committee has to decide whether to express comments on the proposal(s) to the Leader, Cabinet, Cabinet Member, the relevant officer or the Council.

(1) The Chairman shall first explore through debate if there is a consensus on the views to be expressed by the Committee.

(2) If there is no consensus, the Chairman will ask if any Member wishes to move a formal proposal as to the view to be expressed by the Committee. If seconded, a debate will take place under normal Procedure Rules applying to committees, including the possibility of amendments to the motion before the Committee.

(3) If the motion is passed, it will become the formal view of the Committee.

(4) If the motion is lost, but no other motion is put forward, the Committee will be deemed to have decided to make no comment.

4.10 The Committee may not criticise or adversely comment on any individual officer by name.

4.11 Committee meetings shall be recorded by the Clerk unless the Committee decides it is inappropriate. Procedure Rule 2.2(2) on making transcripts available shall apply to these recordings.

Topic Review Plans

4.12 A rolling two year Select Committee Work Programme will be set by the Scrutiny Committee, subject to the endorsement of Cabinet as soon as possible after the Annual Council meeting following County Council elections and will be kept under review and added to on a rolling programme basis. In setting out the programme, ~~the~~ Scrutiny Committee ~~and Cabinet~~ will be mindful of the resources and officer and Member time required to implement the work programme it and will endorse at a formal meeting of the Committee, if the timescale allows, or via the Chairman and spokesmen for the Scrutiny Committee (with this agreement being reported retrospectively to the Committee) :

(1) the terms of reference of the review, including the general nature of the expected outcomes, which should be developed by a cross-party Member group (one from each political group) for approval by the Select Committee

(2) the names of any co-opted person from outside the Council to serve on the Select Committee (such co-opted Members will not have a vote)

(3) the staff and other resources required to deliver the review including, if required, the ability to appoint an adviser to the Select Committee

(4) an approximate timetable of meetings and final reporting date (normally within 6 months of the review commencing)

(5) the main witnesses and information sources expected to be involved in the review.

Meeting Arrangements

4.13 Select Committees shall ensure that:

(1) dates and arrangements for witnesses to attend their meetings (or otherwise give evidence to Committee members) are agreed with witnesses in advance

(2) advance notice is given to witnesses of the areas to be covered in questioning

(3) information is, wherever possible, distributed to the Committee Members in writing before the witness attends.

Questioning

4.14 Members should endeavour not to request detailed information from officers at Select Committee meetings unless they have given prior notice through the Clerk. If, in the course of question and answer at a meeting, it becomes apparent that further information would be useful, the officer being questioned may be required to submit it in writing to the Committee Members through the Clerk.

4.15 In the course of questioning at meetings, officers other than Senior Managers may decline to give information or respond to questions on the ground that it is more appropriate that the question be directed to the relevant Senior Manager.

4.16 Cabinet Members, officers and other witnesses may decline to answer questions in an open session of a Committee on the grounds that the answer might disclose information that would be exempt or confidential as defined in the Access to Information Procedure Rules. In that event, the Committee may resolve to exclude the media and public in order that the question may be answered in private session.

4.17 ~~The Clerk shall record meetings of a Select Committee unless the Select Committee decides it is inappropriate.~~ A written summary of evidence given at Select Committee meetings will be prepared by the Clerk and agreed with the witness prior to its publication.

Review Reports

4.18 During Topic Reviews, Select Committees shall ensure that relevant Cabinet Members and officers are kept informed of the progress of the review and have full opportunity to comment and inform the deliberations of the Committee.

4.19 Select Committees shall ensure that relevant officers are consulted on any statistics, data and information which are to be included in their reports or on which they intend to base conclusions. The report should include all such data and information or state where it is available to Members

4.20 Reports shall include [a link to](#) all summaries of evidence given to the Committee during the Topic Review.

4.21 When producing their reports, Select Committees should make explicit the likely resource implications of their proposals and have due regard to their affordability and deliverability, taking account of the resources available to the Council.

4.22 Select Committees may not in their reports criticise or adversely comment on any individual officer by name.

4.23 Once the draft report is prepared with its conclusions and recommendations, the Select Committee must ensure that relevant Cabinet Members and officers have the opportunity to comment on the draft report before it is published.

4.24 The Chairman of the Select Committee, the Chairman of the Scrutiny Committee and relevant Cabinet Members, in discussion with the Leader of the Council, will agree the order of the submission of the report to the ~~Cabinet, Scrutiny Committee, Council, or any other~~ committee.

4.25 The Scrutiny Committee will monitor and review the Executive's response to Select Committee reports, as set out below.

Comment [FD-BG1]: Cabinet may need to be deleted if it decided that Select Committee reports will be submitted direct to County Council.

Monitoring of Select Committee recommendations

4.26 (1) When a Select Committee has produced its report and [Cabinet County Council](#) has endorsed its recommendations, it is essential that monitoring takes place in relation to progress with the recommendations.

(2) Three months after [Cabinet County Council](#) has endorsed a Select Committee report, the Scrutiny Committee should receive an action plan from officers setting out how they propose to take the recommendations forward.

(3) One year after [Cabinet County Council](#) has endorsed a Select Committee report, the Select Committee will be reconvened to receive a report that details progress with each of the recommendations.

(4) The Minutes from this Select Committee meeting will be presented to the next meeting of the Scrutiny Committee for comment and noting [or to request further monitoring](#).

(5) It is assumed that once this process has been carried out, the recommendations become embedded in the work of the Council, or an explanation will have been accepted by Members as to why this not possible. Therefore, in normal circumstances, it should not be necessary to receive a further report specifically on progress with the recommendations.

Publicising and Launching Select Committee Reports

4.27 All communications between Select Committee Members and the media shall be in accordance with the Public Relations Protocol for Select Committee Reviews and Reports (as approved by the Council on 11 December 2008).

Overview and Scrutiny inter-authority co-operation

4.28 The Scrutiny Committees in preparing Review Plans, and Select Committees in carrying out reviews and preparing reports, shall comply with the protocols agreed by the former Kent Association of Local Authorities governing co-operation between authorities on overview and scrutiny (Annex A to this Part) and overview and scrutiny of health services (Annex B to this Part).

Appendix B

Question	Mr King (Chairman of the Select Committee on Kent's European Relations)	Mr Angell – Chairman of Select Committee on Commissioning
1) Whether Select Committees should remain as formal Sub Committees (with the statutory provision that relate to them) or	Select Committees should remain part of the formal process - to make them task and finish groups devalues them	Agree with Mr King
2) Whether Select Committee should be task and finish groups set up by the Scrutiny Committee (these need not carry out any of their process in public)and submitting their final report to the Scrutiny Committee in open session for approval		
3) In the case of 1) or 2) whether Select Committees should continue to be able to hold informal/private meetings to enable them to have free and frank discussions on their areas of recommendations and draft report or whether all meetings should be held in public.	Yes to private meetings - public meeting to finalise	Yes but made clear to the members of the committee.
4) The sign off process for Select Committee reports, whether this should be done at a formal meeting of the Committee open to the press and public or whether agreement of the Committee should be sought to, if necessary carry out a sign off process via email.	Formal meeting of Select Committee to sign off	Yes by email initially but if they are any disagreements, then by committee sitting in public.

Question	Mr King (Chairman of the Select Committee on Kent's European Relations)	Mr Angell – Chairman of Select Committee on Commissioning
Whether the final report should continue to be submitted to Cabinet or just to County Council (at County Council the Cabinet Member could then be asked to respond to the Scrutiny Committee on the recommendations)	<p>Presentation to Cabinet and County Council should continue.</p> <p>Scrutiny Committee should retain oversight.</p>	Cabinet then County Council.