

REVIEW OF NEW GOVERNANCE ARRANGEMENTS

Council – 1 April 2014

Report of Chief Officer Legal and Governance

Status: For decision

Also considered by: Governance Committee – 13 March 2014

Key Decision: No

Executive Summary: The Governance Committee is tasked with reviewing the new governance arrangements which were introduced at Annual Council in May 2013 in addition to looking at options such as the Committee System or a Hybrid Model requiring Secretary of State approval and to report back to Council by April 2014.

Portfolio Holder Cllr. Fleming

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Recommendation to Governance Committee: That the implementation of the following recommendations take effect from the date of Annual Council on 13 May 2014 and

- (a) the Scrutiny Committee changes to a fixed membership of 9 members plus a Chairman and Vice Chairman with all members of the Committee being independent of the Cabinet Advisory Committees;
 - (b) the Membership of the Cabinet Advisory Committees increases from 10 members to 12 members including the relevant Cabinet and Deputy Cabinet members on each of the Cabinet Advisory Committees;
 - (c) Members will be able to sit on more than 1 Cabinet Advisory Committee;
 - (d) with the number of Cabinet Advisory Committees remaining at 5 the Committees should normally meet 4 times a year;
 - (e) the Advisory Committees are able to choose their own Chairman;
 - (f) the Governance Committee continue to investigate future Governance arrangements in general to allow the newly elected administration in 2015 to consider future governance;
 - (g) Portfolio Holders to individually present a report to each ordinary Full Council meeting in the same way the Chairmen of the Select Committees did previously;
 - (h) a comprehensive training plan for members to be developed for implementation in May 2015.
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Recommendation to Full Council: That the implementation of the following recommendations take effect from the date of Annual Council on 13 May 2014 and

- (a) That the Scrutiny Committee changes to a fixed membership of 9 members plus a Chairman and Vice Chairman with all members of the Committee being independent of the Cabinet Advisory Committees;
- (b) The Membership of the Cabinet Advisory Committees increases from 10 members to 12 members including the relevant Cabinet and Deputy Cabinet members on each of the Cabinet Advisory Committees;
- (c) Members will be able to sit on more than 1 Cabinet Advisory Committee;
- (d) With the number of Cabinet Advisory Committees remaining at 5 the Committees should normally meet 4 times a year;
- (e) The Advisory Committees are able to choose their own Chairman;
- (f) The Committee continue to investigate future Governance arrangements in general to allow the newly elected administration in 2015 to consider future governance;
- (g) Portfolio Holders to individually present a report to each ordinary Full Council meeting in the same way the Chairmen of the Select Committees did previously;
- (h) A comprehensive training plan for members to be developed for implementation in May 2015.

Reason for recommendation: The Governance Committee is tasked with reviewing the new governance arrangements which were introduced at Annual Council in May 2013 as well as looking at options for future governance.

Introduction and Background

- 1 On the 23rd April Council approved a proposed new governance structure following Members concerns with the previous structure in the following areas:

Perception of remoteness/inaccessibility of portfolios; feeling of disengagement from the influence and decision-making; lack of training and development (succession planning for future Cabinet members); and the need to streamline the system to match the resource available.
- 2 The approval was subject to detailed mechanisms being brought back to the Annual Council in May 2013 to enable implementation of the structure with a review of the new governance arrangements being undertaken and reported back to Full Council by April 2014.
- 3 This report reviews the work undertaken by the Governance Committee Working Group who has been reporting to the Governance Committee throughout the municipal year with the Committee now tasked with making their final recommendations to Council on the 1st April 2014.

Surveys

- 4 At the Governance Committee meeting on the 10th July 2013 it was agreed that a survey to obtain first impressions of the New Governance Structure be formulated and a draft questionnaire was circulated at the Governance Committee meeting on the 19th September 2013 where it was explained that the purpose of the survey was to ask Members their opinion of the current governance arrangements. The survey had been formulated from information received from Members on what they wanted surveyed. The survey was duly sent out to Members on the 25th October 2013 with responses to be received by 15th November 2013.
- 5 The results of the survey were considered by the Governance Committee on the 29th January 2014 and the survey results are set out at Appendix A to this report.
- 6 The survey was open for a period of 3 weeks and received 29 responses, a response rate of 55%.
- 7 The Governance Committee Working Group had agreed that a further simpler survey was needed to help clarify some points. The response to the first survey had been disappointing. A further draft survey was tabled by a Member of the Governance Committee Working Group at the Governance Committee meeting that took place on the 29th January 2014 where the draft survey was discussed with some amendments made. The new survey was given to officers to circulate as soon as possible with a two week return date. The results of this second survey are set out at Appendix B to this report.
- 8 The second survey was open for a period of 2 weeks and received 37 responses, a response rate of 69%.

Scrutiny Committee

- 9 The Governance Committee at its meeting on the 29th January 2014 discussed the current 'pool' membership system of the Scrutiny Committee and agreed that it was difficult to work and led to confusion. Members were in agreement that a fixed membership of 11 members not on any advisory committee would be more desirable and effective. A fixed pool would allow knowledge and training to be built upon. Legally there would be a clear demarcation between Cabinet and Scrutiny and conflicts of interest for members would be avoided.

Other options such as the Committee System or a Hybrid Model

- 10 The Localism Act 2011 ("the 2011 Act") gives Councils greater freedoms over their governance arrangements.
- 11 If Council wished to put forward proposals for some novel form of governance arrangements such as a hybrid system that was entirely new, then the Council would need to put its proposals to the Secretary of State inviting him to use his regulation making powers to make these novel governance arrangements available to councils.
- 12 In September of last year the Monitoring Officer spoke to the Department for Communities and Local Government ("DCLG") who informed her that no Councils

in England had put forward proposals to the Secretary of State to consider any novel form of governance arrangements. Even if proposals passed the requirements test set out under the above bullet points there would still need to be House of Commons approval and House of Lords approval to any novel form of governance arrangements.

- 13 All Councils in Kent are working under some form of Cabinet governance model. Only Tandridge District Council over the border in Surrey is working under the Leader and Committee System as a result of their population falling under the threshold for the previous requirement to change to the Cabinet system of governance.
- 14 If a resolution is passed that makes a change to a Committee system of governance then the local authority may not pass another resolution changing back to the Cabinet system until the end of the period of 5 years beginning with the date the original resolution was passed.

Other Options Considered and/or Rejected

- 15 The Governance Committee for the reasons set out above rejected the option of changing to the Committee system instead of the Executive governance model.
- 16 However, the Governance Committee did consider it appropriate to make a recommendation to the newly elected administration in 2015 to consider the Governance arrangements in general.
- 17 In relation to reviewing the existing governance arrangements the following options were considered taking into account the results from the members' surveys. These were as follows:
 - a) to keep the existing arrangements;
 - b) to reduce the number of advisory committees to 3 whilst increasing the number of times that they meet and allowing members to sit on more than one advisory committee; with non of the portfolio holders being able to chair such committees; in addition to reducing the number of Deputy Portfolio Holders;
 - c) to have a fixed membership on the Scrutiny Committee of 11 members who would not sit on any of the advisory committees;
 - d) Increasing the number of portfolio holders.

Option a) was not considered acceptable as the survey results suggested that changes to the present system were needed as there was some member dissatisfaction with how the present system was working.

Option b) was not considered acceptable as the only way the advisory committees could meet more often would be to reduce the number of advisory committees. The survey results did not consider this to be desirable and it was difficult to see how the advisory committees could be amalgamated and how this would increase member involvement. It was considered to be a good idea for members to be able to sit on more than 1 Cabinet Advisory

Committee which would increase member involvement. It was not considered desirable to reduce the number of Deputy Portfolio Holders although it was considered beneficial to increase membership of the Cabinet Advisory Committees to 12 members instead of 10 thus contributing to increasing member participation.

Option c) was considered acceptable as the current 'pool' membership of the Scrutiny Committee was difficult to work and led to confusion. A fixed pool would allow knowledge and training to be built upon. Legally there would be a clear demarcation between Cabinet and Scrutiny without any conflicts of interest arising.

Option d) this was not something that was in the remit of the Governance Committee.

Training and Development

- 18 Training and development was considered to be of vital importance when discussed by the Governance Committee Working Group.
- 19 The Governance Committee considered that one of its tasks for the next municipal year would be to put a plan in place in relation to training needs with emphasis upon what training would be beneficial for members following the 2015 elections.

Key Implications

Financial

- 20 The new governance arrangements were thought to deliver a more streamlined system. However, the results from the Members' surveys indicate that more meetings are desired. The Democratic Services Team is under extreme pressure to cope with the increased demand for more meetings and if this demand increases still further then the need for an increased workforce in Democratic Services will be inevitable. In addition, it will be extremely difficult to find any more space in the Calendar of meetings in order to accommodate any extra evening meetings. The changes suggested by this report should not increase the number of meetings presently taking place but will increase member involvement.

Legal Implications and Risk Assessment Statement

- 21 The pool system for the Scrutiny Committee results in members of the pool having to agree minutes of the previous meeting to which they had often not attended. In addition, member engagement through loss of continuity is diminished and conflicts of interest often occur with members of the Cabinet Advisory Committees sitting on the Scrutiny Committee. One of the key roles of the Scrutiny Committee is to provide a "critical friend" challenge to the executive policy makers and decision makers and therefore the present system of overlap between Scrutiny and the Cabinet Advisory Members may be judicially considered inappropriate.

Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	The decision to change the present governance arrangements does not raise any equality issues.
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	No	
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		Not applicable

Conclusions

The Members' surveys on the Council's Governance Arrangements have provided a range of information that has been helpful in the Committee's task of reviewing the effectiveness of those arrangements.

The Governance Committee through its working group has undertaken work to look at the practicalities and appropriateness of moving to the Committee System or a Hybrid Model.

All the above work has helped the committee in providing an evidential basis for the recommendations set out in this report.

Appendices

Appendix A 1st Members' survey results

Appendix B 2nd Members' survey results

Background Papers:

[Sevenoaks District Council Constitution](#)

[Review of New Governance Arrangements – Report to the Governance Committee 5th November 2013](#)

[Review of New Governance Arrangements – Members Survey – Report to the Governance Committee 29th January 2014](#)

[E-mail letter dated 9th March 2012 entitled “Localism Act 2011; Governance Arrangements Available To Principal Councils in England as attached to Report to Governance Committee dated](#)

[5th November 2013](#)

[List of Councils in Kent and surrounding areas showing the kinds of governance models in operation as attached to Report to Governance Committee dated 5th November 2013](#)

[Localism Act 2011](#)

[Local Government Act 1972](#)

[Article by Ed Hammond entitled “Changing lanes”](#)

[Rethinking governance – Practical steps for councils considering changes to their governance arrangements – Local Government Association](#)

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