Grant Thornton

Kent County Council Governance Review

May 2023

Contents

We are required under Section 20(1)(c) of the Local Audit and Accountability Act 2014 to satisfy ourselves that the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. The Code of Audit Practice issued by the National Audit Office (NAO) requires us to report to you our commentary relating to proper arrangements.

We report if significant matters have come to our attention. We are not required to consider, nor have we considered, whether all aspects of the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources are operating effectively.

1. Executive summary

This Review was undertaken as a follow up to issues raised during the Council's annual audit, for 21/22 and matters raised in the Council's Annual Governance Statement for 21/22 to answer three key questions:

- Do members and officers understand and respect each other's roles?
- Do members and officers have a shared understanding of risks, challenges and opportunities?
- Are the Scrutiny and Audit Committees effective in supporting accountability and providing assurance?

To answer these questions fully it is necessary to explore the Council's formal and informal governance arrangements as well as working relationships between members and officers, particularly between the Leader and Cabinet and senior officers. There are significant differences in the nature of the relationships between Cabinet members and chairs of committees and senior officers, those between officers and other members of the administration and those between officers and members from opposition parties. The focus of this review is on the way in which Cabinet members and senior officers work together, although it also covers relationships between other members and between other members and officers, where they are relevant to the three key questions.

The Council faces very significant challenges to its financial sustainability and needs to balance its books. It is therefore vital that it has strong formal governance arrangements, including its Constitution, Code of Conduct, Member/Officer Protocol and financial regulations and strong values, which are universally respected and adhered to by all members and officers.

1.1 Do members and officers understand and respect each other's roles?

Members' and officers' roles underwent a significant change in July 2022. The structure of the Council was changed by the re-introduction of the role of Chief Executive. That was a major shift from the previous leadership model to one in which there are more balanced relationships between members and officers and recognition of the necessity for a strong corporate centre to manage the overall financial and strategic challenges facing the Council. However, changing the structure is only the first step on a transformational journey. The Council is now at a critical juncture where the failure to complete this journey would put it at risk of serious failure. To strengthen its ability to be a financially sustainable and effective organisation it needs to complete its transformation journey by changing its systems and behaviours, including strengthening members' and officers' working relationships, to ensure they support the new structure.

It is important to be conscious of the power inherent in the roles of members, particularly Cabinet members and the impact, both positive and negative, of their behaviour on officers. All members, including opposition members, need to be aware of their corporate responsibilities, including the role of the Council as the employer of its officers and the consequent duties of care owed to officers. There is always a tension between the need to create effective working relationships and avoid the risk of those relationships becoming over-familiar and even collusive. Members need to be mindful that their reactions to officers may be experienced as micro-aggressions. Each minor spat may seem inconsequential but repeated bad behaviour on the part of members, including backbenchers and opposition members, can contribute to the creation of a perceived toxic environment. It's important for members to show respect to officers, for their expertise and hard work. For example, it's not helpful to criticize officers for not being immediately available to answer members' queries or to imply that officers who are working remotely are not actually working. A more reflective approach to managing relationships can help members and officers to understand both why relationships are successful and why they go wrong.

1.2 Do members and officers have a shared understanding of risks, challenges and opportunities?

There is a shared high-level understanding of the Council's difficult financial position and the risks that poses to the Council. However, there is also evidence of a lack of understanding, on the part of some Cabinet members of the legal framework within which the Council operates and this can lead to conflict and increased risk of governance and operational failure if they wish to act in a way which is contrary to the constitution, financial regulations or other governance arrangements. Formal governance arrangements also set out where accountability lies for decision making and how the needs and ambitions of individual directorates are balanced with the Council's imperative to maintain its financial sustainability and focus on its key priorities. Currently, the Council lacks sufficient clarity about its priorities. Framing Kent's Future sets out commendable ambitions, but additional processes are required to prioritize them and link them to funding. Without a robust prioritization process which identifies where the Council should be focusing its increasingly limited resources, it is very hard to deliver savings of the order of magnitude required to improve the Council's challenging financial situation. Portfolio holders are naturally keen to avoid cuts to the services for which they are responsible, particularly when those services improve the quality of residents' lives and are valued accordingly. However, Cabinet members now need a shared, coherent, corporate approach to understanding the risks, challenges and opportunities they face as well as being corporately responsibly for delivering the savings set out in the budget for 2023/24.

1. Executive summary (continued)

To meet its significant challenges and mitigate the risks it faces, Council members and senior officers need to complete a profound transformational change, from structures, systems and behaviours that empowered individual portfolio holders and directorates to those which enable stronger, consistent, and coherent corporate leadership. The Council has made some initial progress, most notably in its structures, The Council now needs to ensure its systems promote organizational effectiveness and avoid governance failures, such as the one which occurred in relation to the re-commissioning of SEND transport services. The Council still carries the cultural imprint of its previous organizational model and that can be observed in both member and officer expectations and behaviours, although the atmosphere is more collegiate under the new Leader. This highlights the need for a coherent and adequately resourced transformation programme.

Currently, governance systems are not coherent and there is a lack of clarity about which decisions are political and which are operational. The Council does not have a shared understanding of the meaning of accountability. Members and officers have different, individual and collective roles and accountabilities in governance and decisions are shaped by the dialogue between politicians and professional officers. It is important for all members to recognise the vital role that officers play, particularly those with statutory functions, in ensuring effective decision making that complies with the Council's legal duties and reduces risks.

1.3 Are the Scrutiny and Audit Committees effective in supporting accountability and providing assurance?

The Scrutiny Committee, which helps to hold the Cabinet to account and the Governance and Audit Committee, which provide the Council with assurance that risks are managed effectively, are essential elements of formal governance.

Every committee of the Council is chaired by a Conservative, including Scrutiny. Although there is nothing improper in these chairing arrangements, the role of Scrutiny is to challenge the Leader and Cabinet and hold them to account for their performance, so it is common practice in many councils for the Scrutiny Committee to be chaired by a member of the Opposition. It is important that the chair of Scrutiny has the necessary skills and experience to undertake the role effectively.

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A recent review of the Governance and Audit Committee by CIPFA, highlighted several concerns, including that the Committee was too political and was trying to do too much. The performance of the Governance and Audit Committee is thought to have improved and is now more focused on its primary purpose. However, the Committee's remit is still too wide, and its agenda is too crowded. The Chair is effective, although some members of the committee are not sufficiently active and engaged. Behaviour at some Governance and Audit Committee meetings has not demonstrated the respect for the role of Internal Audit and their findings which we would expect to see.

Questions were raised during this governance review about the effectiveness of Cabinet Committees because they are not decision-making bodies. It was noted that some members of those Committees appeared not to be fully engaged and do not ask any questions or make any comments about the matters under discussion. It was thought that this behaviour is known about and tolerated rather than being challenged.

2. Report

2.1 Purpose of the Governance Review

This governance review has been undertaken following concerns raised during the Council's annual Value for Money Audit for the audit year 2021/22 and the Council's Annual Governance Statement about poor progress being made to resolve governance and service issues. There were concerns about a lack of trust between the Cabinet and those responsible for scrutiny and governance. There had also been instances where the roles of statutory officers had not been treated by Cabinet members with sufficient respect and that has undermined both relationships and effective decision making. If these issues are not resolved, they will have a negative impact on the good governance and financial sustainability of the Council.

Good governance is maintained through a combination of rules, such as the Constitution, Code of Conduct and Member/Officer Protocol, and organizational and individual values. This review has focused on the extent to which the Council has effective formal and informal governance arrangements which are underpinned by six core values: independence of mind, accountability, transparency, integrity, clarity of purpose and effectiveness.

Good governance is also supported by the work of key committees, including Scrutiny and Governance and Audit. The Scrutiny Committee performs a vital function, to hold the Cabinet to account and to enable learning both from success and failure. The Governance and Audit Committee's role is to ensure, via the work of internal and external audit, that all its systems and functions are operating effectively to deliver Best Value. The Governance and Audit Committee also oversees the way in which the Council identifies, manages, and mitigates a wide range of risks. Their work helps to reduce the risk of fraud, poor commissioning and procurement and other challenges to financial sustainability. Risk management is a crucial function that underpins organizational effectiveness. The review also considered how effective member and officer relationships are. Good member and officer relationships are characterized by mutual respect for each other's different roles, particularly the statutory roles and responsibilities of the Chief Executive, s151 Officer and the Monitoring Officer. Good relationships also support mutual challenge, which is vital to ensure good strategic decision making, informed by officers' expert advice.

2.2 Methodology

The governance review was undertaken between January and March 2023. It included reviewing video recordings of Council and committee meetings, a document review of minutes of meetings, reports and documents relating to formal governance, such as the Annual Governance Statement, Constitution and Code of Conduct and individual interviews. Twenty-four structured, confidential interviews were completed, with members, including Cabinet members, the chairs of Scrutiny and Governance and Audit, opposition members and seven officers, including members of the senior management team and the Head of Internal Audit. All evidence gathered during the review has been triangulated, that is, there are at least three sources of evidence for each judgement set out in this report.

The evidence about how governance operates within the Council has been tested against six core governance standards: independence of mind, accountability, transparency, integrity, clarity of purpose and effectiveness and how well the Council's structures, systems and behaviours support good governance.

3.1 Foundations of good governance: Independence

3.1 Independence

To what extent to members, including Cabinet and Committee members, and officers demonstrate independence of mind in their roles?

3.1.1 Structures

Committees are not as effective as they could be. There is evidence of a lack of understanding, on the part of some members, of the legal framework within which the Council operates and this can lead to conflict if they wish to act in a way which is contrary to the constitution or other governance arrangements. Every committee is chaired by a Conservative, including Scrutiny. Although there is nothing improper in these chairing arrangements and the current Chair of Scrutiny is well-regarded, the role of Scrutiny is to challenge the Leader and Cabinet and hold them to account for their performance, so it is sometimes considered good practice for the Scrutiny Committee to be chaired by a member of the Opposition. However, although having a member of the opposition as chair of Scrutiny would help to demonstrate the importance the Council places on independence of mind, it is also important that the role is undertaken by a member with the necessary skills and attributes, who commands the respect of other members.

Several interviewees reported committee chairs curtailing discussions when they are not interested in the topic under discussion. Some questioned the purpose of Cabinet Committees and described them as 'talking-shops'. Some interviewees also expressed concerns that the pre-scrutiny and post-decision functions are not being used effectively.

3.1.2 Systems

Some Cabinet members do demonstrate independence of mind, keep their knowledge up to date and challenge others. Some do not and rely on officers to prepare their statements and speeches. Some Cabinet members do not appreciate the need for regular training and continuing development, because they are long serving members. This is a significant problem because they do not know what they do not know. It is necessary to have more robust expectations about participation in member development and uptake of mentoring for those in key leadership roles and those which attract allowances, for example, training and development should be mandatory for anyone with a Special Responsibility Allowance. These expectations should apply to all members, including Opposition members. It is important not to assume knowledge on the part of members who take up leadership roles. Leaders of opposition parties also need development, support and mentoring to understand and fulfil their roles effectively.

3.1.3 Behaviours

Interviewees considered that some members are very open to facts and come to discussions and debates with open minds, but some will already have made up their minds and therefore have little interest in any information that might challenge their settled view. This creates risks that mistakes will be made, particularly when other members do not challenge instances of reluctance to consider the full range of information available. Observation of meetings and the views of interviewees provide strong and consistent evidence that the Leader does actively encourage open debate, demonstrates good leadership and listening skills, and encourages Cabinet members to demonstrate independence of mind. However, some interviewees felt that challenging conversations did not always lead to changes in behaviour. Some interviewees thought that Cabinet members do not always spend enough time discussing very complex issues before making decisions.

We were led to understand that reports are sometimes slanted to achieve a particular outcome, rather than fully exploring possible options in a balanced way. Some Cabinet members are tempted to get drawn into operational details. That may sometimes be necessary, but Cabinet members and officers need a better shared understanding about how they navigate the contested spaces between strategic and political issues and operational matters. Lack of understanding of the boundaries between member and officer roles has been demonstrated at Cabinet Committee meetings when questions were asked of officers, but answered by the portfolio holder who then sometimes shut down discussions if they did not want to be challenged. Portfolio holders also sometimes use junior members of staff to gain knowledge, rather than going through the relevant Director.

Concerns were expressed that some members of the Governance and Audit Committee, Scrutiny and Cabinet Committees appeared not to have read papers in advance of the meetings and did not ask any questions or make any comments about the matters under discussion. It was thought that this behaviour is known about and tolerated rather than being challenged.

There is a tendency to complacency and denial that problems exist among some Cabinet members, at a time when self-reflection and honest self-appraisal is necessary to navigate major organizational change and respond to significant challenges. Interviewees described instances when defensiveness and resistance to challenge prevented Cabinet members from gaining a better understanding of complex issues and led to reluctance to follow officer advice. Members need to be fully informed and regularly updated about the issues which impact on their portfolios and the work of their committees as well as current key issues, unforeseen events, and changes in government policy. Independence of mind is not an excuse not to be well informed or to ignore officers' expert advice.

3.2 Foundations of good governance: Transparency

3.2 Transparency

To what extent do members and officers demonstrate transparency and openness in the way in which they lead the Council and manage its business?

3.2.1 Structures

The new organisational structure does make the roles of senior officers clearer and this helps to support transparency. However, some parts of the Council's governance arrangements are opaque. For example, the Cabinet Members' Meeting plays an influential role in decision-making, even though it is not a decision-making body. It is also attended by officers, and this blurs the boundaries between political and operational decision making.

3.2.2 Systems

The Cabinet does aim to be as transparent as possible, as evidenced by the small number of 'Part B' issues for confidential discussion and decision making. Several examples were given of when the Council has responded to failures in a very open way, for example, the SEND transport failure and the Ofsted report into SEND services. However, some interviewees gave examples of when efforts had been made by Cabinet members to keep bad news quiet and encourage officers to do the same. There are several risks to transparency, including, failures in decision-making processes leading to 'urgent key decisions' that reduce the Council's ability to be transparent.

Interviewees from other parties did question the extent to which external communications was all about the Conservative administration, rather than the Council as a whole. They also gave examples of times when not all the information they received from officers was accurate and complete. Some also thought they do not always get the right level of cooperation from officers when it comes to sharing information and they would benefit from more briefings.

Sometimes the Council's ability to be transparent is curtailed by the strictures of central government, for example in negotiations about 'Safety Valve' changes in the funding model for SEND services.

There were mixed views on the effectiveness of the Scrutiny Committee in supporting transparency. Some thought that Scrutiny works reasonably well but some members of Scrutiny do not understand their role and misunderstand decision making process. However, it was noted that the Chair of Scrutiny does let interested people come to meetings and ask questions.

3.2.3 Behaviours

Some interviewees thought that there is sometimes a lack of clarity, when decisions are being made, about what is a member opinion and an officer opinion.

Some interviewees felt that Freedom of Information(FOI) has become inappropriately politicized by some members. There have been significant delays in responding to FOI requests and It is necessary to allocate sufficient resources to respond to requests in a timely way. Delays in responding to FOI give the wrong message about how committed the Council is to transparency.

Reluctance on the part of Cabinet members to answer advance notice questions in Full Council, possibly because of political embarrassment, undermines transparency. It may be an acceptable political strategy, but such behaviour is likely to undermine the Council's reputation for transparency.

3.3 Foundations of good governance Accountability (1)

3.3 Accountability

To what extent do members and officers in senior leadership roles hold themselves accountable for their actions and how well does the Council hold them to account?

3.3.1 Structures

The Council has made a very significant change in its structure. It is moving from a model in which the corporate centre was weak in comparison with individual directorates. This signals a real change in relationships and expectations within the Council and is a necessary, but not sufficient, step towards creating a council which is fit for purpose and fit for the future. The change from a Head of Paid Service to a Chief Executive Officer model is about much more than a job title. The move to a CEO model clarifies accountability, in theory, but systems and behaviours now need to catch up with that structural change, through a transformational change programme. This will involve strengthening corporate planning and delivery processes, including an inclusive Forward Plan, clearer decision-making pathways and a centralized system for managing procurement, commissioning and contract. to ensure consistency and compliance and creating a stronger corporate culture, through leadership and organizational development.

The Cabinet has a weekly, informal meeting, which also includes officers, and this raises the question whether it is a political forum or part of the Council's decision-making structures. Although not a part of formal decision-making processes, the deliberations at Cabinet Member's Meeting do have an impact on decision making within the Council which creates some uncertainty about lines of accountability.

When the Council developed its 'executive and scrutiny' model some ten years ago it retained some elements of the previous committee system by having Cabinet Committees. This has blurred lines of accountability, to some extent, as they are not part of any decision-making process, and many interviewees expressed the view that Cabinet Committees did not add value.

3.3.2 Systems

Accountability, in a political environment, is very complex. Members and officers are all accountable, through their individual roles and responsibilities. There is often a contested space between political and managerial accountability and differences in the way in which all the players understand the extent and limits of their individual and collective accountability can lead to significant misunderstandings. Some interviewees described examples of over-compliance on the part of some Cabinet members while some Cabinet members argued that they had to trust their officers and rely on their expert advice. Some Cabinet members are alert to the need to fully understand complex issues, but some interviewees commented that some Cabinet members will sign anything that is put in front of them, whereas others take a much closer look at reports and plans before signing them off.

When accountability is shared between portfolio holders and directorates there is always a risk that confusion about where accountability lies will result in governance failures. These problems are sometimes compounded by competitive behaviour between portfolio holders and directorates which can result in reluctance to share information and ultimately to playing the 'blame game', with the focus either on another directorate or officers. This type of behaviour inhibits transparency and makes it harder to learn from mistakes. There was a perception among some interviewees that 'lessons learned' exercises deflect accountability without increasing organizational knowledge and delivering the necessary changes.

The failure of the commissioning of SEND transport services illustrate what can go wrong if lines of accountability are not clear. Although it can seem very harsh to hold portfolio holders to account for failures in their directorates, that is what political accountability means. However, political accountability may be misinterpreted as personal accountability and this can lead to unfair judgements, as it is impossible for portfolio holders to have a good understanding of and be responsible for every operational issue within their directorate. Indeed, if they wanted oversight of all operational issues, they would be criticized for crossing the line and interfering in matters which are the responsibility of officers. Members and officers should regularly discuss and agree their respective accountabilities to ensure mutual understanding a reduce the risk of a lack of clarity leading to governance failures.

3.3 Foundations of good governance: Accountability (2)

3.3.2 Systems (continued)

While individual portfolio holders are accountable for their directorates, they also have overarching duties to the Council. All need to have regard to the interests of the Council as whole and its Best Value duty, the necessity of making savings and the need for assurance that risks are understood and managed, when making decisions.

An example referred to by several interviewees was the management of Kent and Medway Business Fund, where debt was written off, as the result of both officers' and a Cabinet member's mistakes, in breach of Finance Regulations, for which several interviewees thought no-one was held to account

The way in which Internal Audit were challenged about the findings of their review into this matter at Governance and Audit Committee, even though they were demonstrably reporting on a matter of fact, highlights the significant risk to good governance arising when members do not respect officers' professional expertise. Similarly, it was thought that no-one was held to account for failures in relation to investments made by the Pensions Committee.

Many interviewees were of the view that Kent County Council is not yet a learning organization, in part because of confusion of where accountabilities lie and what accountability really means. It was thought that the Council is not good at following up and evaluating the impact of decisions and that makes it harder to learn from mistakes.

Many interviewees expressed the view that Scrutiny works very well when it undertakes short, focused enquiries but less so when it goes on what were described as 'fishing expeditions. It was also thought that Cabinet members should show more respect for Scrutiny and attend Committees meetings when asked.

3.3.3 Behaviours

There was a very strong consensus among interviewees that the Leader demonstrates a much more co-operative and collaborative leadership style than his predecessor, and this change to a reflective, affiliative approach has been very warmly welcomed.

It has been argued that the significance of the change to the structure of the Council, in terms of accountability, has not been fully explained to or understood by members and officers. Many interviewees thought that some Cabinet members are resistant to change and unwilling to learn about new approaches, while others are more willing to embrace change. It was observed that some directorates were fighting a rear-guard action and exhibiting the sort of behaviour which undermines efforts to move to a more corporate approach to decision making. It was thought that insufficient work has been done to date on culture change to support the effective implementation of the new structure.

Several interviewees thought that Cabinet members do try to hold themselves accountable, but others expressed the view that some Cabinet members can be defensive when things go wrong and only take collective responsibility late in the day.

Some interviewees felt strongly that the financial position of the Council and the urgent need for organisational change now required the Leader and Cabinet make increasingly difficult decisions. Therefore, they need to strengthen their approach to collective leadership and demonstrate their shared accountability for those difficult decisions.

Following the CIPFA report, the performance of the Governance and Audit Committee has improved, and it was now less political and more focused on issues. However, it was also thought that the Committee's remit is still too large, and its agenda is too crowded, because it sometimes wishes to be involved in matters which are more appropriate for Scrutiny. There was a strong consensus that the Chair of Governance and Audit is very effective.

3.4 Foundations of good governance: Integrity

3.4 Integrity

To what extent do members and officers behave with integrity and demonstrate the highest standards of public service?

3.4.1 Structure
The Council needs to build on recent structural changes. It needs to reflect on way in which changes to Cabinet members' and senior officers' leadership roles impact on the culture of the organization.

3.4.2 Systems
The Constitution, Code of Conduct and Member/Officer protocol are being revised and updated to bring them into line with the new structure. This will help provide additional clarity about what behaviour is and is not acceptable and make it easier to call out bad behaviour and enforce standards.

The Council also needs to adopt a new approach to member development, akin to the expectation that officers will take responsibility for their continuing professional development. The evidence of a paternalistic and sexist culture requires an effective response. That should include mandatory training on unconscious bias for all members and specific training developed for members with roles that carry a Special Responsibility Allowance.

3.4.3 Behaviours
Cabinet members do think they demonstrate integrity as individuals, although several interviewees gave examples of instances when Cabinet members had not behaved with integrity and had not been challenged for that behaviour. For example, some Cabinet members are thought by some interviewees to be encouraging officers to use them as an alternative route to get the answers they want, rather than using the correct decision-making process.

The current culture undermines members' ability to demonstrate the highest standards of public service. The behaviour of some members, in particular back-benchers, was described in negative terms by many interviewees variously as paternalistic, arrogant and inward looking. Although bad behaviour may be thoughtless rather than intentional, all members, including opposition members, need to be aware of and understand the impact of their behaviour on others and call out inappropriate and discourteous behaviour, otherwise the impression will be created that such behaviour is acceptable.

Concerns about sexist behaviour, on the part of some members was excused and downplayed by some interviewees on the basis that it was much worse in the past, that victims are thought to be weaponizing the issue or that they should just toughen up. These are not good messages to be sending about the integrity of members or the prevailing culture of the organization. Such excuses amount to victim blaming and inhibit individual and organizational learning. Talking down to female members, adopting a jokey style when serious issues are being discussed that have significant impacts on people's lives, using sexual innuendo and barracking female members all create a hostile, misogynistic environment which has a negative impact on officers as well as members. Some interviewees stressed that some senior women members are treated with respect but that should be the norm, not noteworthy. Experienced female politicians have become very resilient in response to this type of behaviour and may consequently underestimate the impact on others.

Several examples were given of when members had created unnecessary dramas about minor or non-urgent issues and demanded swift responses from officers but then later lost interest in the issues. This is an unacceptable waste of officers' time. Micro aggressions towards officers are at risk of becoming normalized if they are not challenged.

3.5 Foundations of good governance: Clarity of purpose

3.5 Clarity of purpose

To what extent do members and officers share a clear common purpose, with a shared understanding of the Council's priorities?

3.5.1 Structures

The current decision-making structure does not support the identification and delivery of key priorities, and this undermines the ability of the Council to achieve financial sustainability. There is a lack of clarity about how and where decisions are made. Interviewees reflected a shared recognition of the need for a dedicated political space to enable Cabinet members to clearly define their priorities, which can then feed into strategic planning and budget setting processes.

3.5.2 Systems

The current administration did not publish a manifesto at the last election. Although it is not necessary to do so, the development of a manifesto does provide an opportunity to define the administration's priorities. The Council currently lacks sufficient clarity about its priorities. *Framing Kent's Future* sets out commendable ambitions, but they are not prioritized or not linked to funding. Without a robust prioritization process which identifies where the Council should be focusing its increasingly limited resources, it is very hard to agree where savings, of the order of magnitude required, are to be made to resolve the Council's challenging financial situation. Cabinet members are now working with officers to develop a shared, coherent, corporate approach to priorities and savings. Strategic Statements are no longer fit for purpose because of budget pressures and need to be refocused. A Strategic Reset programme is underway to ensure priorities match the available resources.

The previous organizational model, with a weak corporate centre and strong directorates, generated a pattern of silo-based thinking which is no longer fit for purpose in the current challenging environment. Incremental cuts to services are not always effective in achieving Best Value or the best possible outcomes. It is important to develop whole system and outcome focused approaches to prioritization in order to be able to balance the need to deliver its statutory responsibilities and its key priorities.

There is a relatively small number of Opposition members, but interviewees observed that they are becoming more effective. The Opposition Alternative budget was thought to have been an informative exercise.

3.5.3 Behaviours

Several interviewees thought that Cabinet members spend too much time on minor issues and not enough on major strategic risks. It was also thought that one of the reasons the Council failed to make necessary savings last year, is a tendency towards optimism bias which can result in both officers and members hoping for the best instead of planning for the worst.

Cabinet members are understandably reluctant to cut services which improve the quality of residents' lives and are valued accordingly so there are tensions between portfolio interests and corporate interests. Some Cabinet members are thought to be too portfolio focused, and do not place enough emphasis on the Best Value duty of the whole Council.

Cabinet members can sometimes be tempted to get involved in managerial issues, perhaps because the strategic issues can seem very unrewarding. It was thought that priorities are not always uppermost in their minds when dealing with day-to-day issues and financial challenges and so the Cabinet does not always act in a sufficiently cohesive way.

It was noted that some members of Cabinet Committees were in the habit of requesting additional information from officers, which took up officer time but served no useful purpose as it did not lead to better informed decisions, as Cabinet Committees are not decision-making bodies.

3.6 Foundations of good governance: Effectiveness (1)

3.6 Effectiveness

To what extent is the Council effective in the way in which it makes decisions and measures performance in achieving key objectives?

3.6.1 Structures

The new structure provides the foundations of a much stronger model of corporate governance. The Council is part of the way through a complex change process and is now at a critical juncture. Further change, including an organisational development programme, is needed to fully embed the new structure. The Council requires an explicit transformation journey for officers and members.

It is not clear how well the Cabinet Members Meeting (CMM) supports effective decision-making. Although the CMM is not a formal part of the Council's decision-making processes it is acknowledged that discussions at CMM do inform decision making. It is not clear whether the principal purpose of the meeting is political or a mixture of political and operational. Most Cabinet members thought that the CMM provided a useful space for political discussions.

There was a strong consensus among many of the interviewees that Cabinet Committees do not serve any useful purpose and do not add value, although some Cabinet members did find their Cabinet Committees helpful.

3.6.2 Systems

The Council has recently experienced two significant failures. The problems with the commissioning of home to school transport for children with special educational needs arose from a failure to identify that such a commissioning process should have been treated as a Key Decision. Because that did not happen, major problems were not flagged up in a timely way and children were left without transport, in some cases for weeks. This had a very negative impact on the children and their families, as well as on the reputation of Kent County Council as a competent council.

Poor decision making on the part of the Pensions Committee in the previous audit year led to a significant loss to the Pension Fund. Although not a significant failure, writing off debts relating to the Kent and Medway Partnership, against financial regulations and the advice of the Monitoring Officer and s.151 Officer, is another example of non-compliance with the Council's own rules and its Best Value duty.

Although each of these failures arose from very different sets of circumstances, there are some common threads which suggest that there is a risk of further failures unless these systemic issues are resolved. One of the common threads is a failure of the Forward Planning process because of a culture of non-compliance in which both some Cabinet members and some officers try to circumvent the Council's decision-making processes. This may be driven by frustration with the time taken to obtain all the necessary input from finance and legal services, but risks of significant failure are increased by late and inaccurate reporting to Cabinet, because the correct processes have not been followed. Central functions, particularly Democratic Services and Finance need to be adequately resourced, otherwise the risk of service and organizational failure will increase. Unless they arise from genuinely unanticipated circumstances or central government's demands, Urgent Key Decisions are sign of system failure.

As a result of the previous organizational structure, Directorates were able to develop their own processes, which became disparate over time, for example, buying their own software and instructing lawyers themselves. Some Cabinet members still think that many matters should be delegated to Directorates, as they were in the past. However, that is not now effective or sustainable. It is now necessary to develop a consistent, corporate approach to the Council's systems. It is particularly important that all the processes that underpin procurement, commissioning, contract management, performance monitoring and evaluation, are part of a centralized system which ensures early warnings of potential problems, timely action, and the provision of accurate information to the Cabinet.

The Council has historically relied on a commissioning approach, or outsourcing, rather than on in-house provision. The commissioning approach does offer some potential benefits, such as consumer choice and a mixed economy of provision but it also presents some serious risks such as market or provider failure, so it is important that the Council considers whether the advantages of commissioning always still outweigh the risks.

The Council did not make the required savings in the last year. While some budget cuts have been made, several interviewees commented that, although some innovative approaches have been successful, not enough consideration had been given to investment to cut costs in the longer term to solve long running problems, including by reducing demand and retaining vital staff.

This year's Safety Valve will help to remedy the situation to some degree, but it is important to ensure that deficits do not build up again.

3.6 Foundations of good governance: Effectiveness (2)

3.6.3 Behaviours

Some interviewees thought that the Council tended to be inward looking and do not seek to learn from good practice elsewhere.

It was also thought that a culture of non-compliance had built up over time and this has undermined the effectiveness of the Council. The behaviour of some Cabinet members and some officers can reduce effectiveness. For example, several interviewees thought that the way in which officers were drawn into political discussions, taking place outside the Council's formal decision-making processes is blurring the boundaries between political and managerial leadership and accountability.

4. Recommendations: Structures and Systems

4.1 Structures

Recommendations: Key	Impact
The Cabinet Member's Meeting becomes a political meeting, for Cabinet members only.	The Cabinet have a dedicated political forum in which to debate and agree their priorities. The Council has clearer decision-making structure and processes.
Corporate Board becomes the key forum for managing the political/managerial interface and strategic management.	The Council takes a whole systems approach to strategic planning. The Council has a strategic plan, which is owned by Cabinet and senior officers, to deliver key priorities. Members and officers are clear about decision making processes. Cabinet members and officers are clear about accountabilities, including cross-directorate accountabilities.

Recommendations: Improvement

Recommendations: Improvement	Impact
Abolish Cabinet Committees, which were part of the Council's previous structure.	The costs of administering committees are reduced. Savings of officer and member time. Member time is freed up to add value by engaging in pre-decision scrutiny panels.
Consider having an Opposition chair of Scrutiny.	The Council demonstrates an increased openness to challenge.

4.2 Systems

Recommendations: Key	Impact
Create a single system for commissioning, procurement, contracting, monitoring performance and evaluating impact to reduce risk of commissioning and service failures.	Decisions are made in a timely way. The need for Urgent Key Decisions is significantly reduced. Cabinet and senior officers are made aware of problems with commissioning and procurement and can respond to them in good time.
Implement and enforce the corporate forward planning process to ensure all reports are timely and reviewed by Finance and Legal to ensure accuracy and rigour.	More accurate and complete reports are produced. Decision making is better informed and more rigorous. The Forward Plan is complete and robust. The risk of service failure is reduced.
Complete the update of formal governance arrangements – including the Code of Conduct and Member/Officer Protocol, as set out in the Annual Governance Statement.	The Council has stronger governance arrangements which are fit for purpose. Members and officers have clarity about mutual expectations. There is increased compliance with both formal rules and organisational values.
Monitor savings monthly and take immediate remedial action.	Risks to financial sustainability are reduced.
Mentoring is provided for all members in leadership roles.	Leaders can fulfil their roles better and uphold high standards.

4. Recommendations: Systems and Behaviours

4.2 Systems (continued)

Recommendations: Key	Impact
Adopt a Continuing Professional Development (CPD) approach to member training and development and set expectations that all members will take up the training and development which is relevant to their role.	All members are fully supported to develop their skills and knowledge. Members can make better informed decisions.
Roles which attract Special Responsibility Allowances are only held by members who have completed the required training and development for those roles.	All members are fully supported to develop their skills and knowledge. Members can make better informed contributions to discussions and debates. Members can make better informed decisions.
Provide regular, focussed written and videoed Briefings for members on strategic risks, unforeseen events, best practice and opportunities for organisational and service improvement and transformation.	Members can access all necessary information easily and, in a format and at a time that is convenient to them. Members can make better informed decisions.
Ensure duties under Freedom of Information Act are fulfilled and respond to information requests in a timely way.	The Council demonstrates its commitment to transparency.

Recommendations: Improvement

The Governance & Audit Committee continues to clarify its role, in line with the recommendations of the CIPFA report, and avoid straying into Scrutiny's areas of responsibility.	Governance & Audit's performance continues to improve.
Develop Scrutiny to undertake more short, focused enquiries.	The Council receives timely information and feedback on key issues.
Create post-decision Scrutiny panels for People, Place and Policy.	The Council receives timely information and feedback on key issues.

4.3 Behaviours

Recommendations: Key	Impact
The Leader and Cabinet and the leaders of opposition parties should reaffirm the standards set out in the revised Code of Conduct and Member/Officer protocol and immediately challenge behaviour, examples of which are set out in the report, on the part of members of their groups which does not meet those standards.	Standards of member behaviour rise and remain high. Better and more effective working relationships between members and officers.
Complete a transformational change programme at pace so systems and behaviours align with the new structure.	Cabinet members and officers better understand each other's roles.
Members' and officers' mandatory training programmes to include understanding unconscious bias .	Members and officers have increased self-awareness of the impact of their behaviour.

Recommendations: Improvement

Undertake facilitated joint team building for Cabinet members and senior officers, following the appointment of the new Chief Executive.	Cabinet members and officers better understand each other's roles. Strong working relationships, built on trust, are developed and maintained.
Deliver a programme of organisational development for officers.	The Council develops a stronger corporate culture.
Cabinet members and senior officers should model corporate thinking and challenge silo-based thinking when making decisions.	The Council develops a stronger corporate culture.

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