

From: Roger Gough, Leader of the Council
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To: County Council, 13 March 2025

Subject: Governance Update

Status: Unrestricted

1. Introduction

- a) The Governance Working Party was established to consider detailed recommendations made by the external auditor in relation to Member roles, behaviour and governance. It provided an opportunity for Members to discuss and consider how the Council might operate differently and specifically to respond to questions posed by the external auditor about the role of Cabinet Committees and the Chairmanship of the Scrutiny Committee.
- b) The outputs of this Working Party, along with potential changes to the Council's Governance, have been considered by the Selection and Member Services Committee. The previous recommendations of the Committee as approved are attached as Appendix 1 to this report.
- c) Since discussions with the Selection and Member Services Committee in early December, there have been a number of significant developments regarding the future of local government in Kent and across the country.
- d) On 5th February 2025, Kent County Council was notified that it had not been selected to be part of the Government's Devolution Priority Programme (DPP). Nevertheless, the Government continues to seek reform of the sector with future implications for residents of Kent, Members and Officers. The Government continues to explore devolution and local government reorganisation options within Kent and by the time the Council meets for the AGM, it will be important to ensure that governance structures are ready to discuss and debate the implications of devolution and local government reorganisation insofar as the Government determines they should be progressed in Kent and on what timetable.
- e) The Council had previously recognised the limited capacity and a need to prioritise Member and Officer resources onto the most important and strategic activity. Kent County Council holds approximately 150 formal meetings and anything up to 80 informal meetings in each municipal year.

- f) Similarly, Members, Officers, our auditors and our own Annual Governance Statement have commented on the challenging operating environment and the need to focus resources becomes even more acute in the light of the opportunities and challenges presented by an agenda that will seek to balance Devolution, Local Government Reorganisation and the delivery of business as usual.
- g) It is not proposed to reduce the number of meetings overall but it is important to avoid duplication of effort for those writing papers and for Members in debating issues.
- h) The Members of the GWP have included Trevor Bond, Neil Baker, Alister Brady (and before him Dr Sullivan), Nick Chard, Mark Hood, Antony Hook, Steve Manion and the Leader of the Council supporting Mr Jeffrey as the Cabinet Member and Chair of the GWP. The Members are thanked for their considerable commitment and for the robust but good-natured discussion. The outcome of that work is now brought together with the recommended changes to reflect the new agenda. This has meant that some of the proposals intended to have an impact over the medium and long term are not being taken forward.
- i) Since the GWP and Selection and Member Services last met, the Leader proposes creating the Devolution and LGR Liaison Committee using the Cabinet Committee governance as a central point for Member engagement, updating and pre-scrutiny of decisions relating to all Devolution and LGR issues. This is to enshrine the commitments he gave to the full Council at their meeting on 9th January 2025.
- j) As such, this report consolidates some of the findings of the GWP with the thinking around how to create capacity to properly manage the necessary discussions. The paper also reflects on discussions about governance, agenda setting and how to maximise the impact of the Council's meeting activity against the realities of the operating and financial position of the Council that have taken place at Governance and Audit Committee, Scrutiny Committee and Selection and Member Services.
- k) The paper also addresses the outstanding matters raised by the External Auditor which were brought to the attention of the Governance and Audit Committee and full Council regarding consideration of the chairmanship of Scrutiny which needs discussion and decision before the end of this administrative cycle.
- l) Members across the Council are thanked for their involvement in discussions which results in proposals to make our governance resilient, realistic and ready for the Council term ahead.
- m) This paper provides an opportunity for the full Council to debate and comment on the range of proposals that has been developed, some of which are for decision by the full Council. The decisions relating to both the Liaison Committee and any changes to the Cabinet Committees are for the Leader, who is keen to hear different views and perspectives given the absence of a single view on the way forward in discussions with Members so far.

- n) Attached to this paper at Appendix 2, are the proposed changes to the Constitution, highlighted and tracked for Member's consideration and for which approval is sought.

2. Physical/Hybrid/Remote Meetings

- a) One area of discussion at the GWP were the arguments for and against the different form of meetings. Members will recall that the government ran a consultation to which KCC responded in line with the comments of Members at the December County Council meeting. At the time of writing, no further legislation has been forthcoming and 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 Selection and Member Services Committee.

3. Committees

- a) Cabinet Committees are advisory committees of the Executive. Pursuant to the Constitution, the membership, terms of reference and number of Cabinet Committees are determined by the Leader. A range of discussions have taken place with the Governance Working Party and others about the future shape and number of Cabinet Committees alongside how they operate.
- b) The GWP felt 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.
- c) 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 Committees 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.
- d) It is important to now reinvigorate the role of Cabinet Committees in both pre-Scrutiny and updating. In recent years there have been a number of occasions where multiple reports have been taken to a number of different Committees and there needs to be a greater focus, in line with the recommendations of the external auditor, on a more disciplined approach to using our Committee time. It is felt vital to retain Cabinet Committees and to reassert their role in pre-Scrutiny.
- e) Similarly, in an effort to reduce duplication of activity and resource, it is timely to reassert the primacy of Policy and Resources Cabinet Committee as the cross-cutting Committee within the Council's governance.

- f) The role of Scrutiny in the calling in of decisions remains a core part of the governance and that independent view will be important as the Council manages multiple agendas.
- g) It was also felt that a role for Cabinet Committees (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 will 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.
- h) The Governance Working Party discussed the current make-up of Cabinet Committees and reflected on whether changes could be made. They felt that the following amendments would be sensible:
 - 1) Consolidate the work of the Health Reform and Public Health Cabinet Committee into the Adult Social Care and Health Cabinet Committee
 - 2) Separate the CYPE into two Cabinet Committees, one for Education and one for Integrated Children's Services
- i) Since the Governance Working Party recommendations were discussed at Selection and Member Services Committee, representations have been made about the work of the existing Committees. The contribution of the Health Reform and Public Health Cabinet Committee and their Members to outcomes in the public health space and strategic policy development was noted. Equally, there have been strong representations that the linkage between different elements of CYPE work would be best secured by keeping one Committee, but with the meeting divided into two parts.
- j) Paragraph 16.7 of the Constitution determines that:

“the Leader may determine the number of Cabinet Committees, the number of places on each Committee and whether the proportionality principles apply. The Leader will also determine any requests from the Chairs of Cabinet Committees to set up Sub-Committees and approve the Terms of Reference, size and duration of those Sub-Committees.”
- k) In the current operating environment, it is also vital that duplication is minimised and clear areas of accountability for Committees are effectively demarcated. Accordingly, the debate also provides an opportunity to reflect on the experience of this administrative period and improvements that can be contemplated to provide a greater focus on the strategic activity of the Council and to avoid duplication of agenda items and discussions.
- l) The debate on this paper will provide an opportunity for all Members to inform the Leader's decision around any future changes. Any changes made by the Leader following the debate will be communicated to Members in writing.

4. Scrutiny Committee

- a) The External Auditor challenged Members to consider whether the Scrutiny Committee should be chaired by a member drawn from the opposition parties. The GWP recognised that there were many views but felt that on balance that the roles of Chairman and Vice-Chairman should be undertaken by members drawn from the opposition parties but that this decision should be put forward to full Council for debate and decision.
- b) To discharge the commitment to discuss this issue, this paper therefore asks the Council to debate and decide the future Chairmanship arrangements.
- c) 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.
- d) Any change needs to be agreed by full Council. If agreed, the proposed wording in Appendix 2 could be used to amend the Constitution.
- e) One suggestion within the GWP 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. Mindful of the prior recommendations and current operating requirements, there are also changes proposed to ensure that the Scrutiny Committee's role around call-in is clarified and strengthened.
- f) Reflecting on the challenge laid down by the External Auditor and pressures on capacity, the statutory guidance regarding Scrutiny Committees has been reviewed and this is attached at Appendix 3.
- g) Members' attention is drawn in particular to the following sections:

“Effective scrutiny should have a defined impact on the ground, with the committee making recommendations that will make a tangible difference to the work of the authority.”

“Scrutiny works best when it has a clear role and function. This provides focus and direction. While scrutiny has the power to look at anything which affects ‘the area, or the area’s inhabitants’, authorities will often find it difficult to support a scrutiny function that carries out generalised oversight across the wide range of issues experienced by local people, particularly in the context of partnership working. Prioritisation is necessary, which means that there might be things that, despite being important, scrutiny will not be able to look at.”

“Different overall roles could include having a focus on risk, the authority’s finances, or on the way the authority works with its partners. Applying this focus does not mean that certain subjects are ‘off limits’. It is more about looking at topics and deciding whether their relative importance justifies the positive impact scrutiny’s further involvement could bring.”

5. Full Council

- a) Another area of GWP discussion was different options 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 appropriate governance for Member agreement at full Council in March is now drafted and embedded in paragraph 14.60 of the proposed constitution as attached at Appendix 2.
- c) In addition, Selection and Member Services Committee supported a GWP recommendation to amend the arrangements for publishing County Council Questions (CCQs). The change is designed to ensure that all valid questions and answers were published following each Council meeting, regardless of whether the question was put during the meeting. The relevant constitution change requiring approval (s14.21 and 14.22) is included in Appendix 2.
- d) 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.
- e) 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.
- f) 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.
- g) 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.
- h) 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.’

- i) Different Committees have different functions so it is important to ensure that any additional reporting, if adopted, is proportionate and is 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 Selection and Member Services Committee in due course 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) The Council has a number of statutory committees that are core to the effective functioning of the governance system. These include Governance and Audit, Planning, Scrutiny and Regulation Committee who all consider material matters and in some cases have quasi-judicial functions. Mandatory training (valid for five years) is 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 skills, experience, knowledge and support. The GWP did recognise occasions where the external auditor’s comments in relation to Member meetings rang true and felt this action and Member involvement in training would improve matters.
- d) Officers are also to work with colleagues in other Councils to try and avoid duplication of training.
- e) Officers are also to work on exploring the accreditation options and a more formal Member Development Plan to bring back to the Council early in the new term.

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.

8. Recommendations

The County Council is asked to:

1. **To NOTE with thanks, the contribution and efforts of the Members of the Governance Working Party**
2. **To COMMENT on the specific proposals and arrangements relating to Cabinet Committees to inform future changes**
3. **APPROVE the RECOMMENDATION to the County Council to adopt the amended Constitution at Appendix 2.**
4. **DEBATE and DECIDE whether the Chair of the Scrutiny Committee should be mandated as an opposition Member.**
5. **If Recommendation 4 is passed, APPROVE the relevant changes to the Constitution**
6. **DELEGATE authority to the Monitoring Officer in consultation with the Leader and Opposition Group Leaders authority to make further necessary changes to the Constitution following the debate.**

Appendices

Appendix 1 – Minutes excerpt from Selection and Member Services Committee, December 2024

Appendix 2 – Constitution Changes

Appendix 3 - Overview and scrutiny: statutory guidance for councils, combined authorities and combined county authorities

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