

From: Paul Carter – Leader of the Council
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To: County Council – 15 December 2011

Subject: Proposed revisions to the Council's governance arrangements

Summary: This report recommends that the County Council establishes six new Cabinet Committees and a single Scrutiny Committee as the basis of its new governance arrangements.

Unrestricted

Introduction

1. (1) At its meeting on 20 October 2011, the County Council debated the proposal to develop a hybrid model of governance, drawing on what worked well in a traditional committee system of decision making whilst maintaining the executive model of a Leader and Cabinet for effective, timely and responsive decisions.

(2) Since central Government introduced executive governance arrangements in 2000, it is recognised that the skills and knowledge of non-executive Members have not always been fully utilised by the Council. The proposed new hybrid model of governance set out in this report will provide the opportunity for every Member to utilise their diverse range of skills.

(3) In Kent there is now an exciting opportunity to develop a new model of governance within the parameters of the existing legislation. It will create a new suite of Cabinet Committees that will provide an important contribution to policy development. This policy development role will involve non-executive Members being at the heart of key decisions to be taken by Cabinet Members in shaping the County Councils policies.

- (4) The key objectives of the new hybrid model of governance are:
- (a) to allow non- executive members to input into the key decisions to be taken by Cabinet Members
 - (b) strengthen policy development by allowing non-executive Members greater input into shaping the County Council's policies
 - (c) greater accountability of decision makers
 - (d) fundamentally changed dynamic of pre-scrutiny of decisions (rather than post-scrutiny)
 - (e) a streamlined committee infrastructure
 - (f) greater transparency and openness, making the decision making process more inclusive, robust and accessible
 - (g) supporting Cabinet Members to make more effective decisions
 - (h) improved performance management
 - (i) ensuring the impact on the Members' Allowances Scheme is cost neutral

(5) It is proposed that the implementation of the new model of governance will take effect on 1 April 2012. This will be a challenge, but can be achieved if the Council takes decisions today based on the recommendations before it, which will in turn allow the following to be prepared and submitted to the Council for approval on 29 March 2012:

- (a) consequential amendments to the Constitution
- (b) The terms of reference for the Scrutiny Committee
- (c) Procedure Rules
- (d) A revised Forward Plan of Key Decisions
- (e) A revised Member Allowance Scheme (as approved by the Independent Remuneration Panel and Selection & Member Services Committee)
- (f) Revised Member role descriptions (as approved by the Independent Remuneration Panel, Standards Committee and Selection & Member Services Committee)
- (g) Revisions to the Officer Scheme of Delegations

Developments since the County Council meeting on 20 October 2011

2. (1) A Democratic Services Transition Manager has been appointed to assist in the design and implementation of the new model of governance.

(2) This report expands on the options outlined in the report to the County Council on 20 October, as well as addressing further options that have arisen following consultation with Members of all political groups.

(3) This report has already been the subject of formal debate at the Selection & Member Services Committee on 1 December 2012.

Outstanding Issues

Chairmanship of Cabinet Committees

3. (1) Understandably, different views have been expressed by Members on who should chair the proposed Cabinet Committees:

- (a) Some Members feel that it would not be appropriate for the Cabinet Member to chair the Cabinet Committee, as:
 - (i) key and significant decisions will be discussed by the Committee on which the Cabinet Member will subsequently take the decision; and
 - (ii) it would be inappropriate for the Cabinet Member to chair a meeting where they are in a position to direct and influence the Committee.
- (b) Others have expressed the view that the committees should be chaired by the relevant Cabinet member, linking the Cabinet and the committee rather than separating them. This would also ensure the Cabinet members retained accountability and responsibility for taking

members of the Committee with them in relation to their portfolio proposals.

(2) The Leader has carefully considered the various views and proposes initially to appoint a mixed economy of chairmen for the Cabinet Committees, which may include non-executive Members of the administration, Deputy Cabinet Members and Cabinet Members, in order to establish how effective each of these options proves to be. These arrangements will be reviewed within the first twelve months.

Cabinet Committee Agendas

(3) The responsibility for setting the agendas for Cabinet Committees will be shared between the non-executive Members of the Cabinet Committee, the Chairman of the Committee, relevant Cabinet Members and senior officers. This approach has been a well developed part of the existing process for the Policy Overview and Scrutiny Committees that enables a shared understanding of the priorities. All Members will have the right at the Chairman's discretion to address a Cabinet Committee about an item on the agenda which affects their electoral division.

Number of Cabinet Committees

(4) Attached as **Appendix 1** is a structure chart showing the proposed structure of the Council and Cabinet Committees. It is not exhaustive of all the Committees but shows the Cabinet and Cabinet Committees on the executive side, the ordinary and quasi judicial Committees and two independent Scrutiny Committees on the Council side. It is proposed that the Cabinet Committee structure will be aligned to the existing Cabinet Member portfolios, with the exception of the three portfolios that cover the central support functions, which will be incorporated into the Policy & Resources Cabinet Committee:

- (a) Policy and Resources
- (b) Social Care (both Adult and Children's Services) and Public Health
- (c) Education
- (d) Communities
- (e) Environment Highways and Waste
- (f) Economic Development

(5) It is important to ensure that in operating a new model of governance, the significant priorities for the County Council are not lost. With that in mind and particularly regarding the activity around the Children's Social Services Improvement Plan, the Corporate Parenting Panel and the Children's Services Improvement Panel (or equivalent Safeguarding Panel for Adults and Children) will be retained.

Future role of Cabinet Meetings

(6) Officers have undertaken an analysis of decisions taken by the collective Cabinet and individual Cabinet Members during the period 1 April to 31 October 2011. This indicates that a total of 100 decisions were made, 3 by the collective Cabinet, 89 by individual Cabinet Members and 8 were joint

Cabinet Member decisions. This demonstrates that the vast majority of decisions are taken by individual Cabinet Members.

(7) Accordingly, it is initially intended to reduce the number of Cabinet meetings in a calendar year to five, to coincide with the number of meetings proposed for the Cabinet Committees. Meetings of the Cabinet will be held in January, April, June, September and December. In December, the Cabinet sets out its Autumn Budget Statement and in January the Cabinet recommends the budget to the County Council for approval. A reduction to five meetings in a calendar year will enable the Cabinet to focus on the major strategic issues. The Leader will have the ability to call additional meetings of the Cabinet as circumstances dictate.

Cabinet Committees

(8) Attached as **Appendix 2** are the proposed Terms of Reference for the Cabinet Committees under these arrangements, for the Council's approval.

Size and Composition of Cabinet Committees

(9) The legal position is that the statutory rules of proportionality do not need to apply to the Cabinet Committees. However, the Leader has agreed to allow the minority opposition groups a seat on all of the Cabinet Committees, to ensure maximum cross-party involvement. Cabinet Committees will generally consist of an average of 12 Members. Opposition Members very much welcome the opportunity to be involved in the proposed Cabinet Committees, which they see as a positive step forward.

Frequency of Meetings

(10) Initially, the Cabinet Committees will work on a pattern of five meetings in each calendar year, in January, April, June, September and November, to fit with the proposed Cabinet meeting cycle.

(11) Given the functions that will be aligned to each of them, it is likely that the Policy and Resources, Education and Social Care and Public Health Cabinet Committees will need additional meetings, which may then be compensated by fewer meetings of the other Cabinet Committees. Certainly, the number of Cabinet functions within the remit of the proposed Policy and Resources Cabinet Committee is very demanding and may not be achievable in a five meeting programme in a calendar year. As with all these proposals, there will be the opportunity to review as the new system becomes established.

Cabinet Committee meetings - public and private

(12) There should be a presumption that all meetings of Cabinet Committees will be public and webcast so that they are as accessible as possible to Kent residents. There will, however, be occasions when it will be necessary and appropriate for a Cabinet Committee to move into private session, as is the case now for the Cabinet and Committees of the Council.

Cabinet Committees' ability to co-opt other individuals onto them

(13) Cabinet Committees will have the ability to invite individuals/organisations to attend meetings in order to assist them, subject to the agreement of the Chairman and/or relevant Cabinet Members.

Informal Member Groups

(14) There have been occasions in the past where it has been useful to establish an Informal Member Group to undertake a short time limited task and finish project. However, given that IMGs meet in private and are not subject to the access to information rules of ordinary committees, this does contradict one of the stated intentions of the hybrid scheme, namely to promote transparency. There will, therefore, normally be no IMGs within the new scheme.

Select Committees

(15) Members who have served on Select Committees all agree that this has been one of their most rewarding experiences as elected Members. Members from all political groups have worked together as a team in looking at topics in depth and prepared reports of high quality, which have helped to shape policy. They have provided Members with the opportunity to use their experience and skills to deliver important and significant outcomes for the residents of Kent. The only change that is proposed to the current arrangements is to allow both Cabinet Committees and the Scrutiny Committee to establish sub-committees. Should a Cabinet Committee wish to establish a sub-committee it will be for the Chairman of the Committee and (if different) the relevant Cabinet Members to decide. Clearly, this would have resource implications and there would be a need for the Cabinet and the Scrutiny Committee to carefully plan and co-ordinate their work programmes around available resources.

Decision Making Process

(16) The current decision making process for a Cabinet Member decision from beginning to end (with no delays) takes a minimum of 16 days. This assumes that:

- (a) the report contains all the necessary information on which the formal decision can be based
- (b) staff in the Democratic Services publish the report immediately it is received from the report author
- (c) the Cabinet Member takes the decision on the earliest available date
- (d) Democratic Services publish the notice of a decision immediately after it is taken by the Cabinet Member
- (e) the decision is implemented 5 working days after the decision has been taken, assuming the overview and scrutiny call in process has not been exercised

(17) The Forward Plan of Key Decisions will detail when decisions are to be taken and to be considered by a Cabinet Committee. It will be for Cabinet

Members working with Corporate Management Team to structure the business of the Council in such a way that this generally fits into the cycle of 5 meetings of a Cabinet Committee in a calendar year.

(18) All Cabinet Members will operate in the spirit of the objectives set out in 1(4), above. However, where there is a need for a Cabinet Member to take a decision outside the Cabinet Committee meeting cycle the decision will be taken by the Cabinet Member and reported retrospectively to the Cabinet Committee.

Scrutiny

4. (1) Under the new hybrid model of governance, with decisions normally to be considered by one of the six Cabinet Committees prior to the relevant Cabinet Member or Cabinet formally taking the decision, it is envisaged that the number of call-ins to be considered by the proposed Scrutiny Committee will be substantially reduced.

(2) Under s.21 of the Local Government Act 2000, the Council must have at least one Overview and Scrutiny Committee, with powers to:

- (a) require the Leader, Cabinet Members and senior officers to attend before it and answer questions.
- (b) question and gather evidence from any person (with their consent)
- (c) appoint one or more sub-committees to discharge any of its functions
- (d) co-opt individuals on a non-voting basis if there is a proven business need

(3) As mentioned in the report to the Council on 20 October 2011, the Scrutiny Committee should be made up of Members who are not members of any of the Cabinet Committees. This is to ensure the complete separation of executive and scrutiny roles and maintain a single, independent scrutiny function.

Crime and Disorder Committee

(4) Section 19 of the Police and Justice Act 2006 requires all local authorities to identify a Crime and Disorder Committee. Under the Council's existing governance framework, this function is discharged by the Customer and Communities Policy Overview and Scrutiny Committee.

(5) Under the proposed scheme, following the proposed dissolution of the existing Overview and Scrutiny suite, the Crime and Disorder Committee function will be undertaken by the Scrutiny Committee.

Flood Risk Management

(6) A local authority that operates executive arrangements and is a lead local flood authority (such as Kent County Council), must include arrangements to review and scrutinise the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect its area. This function will be included in the proposed Scrutiny

Committee terms of reference and may be established as a sub-committee of that committee or as a stand alone committee as part of the Scrutiny arrangements.

Police and Crime Panel

(7) The Police Reform and Social Responsibility Act 2011 brings in new structural arrangements for national policing, strategic police decision-making, neighbourhood policing and policing accountability. Principal among these changes will be the election of police and crime commissioners, the first of which will take place in November 2012.

(8) Other than through the ballot box by local people, police and crime commissioners will be held to account by a Police and Crime Panel. The Police and Crime Panel is a scrutiny body that exists to scrutinise the Police and Crime Commissioner, to promote openness in the transaction of police business and also to support the Police and Crime Commissioner in the effectiveness of their functions.

(9) Police and Crime Panels will have a number of formal roles:

- (a) review the draft Policing and Crime Plan
- (b) publicly scrutinise the Police and Crime Commissioner's annual report
- (c) review and scrutinise Police and Crime Commissioner's decisions and actions
- (d) review and veto the Commissioner's proposed precept levels

(10) Discussions are taking place with colleagues in Borough and District Councils and Medway Council as to who would be best placed to lead the Police and Crime Panel for Kent. If it is agreed that KCC should lead on the administration of the Panel, it is proposed that work is commenced to establish the Police and Crime Panel in shadow form in April 2012, prior to the formal commencement of the new arrangements following the appointment of the Police Commissioner in November 2012.

Other Committees – Executive Advisory Boards

5. (1) It is proposed that Executive Advisory Boards, such as the Gypsy and Traveller Advisory Board and the School Organisation Advisory Board, and with the exception of the Corporate Parenting Panel and Children's Services Improvement Panel (or equivalent Safeguarding Panel for Adults and Children), will be subsumed into one of the proposed Cabinet Committees.

(2) All the council-side and quasi-judicial committees will remain, including:

- (a) Planning Applications
- (b) Regulation
- (c) Governance & Audit
- (d) Superannuation Fund
- (e) Selection and Member Services

- (f) Personnel
- (g) Electoral and Boundary Review
- (h) Independent Remuneration Panel

A report on the future of the ethical standards regime (including the status of the Standards Committee) will come forward in the New Year, once the implications of the Localism Act 2011 have been fully considered and proposals developed.

Impact on the Members' Allowances Scheme

6. One of the pre-requisites of the hybrid scheme is to ensure that its impact on the Members' Allowances Scheme is cost neutral. The proposed new governance arrangements will require changes to be made to the Members' Allowances Scheme and time will need to be allowed for the proposals to be considered by the Independent Remuneration Panel and for the Panel to report to the full Council setting out its recommendations. A report will be submitted to the Independent Remuneration Panel for consideration early in the New Year once the County Council has decided on its preferred governance structure.

Relationship between Corporate Management Team and Cabinet Committees

7. (1) The Corporate Management Team's role and relationship with Cabinet Members, non-executive Members and Cabinet Committees will be pivotal to the success of the proposed new Governance arrangements.

(2) What is likely to emerge is closer working between the Corporate Management Team and all elected Members (in particular the Cabinet), and the greater involvement of Cabinet Members in the operational decisions of the Council to ensure effective service delivery.

(3) Under the hybrid scheme, the Corporate Management Team will have an important role in embedding the new governance arrangements within the culture of the Directorates. The way that the Cabinet and the Corporate Management Team currently operate will change. For example, for a Cabinet Committee to be effective it will require the same information in a report as the Cabinet Member will have to base their decision on. Timely, free-flowing information and excellent communication between the Corporate Management Team, Cabinet and Members generally will be key to the success of the proposed Cabinet Committees.

Conclusion

8. (1) The proposed new governance arrangements create an opportunity for all non-executive Members to make a significant contribution to the policy development, decision making process and performance management of the County Council.

(2) Should the County Council decide to adopt the new hybrid model of governance, there will be a significant impact for both Members and officers in terms of knowledge, preparation and operation of the new system.

(3) Other strands of activity already underway include:

- The opportunity to simplify the Constitution and the suite of governance framework documents
- Further development of the Forward Plan of Key Decisions to ensure that entries include the timescale for the decision to fit in with consideration by the Cabinet Committee
- Ensuring that the approved Model Report template is used for every report that will lead to a decision being taken. It will be this report that the relevant Cabinet Committee will consider and comment on prior to the decision being taken by the Cabinet Member

(4) The Democratic Services Transition Manager is working with the Head of Internal Communications and the Learning and Development Manager to ensure that staff across the County Council are aware of the impending new governance arrangements.

(5) Working with the Learning and Development Manager the new governance framework will be built into the new Kent Manager Programme recently launched for all managers. Bespoke training methods including e-learning webinars and briefings and other training events will be arranged on an ongoing basis to ensure that the transition from the existing model of governance to the new is as seamless as possible.

Recommendations

9. The County Council is recommended to approve:

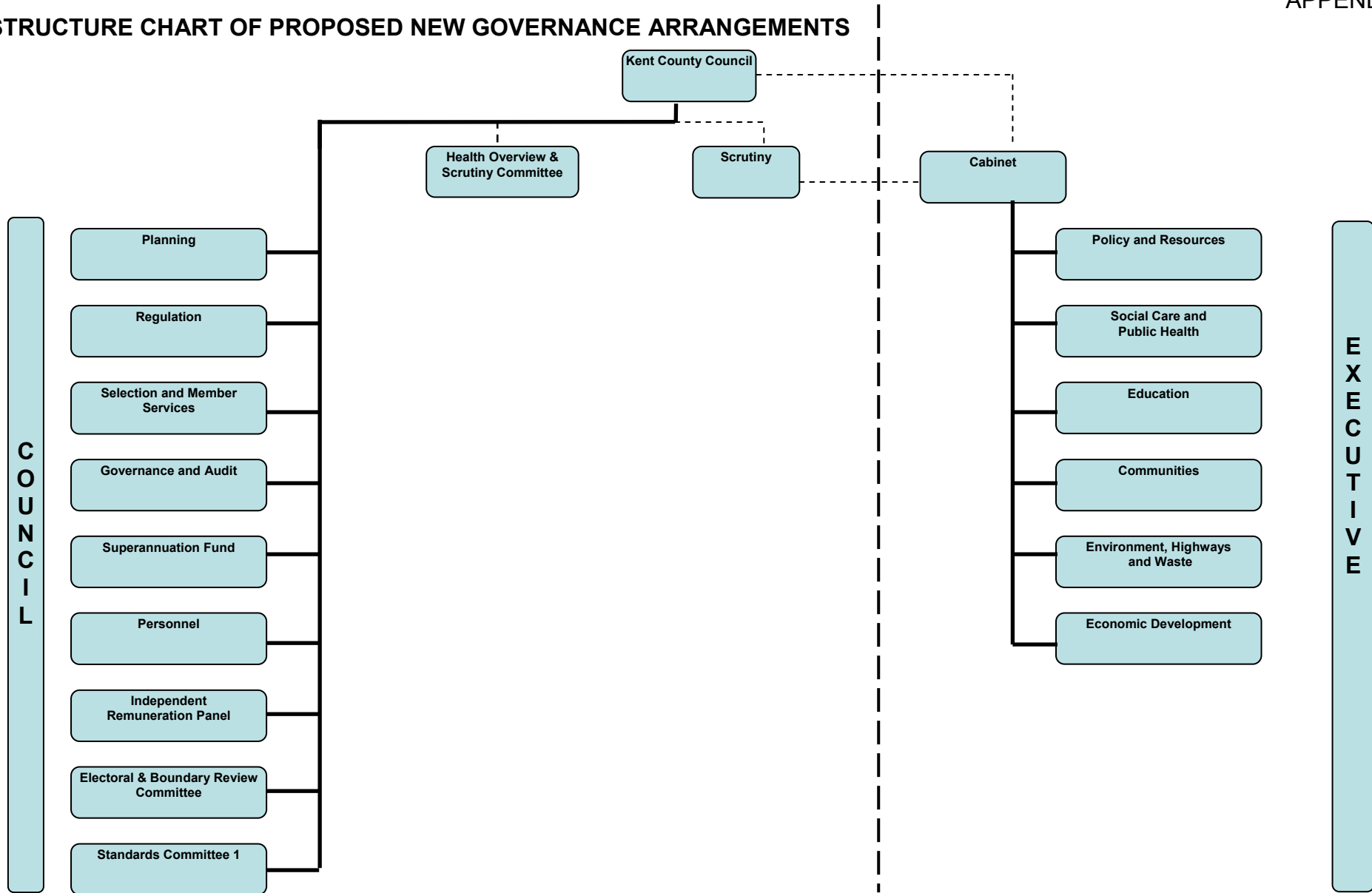
- (a) the dissolution of the existing suite of Overview and Scrutiny Committees and its replacement with Cabinet Committees and a single Scrutiny Committee
- (b) the implementation and operational date for the new governance arrangements on 1 April 2012
- (c) the establishment of six Cabinet Committees with
 - (i) an average of 12 Members including a seat for the minority opposition groups on each Committee and
 - (ii) with the proposed terms of reference as set out in Appendix 2
- (d) Cabinet Committees subsuming the existing Advisory Boards (with the exception of the Corporate Parenting Panel and the Children's Services Improvement Panel or equivalent Safeguarding Panel for Adults and Children)
- (e) the chairing of Cabinet Committees by a mixed economy which may include non executive Members of the administration, Deputy Cabinet Members and Cabinet Members (subject to review by the Leader within the first twelve months)

- (f) setting the agendas for the Cabinet Committees will be a shared responsibility between the Members of the Cabinet Committee, the Chairman of the Committee, relevant Cabinet Members and senior officers
- (g) Cabinet Committees establishing sub-committees but that Informal Member Groups will not normally be permitted

Note:

- (h) the new relationship between the Corporate Management Team and the Cabinet
- (i) the ongoing work on the Constitution and other constitutional framework/operational documents and
- (j) the arrangements for embedding the new arrangements in the County Council and the training of Members and officers to ensure a smooth transition to the new governance arrangements

STRUCTURE CHART OF PROPOSED NEW GOVERNANCE ARRANGEMENTS



1. A report on the future of the ethical standards regime (including the status of the Standards Committee) will come forward in the New Year, once the implications of the Localism Act 2011 have been fully considered and proposals developed.

LEADER AND CABINET

Cabinet Committees

Note: Each Cabinet Committee will consider the functions of the Council that are the responsibility of the Cabinet Member for [insert relevant title(s)] and related matters affecting Kent or its residents.

- (a) Consider and either endorse or make recommendations on all decisions to be taken by the Cabinet Member(s) or the collective Cabinet
- (b) Assist and advise the Leader, Cabinet Members and the Cabinet in the development of the Policy Framework
- (c) Review the performance of the functions of the Council that fall within the remit of the Cabinet Committee in relation to its policy objectives performance targets and the customer experience
- (d) make reports and recommendations to the Leader, Cabinet Members, the Cabinet or officers arising from the exercise of the preceding terms of reference or which affect Kent or its inhabitants within their allocated areas of responsibility

Cabinet Committees will have the power to:

- (a) request relevant Cabinet Members and officers to attend before it and answer questions
- (b) question and gather evidence from any person (with their consent)
- (c) in exceptional circumstances appoint one or more sub-committees to discharge any of its functions
- (d) co-opt individuals on a non-voting basis if there is a proven business need

Additional Term of Reference for the proposed Policy and Resources Cabinet Committee:

The Policy and Resources Cabinet Committee will undertake policy development activity where this is of a cross cutting nature, or allocate this responsibility to a Cabinet Committee.