

From: Dylan Jeffrey – Cabinet Member for Communications and Democratic Services, Chair of Governance Working Party

To: Selection and Member Services Committee, 13 December 2024

Subject: Governance Working Party: Recommendations

Status: Unrestricted

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## **1. Introduction**

- a) The Governance Working Party (GWP) has been an informal cross-party group that has met throughout 2024 to discuss matters related to the Constitution and wider governance of the Council.
- b) The Group has specifically considered the improvement recommendations raised by our external auditor for Member consideration and has welcomed the opportunity to also consider a range of other constitutional and meeting arrangements.
- c) This report summarises the key areas of GWP agreement as to suggestions that the group has as to the recommendations to present to this Committee for further discussion. Where this Committee agrees with the recommendations, the next steps are set out. A brief commentary is also provided as to any additional aspects that are of relevance to help this Committee in its deliberations.
- d) This report does not include a summary of all the many and myriad conversations and some of the subjects and issues on which work continues. However, given the original commitment to report in a timely fashion, Members of the GWP wanted to bring a paper to Selection and Member Services on the issues that could be resolved.
- e) The Members of the GWP, who have included Alister Brady (and before him Dr Sullivan), Mark Hood, Antony Hook, Steve Manion and the Leader of the Council supporting Mr Jeffrey as the Cabinet Member and Chair of the GWP are thanked for their considerable commitment and for the robust but good-natured discussion. The outcome of that work now leads to a series of recommendations, with more to follow in the spring.

## **2. Physical/Hybrid/Remote Meetings**

- a) One area of discussion at the GWP were the arguments for and against the different form of meetings.
- b) As set out in another paper on this agenda, the government is currently running a consultation to which authorities, and any individual, can submit a view. Committees of the Council will always need to operate within the legal framework set out by Parliament. Were there to be changes, or flexibilities allowed, following the consultation and legislative changes, the options will be brought to this Committee.

### 3. Committees

- a) There was a focus in GWP meetings on how best to cover education issues in Committees, in part drawing on the experience of the focus that the Scrutiny has been able to recently bring to the subject.
- b) Having carefully considered a range of different options, the GWP felt that the best way to cover education issues was for an Education and Skills Cabinet Committee to be established and Children's, Young People and Education Cabinet Committee amended to be a Children's and Young People Cabinet Committee.
- c) The GWP recognised the considerable contribution of the Members of the Health Reform and Public Health Cabinet Committee but felt that the work of the Committee should be amalgamated into the terms of reference for the Adult Social Care and Health Cabinet Committee. The major cross-cutting activity from Public Health should rightly be presented at Cabinet and other Cabinet Committees where appropriate.
- d) It was recognised that there was an opportunity to improve outcomes through the possible reduction of the membership numbers for each Committee. The Council is now hosting over 250 formal and informal meetings each year and given the need to fit meetings within the cycle for Scrutiny, Cabinet and County Council, this often meant that Members were being spread too thinly. It was suggested that by making Cabinet Committees slightly smaller, the Member resource would be greater concentrated and the Committees populated by those with the greatest interest in the subject. In turn, it was hoped that this would lead to improved engagement.
- e) At the same time, the GWP feel that a further review of the Terms of Reference for Cabinet Committees would be sensible. Firstly, to re-focus on ensuring that the non-executive voice is able to support, improve and influence decision-making and secondly that agendas concentrate on the most important issues in the subject area. It was also felt that a role for the Committee (alongside the Cabinet, Scrutiny and Governance and Audit) was to review the effectiveness and learning from prior decisions. Again, the review of the Terms of Reference could capture that. The ability of Cabinet Committees to call relevant Cabinet Members and Senior Officers equivalent to some section 101 Committees was also felt to be a sensible step and officers will be asked to write the relevant governance.
- f) Members welcomed the fact that new decision and report templates will be developed in the coming months as part of the Annual Governance Statement outputs and will work with officers to provide views. Members expressed concerns about the consistency of reports both in terms of style and content and impressed the need for all options to be clearly and consistently laid out.
- g) As previously reported to this Committee, the decision-making app is in the testing phase. This will ensure that the proper advice is requested and received as part of the decision-making process and so enable this to be better captured in reports. A standard template will build upon this work.

- h) Members, on balance, wished to retain Cabinet Committees with some changes to ensure that the issues raised by Members, External Auditor and the Annual Governance Statement were resolved to reinvigorate and focus the work of the Committee on effective pre-scrutiny of decisions, expert Member involvement to drive improved decision-making and a lessons learned approach to improving future decisions through reflective work on decisions taken in the recent past.
- i) Members felt that the Policy and Resources Cabinet Committee was under-utilised outside of papers from the CED and DCED directorates. As part of the review, Members are keen to see that Committee do the majority of cross-cutting activity for Cabinet Committees.

#### **4. Scrutiny Committee**

- a) The External Auditor challenged Members to consider whether the Scrutiny Committee should be chaired (including Vice-Chair) by a member drawn from the opposition parties. The GWP recognised that there were many views but felt that on balance that the Committee should be chaired (including vice-Chairman) by a member drawn from the opposition parties and that the decision should be put forward to full Council for debate and decision.
- b) There is no guarantee that the effectiveness of Scrutiny will or will not be changed being chaired by an opposition Member, and there are different practices in this regard around the Country. It is recognised that some would argue that the lack of an opposition Chair results in a political equivalent of the administration party marking their own homework.
- c) Any change would need to be agreed by full Council. It could be given effect by adding a new section to the Constitution after the current 17.43 on Scrutiny Committee membership. It would read, "The Chair shall not be a member of any Political Group which is represented on the Executive."
- d) One suggestion was for an Executive-Scrutiny Protocol to be established around mutual responsibilities and expectations. The current terms of reference is detailed and sets out the additional powers available to the Scrutiny Committee. This suggestion will need further discussion to determine what the gaps are perceived to be and whether any subsequent Protocol needs to be incorporated into the terms of reference/Constitution, or could take the form effectively of a Memorandum of Understanding between the Scrutiny Committee and Executive. Further work will be undertaken and this will report back to the Committee in the spring.

#### **5. Full Council**

- a) Another area of GWP discussion were ways to potentially improve County Council meetings.
- b) One of these was to formalise the informal arrangements in place regarding time limited motions and debates. The General Counsel will be tasked with writing the appropriate governance for Member agreement at full Council in March.

- c) The GWP welcomed a suggestion that Kent County Council introduces an “Annual State of the County” report to go to full Council and be presented by the Leader and debated by all Members. The timing of this would either be the end of the municipal or calendar year, depending on the electoral cycle.
- d) Members also felt that changes should be made to the running order of meetings. Whilst the ordering of the agenda is for the Chairman to agree, Members wished to suggest that changing the order may improve the feel and variety of meetings whilst also improving engagement.
- e) At the early stages of discussions of the GWP, the issue of County Council Questions was discussed. As part of that, the Leader worked with his Cabinet to reduce the length of responses and questioners have moved to punchier and shorter questions. This has significantly increased the number of questions being dealt with in recent meetings and the pace of the item. In light of the fact that all questions were dealt with at the last meeting and the improvements made, the GWP did not feel it necessary to make any recommendations at this time beyond a simple change to ask Democratic Services to publish all questions and answers after a meeting including those where the Member was unable to attend and ask the question.
- f) At present the proposer of the motion gets a right to reply and the proposer of amendments does not. The GWP felt that this should be changed in order to improve the substantive response to debates on amendments and ensure that there was an opportunity to ensure that all Members were sighted before a vote or decision was taken.
- g) Another suggestion was to introduce a way of full Council receiving reports from the Chairs of all Committees and amending the timing based on when the Leader’s report was received. The inspiration for wider reporting from Chairs was the annual report received from the Chair of the Governance and Audit Committee. This latter report was introduced as part of work carried out over the past several years to improve the way this Committee works, drawing in this instance on a recommendation made following a CIPFA external review in 2022. The Governance and Audit Committee has a specific role in the governance of the Council and the report to full Council is to update them on what is a responsibility shared by all Members as ‘those charged with governance.’
- h) Different Committees have different functions so it is important to ensure that any additional reporting, if adopted, is proportionate and are not an opportunity cost to full Council meetings. Officers will be tasked to give life to the potential arrangements and draft the appropriate governance which will return to the Committee in the spring for consideration as to how the annual reporting for Committees might work.

## **6. Training and Induction**

- a) The GWP felt that the need for Members to understand their clearly defined roles was important. Role profiles were brought to the previous Committee and will be shared and utilised as part of the Member induction in 2025.
- b) Mandatory training (valid for five years) to be required for statutory committees. If Members have not had the relevant training, it was strongly felt that they should not sit

on that committee. This accords with findings from the CIPFA discussions with Governance and Audit Committee and good governance that suggests informed and trained membership leads to improved outcomes.

- c) A programme of advisory training is being developed for all Members and will be strongly recommended to ensure that all Members have the requisite experience, knowledge and support. The GWP did recognise occasions where the external auditors comments in relation to Member meetings rang true and felt this action and Member involvement in training would improve matters.
- d) Furthermore, additional development on Chairmanship, including relevant mandatory training linked to their Committee will be provided along with training on critical thinking and equality/diversity which will now be included in the overall induction package.

## **7. Democratic Engagement**

- a) The GWP have asked officers to explore a number of potential actions that would improve democratic engagement and provide the public with greater information on the activities and role of Members.
- b) It is recognised that Members are often unfairly criticised or challenged around operational decisions and work is to be done to explore signposting options in this regard.
- c) Officers have been asked to explore greater visibility around meeting participation and attendance, presentation of Member training records and how information about the work of each Member including Member grant spend can be reflected.
- d) It is recognised that any proposals will need to be compliant with the Equality Act and they will be brought forward in the Spring.

## **8. Recommendations**

The Selection and Member Services Committee is asked to:

- 1. To NOTE with thanks, the contribution and efforts of the Members of the Governance Working Party**
- 2. NOTE and COMMENT on the retention of Cabinet Committees**
- 3. RECOMMEND to the Leader to:**
  - a. CREATE an Education Cabinet Committee**
  - b. CONSOLIDATE the Health Reform and Public Health Cabinet Committee into the Adult Social Care Cabinet Committee**
  - c. ASK the General Counsel to carry out a review of the Terms of Reference of Cabinet Committees**

4. **RECOMMEND to the County Council:**
  - a. To **DEBATE AND DECIDE** whether the Constitution be changed so that the Chairman of Scrutiny be an opposition Member
  - b. To **AGREE** the introduction of the “Annual State of the County” item at County Council
  - c. To **AMEND** the constitution to provide an opportunity for the Proposer of Amendments to have a right of reply before the end of the debate on the amendment they proposed
  - d. To **NOTE** the outputs of the Governance Working Party
  - e. To **NOTE** ongoing work around further reporting from other Committees
  - f. To **AMEND** the constitution to require the publication of all questions received in accordance with the constitution and their answers irrespective of whether the questioner attended County Council.
  
5. To **NOTE** the recommendations regarding training and induction for May 2025
  
6. To **NOTE** that discussions around hybrid/physical/remote meetings be paused until the Government determines any changes following the current consultation, with a further review by the Committee in six months if no changes are forthcoming.
  
7. **ASK the General Counsel to:**
  - a. **DEVELOP** governance to support the annual reporting mechanism for all Committees
  - b. **PROVIDE** support to the Governance Working Party to develop and finalise their further activity in time for the March County Council
  - c. **PROVIDE** a report to the Committee on Democratic Engagement proposals
  - d. **PROVIDE** a report on the changes to report templates
  - e. **REVIEW** proposals around the Executive-Scrutiny Protocol and provide advice to the GWP that can be incorporate into future recommendation for the March County Council
  - f. **REVIEW** agenda setting protocols
  
8. To **NOTE** the ongoing work of the group and **AGREE** that a further report come to the Committee ahead of the March County Council