

From: Ben Watts, General Counsel  
To: County Council, 16 December 2021  
Subject: Five Year Governance Refresh Programme  
Status: Unrestricted

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## 1. Introduction

- a) The purpose of this paper is to update Members and to propose a planned five-year programme of work designed to continually refresh the governance of the Council.
- b) Members will know of specific pieces of work which have been undertaken in the past, such as restructuring the Constitution in 2019 and the ongoing shift from an Annual Governance Statement to an Annual Governance System.
- c) At the same time, there has been considerable change in recent years that should be reflected in our governance. It had always been intended after the restructuring of the constitution that there would be a further review of the substance of a number of constitutional sections. Indeed, some meetings and discussions with Members had commenced before the pandemic intervened. Similarly, the operating and political nature of the organisation has changed significantly in the past few years and requires consideration to ensure that the rules of the Council reflect the current realities.
- d) Governance runs through all the activities of the Council and applies to Members and Officers alike. Each part of our governance is also connected directly or indirectly to all the others. While it is possible to make specific changes to our governance, and this will continue, there is also a need to systematically approach the refresh of our governance by being aware of these interconnections. A key aspect of taking a more strategic approach to the refresh is having a clear idea of what the outcome is that we are trying to achieve.
- e) The restructure of the Constitution in 2019 referred to above was only intended to be phase 1 and the content can be more systematically reviewed as part of the work that is now being planned. The necessities of responding to the pandemic have meant we have all adapted to new approaches to work and this has provided the opportunity to consider ways to take a different approach than in the past without the fear that the Council will cease functioning if we do.

## 2. The Wider Context

- a) The last two years in the local government sector have seen a sudden increase in the number of authorities facing challenges, some of them potentially existential. While the headlines have often concentrated on the financial failings, the details have revealed governance failings as well. Indeed, good financial management and good governance are so intertwined as to be mutually necessary for a sustainable and effective local authority. Croydon, Nottingham City, Liverpool, Wirral, and Peterborough – the list continues to grow, across different regions and governance models. Nothing in this should be taken to imply that KCC is currently a failing authority or that good decisions are not made and put into effect. However, Northamptonshire can no longer be viewed as an isolated example, and no authority can claim to be immune.
- b) Responding to the covid emergency meant that governance resources were focused on making the switch to virtual meetings, and then a return to physical meetings in line with the expiry of regulations whilst still being mindful of public health advice. There was also an election and induction of a large number of new Members under circumstances different to those normally applying.
- c) Looking forwards, there will need to be changes to the governance service in order to deliver on the five-year programme, and some have already been made. With the appropriate support from Members, the service will continue to deliver the day to day business of the Council whilst carrying out the refresh.
- d) In addition to changes inside the Council, our communities have continued to evolve. In addition to the impact of the pandemic and resulting consequences and opportunities, there have been events in the UK and abroad which are driving political, cultural, and social changes that the Council will need to both adapt to and influence.
- e) These things in commercial businesses are leading to an increased prioritisation of something known as ESG – Environmental, Social and Governance. Through our Governance Refresh programme, there will be the opportunity for Members to reflect and shape ESG considerations into the Council rules and operating systems.

## 3. Governance in Five Years

- a) So, what are the main components of the outcome we are hoping to achieve? In five years time, the following will describe the governance of the Council:
- b) ***Frictionless***. Hundreds of governance activities take place daily. Unlike many of the public facing services, it is when you do not know it is happening that demonstrates it is working well. Where issues arise, they can cause delays and a take on a disproportionate importance. There will be more automation in how governance services are accessed, with technology being used. For those

instances where a simple yes/no answer is produced, there will be no necessity for an answer to wait upon a response to an email. The skilled officer resource will then have more time for fully understanding the context where judgment is required.

- c) **Embedded.** Governance procedures and rules are there to protect the Council, and this protection covers Members and Officers as individuals. Some are required by law; others are local choices to achieve a required aim. There are legitimate grounds for discussing all of these and processes in place for amending them. However, where they are in place and are not followed there is a risk to the Council and an opportunity cost in using resources to correct actions incorrectly taken or mitigate the risk where they cannot be corrected. Again, technology and use of more automation to guide people through the appropriate process, particularly for officers - be they for writing reports for agendas or taking key decisions, with mandated steps, will go a long way towards embedding governance throughout the authority.
- d) **Equitable.** Members are volunteers and bring a valuable range of different experiences to bear on the role. Personal preference and circumstances also mean that Members will emphasise different aspects of the role. Accommodating these differences will enable all Members to maximise their impact and feel comfortable to contribute. Similarly, the events of the last two years have also heightened our awareness that there are barriers to equity that need reflection in our governance.
- e) **Clear.** A major block to efficient governance is simply knowing who does what. Routine queries are often directed to an Officer simply because there is an established relationship. Alternatively, queries remain unresolved because too many are directed to one point or only a single person is able to respond. A triage point for governance queries is being considered which will mitigate this. On the Officer side, and more broadly than for governance, there needs to be a balancing clarity about the scheme of delegations so that the queries can go to the right place first time and the Officer knows they are able to take a certain action.
- f) **Balanced.** There are several necessary and functional divides within KCC. There are Members and there are Officers; there are Executive and there are Non-Executive Members; there is the ruling group and there are opposition groups. There are others, but however the division is made it signifies a distinction between roles, function and, oftentimes, power. This is a different point to that of equity with the proper balance needing to be found so that each sector can perform its function. Many of these relationships, or aspects of them, are imbalanced. There are 81 Members and thousands of Officers but KCC is a Member-led authority and the Member and Officer corps are not equal. This is a simple statement of fact. But the proper balance between Members leading on policy decisions and Officers first advising and then implementing needs to be

addressed so that there is increased transparency about who is deciding and doing what, when and how. Similarly, Members need to ensure that important governance functions like Scrutiny Committee and Governance and Audit Committee are empowered and supported to underpin the governance position of the Council as a whole.

- g) **Transparent.** The presence and election of Members brings democratic accountability to all the actions of KCC. Having solutions in place to ensure proper records exist of how certain decisions came to be taken and by whom as well as having a full understanding of the governance activity underway at any one time will assist in this.
- h) **Reviewable.** There is little point going through a refresh programme of the Council's governance if the changes are not sustainable. One of the common themes through all the reports into local authorities where there have been identified financial and governance failing was a lack of review – whether by scrutiny, or the decision-makers themselves. Reviewing past decisions with an eye of identifying strengths and weaknesses will show that KCC is a learning organisation and place it firmly on a cycle of continuous improvement.

#### 4. Workstreams

- a) These words describe the outcome, but the detail will be worked up with the involvement of Members at all stages. These words will also guide the development process. For example, in line with the idea of equity, any changes need to work for those Members skilled in taking the lead in formal debates and work just as well as those who put more emphasis on different aspects of the Member role. Similarly, all changes will be tested and reviewed. One of the reasons of setting out a framework for a five-year refresh programme is to ensure it is tested, reviewed, and done right for the whole Council.
- b) Within the refresh programme there will be the following main workstreams:
  - i. Technological.
  - ii. Formal governance, separated into sub-workstreams:
    - o Constitutional.
    - o Procedural.
  - iii. Informal Governance, separated into sub-workstreams:
    - o Framework.
    - o Procedural.
  - iv. Cultural.

#### 5. Priority areas of work

- a) The Annual Governance Statement for 2020/21 has identified the following group of actions to be carried out as part of the phased review of the Council's governance:

- i. Agreed Governance Priorities and Principles.
  - ii. Refresh of defined accountabilities and responsibilities for Members and Officers.
  - iii. Expectations of Officers in terms of advice and delivery.
  - iv. Refreshed processes for the setting of agendas and conduct of meetings.
  - v. Refresh of Spending the Council's Money and Financial Regulations.
  - vi. The role and chairmanship of the Scrutiny Committee.
  - vii. Review of Informal Governance Structures and composition and support for Informal Member Groups.
  - viii. Review of Officer decision-making under delegation.
  - ix. Review of the Member Code of Conduct, culture, behaviours and meeting etiquette.
  - x. New approval processes and guidance ahead of decision-making.
  - xi. Consequences for non-compliance.
- b) All of the other actions identified as part of the AGS will inform the refresh programme and are available for all Members to review. In addition to the list above, there is one other which would sit alongside them as a priority area for the refresh programme to address:
- i. A review of decision-making processes to ensure that:
    - a. appropriate professional advice is provided before the FED stage;
    - b. meaningful assessment of equality, diversity and inclusion impacts before FED publication;
    - c. environmental impacts of decisions are captured; and
    - d. reduced use of delegations for undefined purposes.
- c) There are many uncontroversial quick wins, but also other changes where there will rightly be differences of opinion. Members are invited to support the refresh and get involved in the discussions and ensure the refresh achieves its optimum outcome.

## **6. Recommendation**

1. The Council is asked to COMMENT on and AGREE the Governance Refresh Programme.

2. The Council is asked to AGREE to the creation of an informal Member Working Group on Governance to support officers in the constitutional and governance review

## **7. Background Documents**

None.

## **8. Report Author and Relevant Director**

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