

From: Ben Watts, General Counsel  
To: Cabinet – 11<sup>th</sup> July 2024  
Subject: Annual Governance Statement Follow-Up  
Status: Unrestricted

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## 1. Introduction

- a) There are many aspects to good governance within a local authority. Done properly, they are mutually reinforcing. The Code of Corporate Governance for example has its roots in financial governance but has wider implications. The Constitution as a document sets out the formal governance rules but also establishes side-constraints for the use of informal governance mechanisms. Even were the Annual Governance Statement not required by law, it would be a useful control mechanism and enable a full judgment to be made on whether the different components are working in an aligned way.
- b) Since 2018, KCC has been materially changing the way that it completes the Annual Governance Statement. The Leader and statutory officers, with advice from the Head of Internal Audit have been improving the way in which we collect responses and build up the Annual Governance Statement.
- c) It is important that the Annual Governance Statement and the process to generate it are done in the spirit of continuous improvement. It is vital that an honest and open assessment of where things can be done better can be shared to support that improvement and we do so in draft to ensure that Members of the Committee are sighted on developments. We use the Annual Governance Statement as a key whole organisation discussion on governance and it applies to all Members and all Officers. The spirit in which this open process is undertaken is central to the robust statements we have provided in recent years and will continue to provide. This year's statement has been made available to Cabinet Members via Teams and is available publicly at [Kent County Council - Annual Governance Statement 2022-23](#) and the statement was agreed by the Governance and Audit Committee in January. Accordingly, the content of this paper is not new.
- d) We are self-aware in relation to the need to continuously improve both the way in which the Council operates and the way in which we manage and monitor that. That is an ongoing challenge and the way in which the statement was drafted and the information collated once again reflects the challenging operating position for the Council. The current programme of actions and activity is unprecedented and reflective of the commitment to continuously improve and to seek to address the challenges faced and key findings identified.

- e) The purpose of this paper is to deliver an action within the statement to ensure that Cabinet Members were sighted on areas where statutory compliance had been identified as a risk. It is accepted that for some items this replicates some of the discussions held as part of performance monitoring at the last meeting.

## **2. Report of the Monitoring Officer**

- a) Section 5 of the Local Government and Housing Act 1989 designates the Monitoring Officer as having a range of responsibilities regarding the lawful conduct of the County Council. These responsibilities include a duty to provide a report to all Members in circumstances where a contemplated decision, act or omission by or on behalf of the Executive leads (in their view) to maladministration or a contravention of the rule of law. This statement has already addressed the issuing of further Section 5 reports within the relevant periods.
- b) In any given year, there is always the possibility that circumstances lead to situations where the Council may be said or may be found to have acted contrary to its statutory duties without this having been done deliberately or with full awareness of this being the case. Where there are such decisions, there is always an impact on individuals or groups of individuals.
- c) The Annual Governance Statement identifies the operating environment and the challenges faced by the Council and the broader local government sector. The issuing of a Section 5 report is intended to be used only as a last resort. To mitigate the risk of needed to do so in the future, there are a number of matters that the Monitoring Officer recorded in the statement, and which inform both the findings and the consolidated actions of the AGS.
- d) There continue to be at any given time, a number of people who are not receiving the services to which they are entitled. This is, in part an inevitability of the challenges faced or on occasion because of mistakes made. It is important to note that this not because of a deliberate decision to avoid providing the services although it is recognised that the genesis of this does not alter the effect felt.
- e) Notwithstanding the efforts made within the resources available, in relation to the following areas the Council continues to face challenges in meeting duties in all circumstances:
  - a. Deprivation of Liberty Safeguards
  - b. Children presenting as in need within our area
  - c. Services to Children and Young People with SEND
  - d. Compliance with timescales for Education, Health and Care Plans, Freedom of Information and Subject Access Requests
  - e. Use of unregistered placements for children

### **3. Recommendations**

Cabinet is asked to:

- a) NOTE and COMMENT on the report

### **4. Background Documents**

None.

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

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