

From: Dylan Jeffrey, Cabinet Member for Communications and Democratic Services
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To: Selection and Member Services Committee, 30 November 2023

Subject: Governance Update

Status: Unrestricted

1. Introduction

- a) The governance of the Council contains its system of internal controls aimed at facilitating the effective exercise of its functions. It covers financial and operational management and so whilst the Constitution is the cornerstone of our governance, it is not the whole of it.
- b) The fundamental status of the Constitution is one reason why people refer to making changes to the Constitution when they identify ways to improve our governance. However, it is not necessarily the Constitution where a change needs to be made. A Constitution cannot contain every rule for every occasion if it is to be a practical document. The Financial Regulations, commissioning arrangements, operating standards and others contain a lot of the operational detail.
- c) Technology can streamline processes, and, in some cases, this may produce the improvement sought in a wording change. The culture of an organisation is also important. The governance framework, including the Constitution, presupposes a set of behaviours, not least a culture of compliance with the framework. Where there is ineffectiveness identified in our governance, the issue may lay less with the rules as they are but with other factors and changing the rules may not improve their effectiveness.
- d) Reviewing the governance of the Council is therefore an iterative process between revising the written aspects in the context of the prevailing culture/behaviours, and other approaches, like training and technology. Through this approach, several areas of our governance have been revised, including the Financial Regulations and Terms of Reference of the Governance and Audit Committee. Others are underway as set out in the actions from last year's (and this year's recently published) Annual Governance Statement, including decision-making procedures and the scrutiny function.
- e) At the same time, the Annual Governance Statement has identified activity that is necessary as part of the continuous improvement of the Council's governance.
- f) The purpose of this paper is to briefly outline some of the areas of activity to be undertaken in the short and medium term and seek the views of the Committee before progression.

2. Meeting Procedures

- a) A large proportion of the time spent by Members, particularly Non-Executive Members, on formal Council matters is in meetings. It is therefore appropriate to review how the standing orders which steer their operation could be revised to improve the effectiveness of the time given over to the meetings.
- b) Through informal discussions with Members, the following have been suggested as areas where changes could be promptly made:
 - i. **Breaks in meetings** – It is recommended that County Council consider the inclusion of breaks as part of changes to the standing orders for meetings. Whilst the Chair of a meeting can currently adjourn a meeting and Committee Members are able to put forward a motion to adjourn, there is felt to be a need for greater clarity on this. It has been suggested that there should be a mandated break after a certain period.
 - ii. **Deadline for County Council Questions** - This is currently set at 5pm on the Friday before County Council. Although some are received prior to this time, this does mean that in many cases the questions are only effectively received by the relevant Officers and Cabinet Members on Monday morning, leaving a shorter preparation time. The reason for setting a deadline after the County Council agenda is published is to reduce the chances of a question being asked that is answered by an agenda paper (which may invalidate the question). This leaves a small window, especially where the County Council agenda is published later in the day on the Wednesday. It has been suggested that the deadline should be set at 5pm on the Thursday before County Council.
 - iii. **Time available for County Council Questions** - Although sometimes extended, the time formally allowed is 30 minutes. Different options are available to endeavour to get through more questions at the meeting including extending the overall time and/or limiting the time available for the responses. A balance needs to be struck between providing a full response to those Members who submit their questions early and enabling more Members to ask their question at the meeting. Where a Member is unable to ask their question at the meeting, they receive a written response; it has been suggested that consideration be given to publishing these and/or circulating them to all Members.
 - iv. **Procedural motions** - Questions are occasionally raised about when procedural motions are taken. Section 14.70 of the Constitution states that they may be proposed “at any time”. This means that they do not need to be taken at a specific point in time, like at the end of an item. It does not mean that procedural motions take precedence – i.e., when Members are waiting their turn to speak, it does not allow a Member to call out and prevent these Members speaking by posing a procedural motion. It is only when a Member wishes to raise a point of order or make a personal explanation that the Chairman may allow a Member to speak immediately (under 14.78). As a procedural motion under 14.70 could involve shutting down the debate, they could be used to

prevent Members speaking. If 14.70 is felt to be ambiguous, it may need to be reworded to make this clear.

3. Governance Working Party

- a) The issues in section 2 of this report are the more straightforward of potential changes to the Constitution. In 2019, Members approved a rationalisation of the Constitution which considerably shortened and simplified the document with a view to further substantive changes taking place after discussion with a working party comprised of Members from across the Chamber. Ultimately, the pandemic intervened and it is felt timely to revisit a working party approach to provide a deep-dive into the issues rather than try to conduct this activity in main Committee.
- b) In recent months since appointment, the Cabinet Member for Communications and Democratic Services has been speaking with Members with a view to understanding the changes that Members would like to see considered.
- c) Over the past year, the Annual Governance Statement and the Governance Review by the External Auditor have brought forward actions and opportunities for change that need to be discussed and considered by Members.
- d) Many of the changes do not have simple or single answers and require careful and considered discussion before recommendations are brought forward in early 2024 for Selection and Member Services to further consider.
- e) It is therefore proposed to establish a Governance Working Party of Members to provide representation from all Members to inform the Cabinet Member and Monitoring Officer of the view of non-executive Members in relation to the operation of the Council's governance.
- f) The working party would be chaired by the Cabinet Member and supported and advised by staff from Governance Law and Democracy. All and any suggestions would then be worked up into proposals that ensure we meet the legal requirements and are consistent with the wider framework and presented as options to this Committee and/or the Council as appropriate.
- g) Some of the initial areas for discussion identified for discussion by the Working Party include:
 - i. **Review of the best ways to effectively scrutinise the Council's role in relation to Education and Skills** – The role of the local authority has changed significantly since the current arrangements were put in place and it is timely to reflect on whether changes could assist. Some local authorities operate a dedicated Education Scrutiny Committee and KCC currently have a SEND Sub-Committee of Scrutiny.
 - ii. **Changes recommended by Governance Review** – A range of suggestions were made by the external auditor which require discussion and contemplation by Members including:
 - The role and effectiveness of Cabinet Committees
 - The Chairmanship of Scrutiny Committee

- Cross-cutting post-decision scrutiny
 - The role of Member training within formal governance (mandatory)
 - Member responsibilities and culture
- iii. **Further review of meeting standing orders for all meetings generally and County Council specifically**
- iv. **Review of the Scrutiny Call-In criteria**
- v. **Areas of activity where the Monitoring Officer would like to discuss changes ahead of bringing recommendations to the Committee** – The Monitoring Officer has a defined role and accountability in relation to Governance and he and his officers advise impartially based on their professional expertise. There are a number of activities both within the Annual Governance Statement and in relation to planned transformation where it would be helpful to discuss informally before recommendations are brought forward.
- vi. **Discussion of Role Profiles for Members to provide clarity**

4. Next Steps

- a) The above is not an exhaustive list but are those which have been directed to the General Counsel through the Cabinet Member for Communications and Democratic Services and reviewed in the context of the wider governance framework. Members are asked to comment on the above and suggest additional areas for consideration.
- b) At the same time, the Cabinet Member for Communications and Democratic Services has observed that some of the most effective Member groups, whether they be sub-committees, informal working groups or task and finish groups, have been smaller in number.
- c) The membership, terms of reference and number of Cabinet Committees are determined by the Leader under the Constitution. A reduction in the number of seats (without reducing the number of opposition seats currently allocated) is being considered ahead of some of the further changes identified above for discussion in due course.

5. Recommendation

The Selection and Member Services Committee is asked to:

- a) NOTE and COMMENT on the report
- b) DISCUSS Section 2 of the Report and AGREE items for onward presentation to County Council for approval
- c) AGREE the establishment of a Member Working Party chaired by the Cabinet Member for Communications and Democratic Services to work on a cross party basis.

6. Relevant Director and Report Author

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