

From: Mr R Parry – Chairman of Scrutiny Committee
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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

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