

MAIDSTONE BOROUGH COUNCIL

COUNCIL

WEDNESDAY 10 DECEMBER 2014

**REPORT OF THE GROUP LEADERS OR NOMINATED
REPRESENTATIVES WORKING GROUP**

Report prepared by Angela Woodhouse

1. **REVIEW OF GOVERNANCE ARRANGEMENTS**

1.1 In September 2014 Full Council agreed the following motion:

"In accordance with the provisions of the Localism Act 2011, this Council believes that a modernised committee system would be an appropriate system of governance for Maidstone and hereby resolves to introduce this system from the next Annual Meeting of the Council.

In order to bring forward a full and detailed scheme of committee governance, the Council authorises all Group Leaders (as defined in the updated Widdecombe report 2005) or their nominated representative to meet and discuss proposals to implement the Council's decision and report back to Full Council for final decision at the scheduled meeting on 10 December 2014."

Since the motion's approval a working group of Councillors ("the Working Group") has been meeting, with officer support to consider a detailed scheme of committee governance. This scheme is outlined in the report below for consideration by Full Council.

1.2 Working Group Membership – Councillors: Burton, McKay, Newton, Sargeant and Mrs Wilson.

2 **COUNCIL IS RECOMMENDED TO:**

2.1 Resolve to change the Council's governance arrangements from an executive to a committee system of governance pursuant to s9KC Local Government Act 2000, effective from the Annual Council Meeting in May 2015.

2.2 Approve the scheme of governance as outlined in this report in option 1 at **Appendix A** and section 3.3.4 and the terms of reference detailed in **Appendix B**.

2.3 Authorise the Head of Policy and Communications and the Monitoring Officer to publish the required notice; to work with Group Leaders to prepare a new constitution for the Council to adopt; and to deal with any other matters arising from or in connection with the change of governance arrangements.

3 Reasons for Recommendation

3.1 In September 2014 the Council approved a motion to set up a working group to consider a full and detailed scheme of committee governance to report back to full council on 10 December 2014. The Working Group has agreed an objective and set of principles for the proposed governance structure

Objective for the Governance Structure:

- To achieve greater involvement and participation of all Members in decision making whilst avoiding a cumbersome bureaucratic structure that lacks direction and accountability

Principles:

- To be cost neutral
- To increase Member participation in decision making
- To lead to more effective and efficient decision making.

3.2 Legislative Context and Process for Change

3.2.1 *The Localism Act 2011*

The Act amended the Local Government Act 2000 to allow the Council to adopt one of the following forms of governance:

- (a) Executive arrangements;
- (b) A committee system; or
- (c) Prescribed arrangements (to be set out in regulations by Secretary of State).

Under executive arrangements strategic decision making powers lie with a small number of elected Members (Cabinet and Cabinet Members) with the executive (usually controlled by the largest political group) making the majority of the member decisions. Decisions are also delegated to officers as set out in the constitution. Overview and Scrutiny acts as a check and balance on the executive's decisions through call-in and the committees are responsible for developing policy through proactive overview and scrutiny.

A committee system involves groups of Councillors from all parties/groups sitting as committees in political balance to make decisions as delegated by Council. It is not possible to delegate decisions to individual Members in the committee system.

The Localism Act also allows local authorities to make alternative proposals to the Secretary of State as long as the proposed governance arrangements meet the following conditions:

- That they would be an improvement on the arrangements already in place at the authority;
- That they ensure the decisions taken by the authority are done in an efficient, transparent and accountable way; and
- That the arrangements would be appropriate for all local authorities, or particular type of local authority, to consider.

3.2.2 Process for Changing the Governance Arrangements

The Localism Act specifies that in order to change from a cabinet system to a committee system, local authorities must:-

- Pass a resolution to change their governance arrangements;
- As soon as practicable after passing the resolution, make the provisions of the new arrangements available for inspection; and
- Publish in one or more newspapers circulating in the area a notice which describes the features of the new system and timescales for implementation.

Having passed a resolution and complied with the publicity requirements authorities are required to cease operating their old form

of governance arrangements and start operating their new arrangements. This must take place at the first annual meeting or a later annual meeting as specified in that resolution.

It should be noted that any change to a new scheme would be a 5 year commitment to that model. The motion adopted by Council in September 2014 does not meet this requirement because the details of the new arrangements were not considered. The details need to be clear at the time the Council passes the resolution i.e. what the new structure will comprise including which bodies, their terms of reference and how the new system will work in practice.

3.2.3 *Timetable for Change if Governance Arrangements are changed*

Working back from May 2015 Full Council:

- May 2015 – Annual General Meeting new committee arrangements take effect
- April 2015– New Constitution Approved by Full Council [this is not essential legally but would be sensible in advance of the new arrangements taking effect]
- December 2014 – March 2015 Draft new constitution (this will require additional resource to produce)
- December/January 2015 - Publicise new arrangements

3.3 Options for Governance

3.3.1 In looking at whether to change the system of governance, the Council has to demonstrate that a range of options has been considered. The governance review conducted by Overview and Scrutiny in 2012-13 outlined a number of options with advantages and disadvantages¹. The Council as a whole considered a number of options as a result of the review of governance in 2013. These options along with the option for a mayoral system for completeness and an option to return to a committee system as developed by the group are outlined in **Appendix A**.

3.3.2 As with all decision making the Council also has to consider best value requirements and “*make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.*”²

¹ Please note the advantages and disadvantages given for each model other than Mayor are those given by the Scrutiny Governance Review Working Group in 2012-13.

² Section 3 of the Local Government Act 1999 (as amended by s137 of the Local Government & Public Involvement in Health Act 2007).

3.3.3 The Working Group has identified option 1 from **Appendix A** as the preferred model of governance. The terms of reference for the committees proposed can be found at **Appendix B**. A diagram of the structure has also been included at **Appendix C**.

3.3.4 There are a number of other matters that have been considered by the Working Group:

The role of the Leader – the Leader will be appointed at Annual Council and will be the Chairman of the Policy and Resources Committee. He/she will have no formal decision making powers. Whilst he/she will have a role as a spokesperson this will be based on a mandate from the Policy and Resources Committee so their role will be more limited than the present executive Leader.

The role of an opposition group Leader – is removed.

Chairman and Vice Chairman of Service Committees – To be appointed by each committee at the first meeting following the Annual General Meeting of the Council however Policy and Resources Committee will be chaired by Leader appointed by Full Council. The Chairman and Vice-Chairman of the new committees shall come from different groups.

Call-in to Council –The Working Group has debated and agreed that there should be a mechanism in place whereby any 3 Members of a Service Committee can call for a decision of the Committee to be reviewed at Full Council, before implementation.

Scheme of delegation – The Working Group has reviewed the present scheme of delegation and identified that the current executive functions would transfer to the new committees and the officer scheme of delegation would remain the same. There is no delegated decision making to individual Members in the committee system.

Membership of Committees

Committee	Number of Members
Policy and Resources Committee	15
Strategic Planning, Sustainability and Transport Committee	9
Communities, Housing and Environment Committee	9
Culture, Heritage and Leisure Committee	9

3.4 Meeting the Principles

3.4.1 Communities and Local Government considered the impact of Councils changing governance arrangements in an impact assessment³. This identified that there was not likely to be a cost implication in terms of servicing a committee system versus servicing executive and scrutiny arrangements. The impact assessment states *"Any costs incurred by councils are very much dependent upon how councils decide to organise themselves under the committee system. The Government believes it is reasonable to assume that councils will take a value for money approach."* It also identified that there were likely to be one-off costs to make the change in terms of a new constitution and training for Officers and Members. In trying to work out the costs there are a large number of variables and there will be knock-on costs and savings across the Council as a result of the change, so this is challenging to quantify. However, Members will need to justify the creation of a large number of Committees and large numbers of Members on the Committees if this will have the effect of increasing costs, bureaucracy and the complexity of decision-making.

A number of factors will need to be decided/estimated to work out the cost:

- Number of Committees
- Frequency of meetings
- Business to be conducted by new Service Committees
- how they will work?
- Level of resource needed to support a meeting
- One-off costs to change
- Legal and financial advice at Service Committees
- Impact on officer workload
- Members' Allowances – this will have to be reviewed by the Independent Remuneration Panel

³ <http://www.parliament.uk/documents/impact-assessments/ia11-010as.pdf>

3.4.2 Estimating the number of meetings and resources

In the last municipal year (from Annual General Meeting to Annual General Meeting) 85 decisions were made by Cabinet and Cabinet Members. These decisions have been allocated to the new committees proposed at **Appendix D**. This does not include officer delegated decisions and delegated decisions of sub-committees.

In 2013/14 there were 17 Cabinet Meetings and 45 Scrutiny meetings, not including the scrutiny coordinating committee. Based on the attached mapping exercise and using the combined officer support from Democratic Services and Scrutiny being merged into a new committee support function a four service committee structure should be able to be serviced within the current committee support costs. However there will be additional costs for legal, financial and other support which is not currently required for Scrutiny meetings (see 1.4.4.3). It would be beneficial to review this after a year.

Number of meetings estimated for new committees:

Committee	Number of Meetings per year
Policy and Resources	12
Strategic Planning, Sustainability and Transport	12
• Local Plan Sub-Committee	12
Communities, Housing and Environment	12
Heritage, Culture and Leisure	6
Total Meetings	54

3.4.3 Briefing Meetings

Under the Cabinet system of governance, scrutiny chairmen and vice-chairmen can have briefing meetings with officers prior to Overview and Scrutiny Committee meetings. Cabinet Members have individual briefings on a weekly, two weekly or monthly basis dependent on portfolio and business needs. Cabinet away-days are also held on a monthly basis for early informing and shaping of policy, strategy and decisions. The Shadow Cabinet has briefing meetings approximately

every other month as does the Independent Group with the Chief Executive.

With a move to the committee style of governance, it is the intention to hold briefing meetings prior to committee meetings with the chairman and vice-chairman of each service committee. In general briefing meetings will not take place with other committee members present as this could give rise to the perception that decisions are being made behind closed doors prior to the publicly advertised committee meeting itself. It is acknowledged, however, that there may be occasions when a briefing for all committee members outside of the scheduled committee meeting or the equivalent of an away-day needs to take place. This should be the exception rather than the norm.

As happens now under the Cabinet system of governance, with the committee system, an individual Councillor may seek guidance or clarification from an officer in relation to an agenda item prior to the actual committee meeting if it is believed it will facilitate better debate and understanding on the night of the committee meeting.

3.4.4 *Cost of a Committee Meeting*

The following is a basic estimated cost of a committee meeting based on the following assumptions:

- at present an average committee meeting takes three days of democratic services or scrutiny support
- there will be at least one senior officer present at the meeting
- the meeting will last for 2.5 hours.
- The new committees at most meetings will require both legal and finance officers to be present as they are making decisions
- Meetings will be held at the Town Hall so will require set-up and staffing by a civic officer.

The above does not include officer preparation or report writing time and does not include any additional officers attending. There could for example be unit managers and more than one head of service at a meeting. It should be noted that at present Overview and Scrutiny has officers attending meetings and the constitution requires senior officers to attend when requested to do so. Therefore, taken together, the probable decline in briefing meetings but additional committee meetings should balance against one another.

The estimate described above has been used to calculate the additional resource required if the Council were to go beyond the present level of meetings without any adjustment made in relation to a decrease in informal briefing meetings. It should also be noted that the total cost (briefing and informal meetings) of making a Cabinet Member decision is less as there is no formal meeting cost and therefore democratic services cost is reduced. Currently the support required is for publication of a report then the sign-off and publication of decision as opposed to the three days' work required for a formal meeting plus overtime for the clerk. The estimation of three days is based on the time to prepare the agenda including discussions with officers and chairmen on reports and agenda items from officers, then compiling the agenda using the committee management system.

Support	Cost
Legal @£70 an hour	£175
Finance @£70 an hour	£175
3 days of a grade 8.1 Democratic Services Officer @ £37 per hour (with all on-costs)	£777
Clerking the meeting @ £12.21 per hour	£30.53
Head of Service Attendance @ £44.96 per hour	£112.40
Report Author grade 12	£61.49
Director	£159.91
Civic Officer @£13.18 per hour (including on costs) for 3.5 hours	£46.13
Total	£1491.33

3.4.5 *Financial and legal support requirements*

At present there is financial and legal support provided for Cabinet but only on very rare occasions for scrutiny so there would be a

resource implication for these two teams to support committees. The cost will be approximately £175 per meeting per team - £350 in total. If each of the new meetings lasts on average 2.5 hours, this would be an additional cost of £10,500 per annum for the Council. The calculation has been based on 30 additional meetings requiring the presence of Finance and Legal Officers; (this assumes that the legal and finance resource presently required for Cabinet is transferred to Policy and Resources). This additional support will be provided by a limited number of officers, so will impact on other areas of their work. The Local Plan sub-committee meetings of up to 12 times a year have not been included.

Committee	Number of Meetings	Legal and Financial Resource	Total Cost
Strategic Planning, Sustainability and Transport	12	£350	£4,200
Communities, Housing and Environment	12	£350	£4,200
Heritage, Culture and Leisure	6	£350	£2,100

3.4.6 *Additional Meetings and Sub Committees*

Currently any scrutiny committee or the cabinet can create sub committees, working groups or advisory panels to assist as deemed necessary. The new service committees will also be able to appoint sub committees, working groups or advisory boards. A differentiation needs to be made, however, between properly constituted permanent sub committees, permanent working groups and advisory panels and those set up on an ad hoc and temporary basis as the need arises.

Currently there are nine such permanent committees, working groups or advisory panels that will need to be retained under the committee system and where the costs transferring from Cabinet governance to committee governance are neutral. They are: Cobtree; QORWK; Relief in Need; Bentlif; Brenchley; Gunsley; Joint Remuneration Panel; Mid Kent Downs Steering Group and members working party when it meets.

The current Property Investment Cabinet sub committee disappears under the committee system and the working group agreed that the Property Investment Advisory panel's work was covered by the New Policy and Resources (P&R) Committee. There is, however, a strong body of opinion that believes this is not a good idea and it may therefore be advisable to allow a cost for this advisory panel's work to be reconstituted if the new committee members of P&R deem this to be a good idea. If so this is not a saving but should be cost neutral.

Both Crime and Disorder Scrutiny and Health Scrutiny will go under the wing of the new Communities, Housing and Environment Service committee and should therefore be cost neutral.

Joint Mid Kent Improvement Partnership (MKIP) Scrutiny is shortly to produce its report and may therefore be disbanded. However the three partner authorities may decide they wish it to continue. If Maidstone agreed to continue with this scrutiny arrangement it would be cost neutral as it is resourced within the present system.

P&R may also wish to retain a budget working group. If so this will not provide a saving but the costs of continuation should remain the same.

One new sub committee is suggested and that is the Local Plan sub committee. This, and any other new service sub committee proposed will require additional resourcing.

The cost of each sub committee meeting using the table above will be approximately £780 per meeting. This is based on the meeting lasting 2.5 hours and requiring the attendance of two heads of service and two report authors. So, if each committee had one additional sub-committee to those specified in **Appendix B** meeting monthly, it would be an additional cost of £9,360 per twelve meetings. In terms of direct costs - solely democratic services and civic officer time - it would be an estimated £434 per meeting, so for 12 additional sub committee meetings a year this would be £5,208 equating to 40 days of additional democratic services support plus 30 hours of civic officer support a year.

Ad hoc meetings and those of a temporary nature are usually serviced by officers re-arranging their working day to accommodate servicing the needs of the working group. The cost in officer time, and therefore also in financial terms, should not be under-estimated.

Currently the Council does not set aside a contingency fund to service such working groups and it may be politic for the Council to consider whether it should do so in the future.

3.4.7 *The cost of making the change*

As stated earlier there will be one-off cost implications if the governance system is changed. The resource to write a new constitution and develop the agreed structure further with Members cannot be found within existing resources. This will require bringing in senior additional legal expertise from December until April 2015, the costs of this will have to be ascertained. There will also be costs in terms of training for officers and Members and re-writing templates and processes on the modern.gov system. This could be covered by an additionally funded temporary Democratic Services Officer who could also support the formulation of the new constitution. Costs of publishing notices as required by legislation also need to be taken into account, plus dealing with questions and issues raised by the public and outside organisations in response to the changes. As an indicative amount, this cost is estimated to be in the region of £30,000.

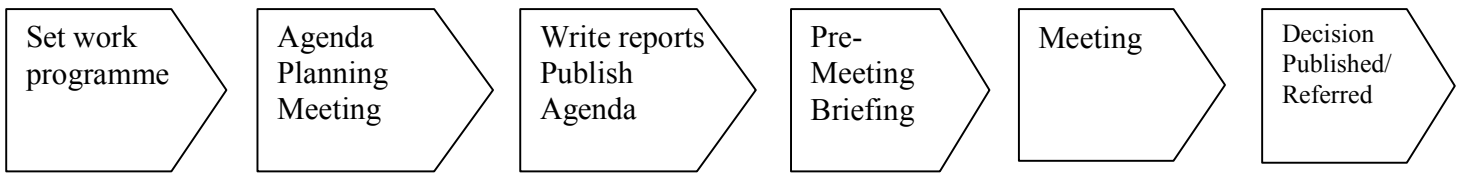
3.4.8 *Consultation*

The Localism Act 2011 requires the Council to make available information available to enable people to understand the changes once the decision is made. There is no longer an obligation to consult in advance, although Councils may choose to hold a referendum (cost expected to be in the region of £70 – £80k) or may consult on the new arrangements proposed (either in advance of making any decision or on the detailed proposals or once the resolution is made). No referendum nor formal consultation with the public is being proposed.

3.4.9 *How will the service committees operate – effectiveness*

One of the principles set by the group is that the new system should be effective and efficient. In order to test this, the cost of the new system has been considered in terms of support and number of meetings. The other matter that needs to be considered as part of this measure is how the committees will operate in practice.

The purpose of the committees will be to set strategy, policies and take decisions as delegated by Full Council. The diagram below demonstrates how the committees will work in practice.



3.4.10 *Looking at other Councils*

Several councils have changed governance arrangements to committees since the Localism Act came into force. The information on the cost of changing to the committee system where available and provided by these councils is included at **Appendix E**.

4. Alternative Action and why not Recommended

4.1 As outlined in **Appendix A** to the report there are a number of governance models the council could adopt; the Council could also choose to retain the present system. Councillors are requested to review all the information to determine the appropriate action in relation to the governance arrangements of the Council.

5. Impact on Corporate Objectives

5.1 The Council has set a priority to ensure it provides effective cost efficient services. Any change would need to ensure that the Council has a cost effective and efficient decision making system.

6. Risk Management

6.1 There are a number of risks including whether the constitution will be developed by the time of the Annual General Meeting in 2015. The Member Working Group identified two key risks to completion by the deadline of the 2015 Annual General Meeting based on the planned timetable:

- (a) having adequate internal officer resource to provide expertise on drafting a new constitution; and
- (b) the overall level of resource for both member and senior officers to make this amount of change at the same time as other high priority pieces of work and change going on.

6.2 These risks will need to be addressed to ensure the council's governance arrangements are not compromised.

7. Other Implications

1.	Financial	x
1.	Staffing	x
2.	Legal	x
3.	Equality Impact Needs Assessment	
4.	Environmental/Sustainable Development	
5.	Community Safety	
6.	Human Rights Act	
7.	Procurement	
8.	Asset Management	

7.1 Financial

The financial implications as estimated are outlined in the report. It should be noted that it has been difficult to estimate the total cost of changing to a committee system because of the number of variables to be considered including the number of meetings, Members' allowances and the opportunity costs of officers attending additional meetings. As an estimated guide the one off costs for implementation could be approximately £30k. The additional support from Democratic Services could be met by transferring the scrutiny post into Democratic Services. The on-going costs of operating the committee system could lead to a need for an additional full time democratic services post if the number of meetings were to significantly increase from the present arrangement.

7.2 Staffing

If the Council does change its governance arrangements this will have implications for the current scrutiny officer and democratic services officers.

7.3 Legal

The legal implications are set out in section 3.2 of this report.

8. Relevant Documents

8.1 Appendices

- Appendix A – Options for Governance Arrangements
- Appendix B – Terms of Reference for New Committees
- Appendix C- New Committees Structure Chart
- Appendix D – Decisions Mapped onto New Committees
- Appendix E – Costs for Other Councils

9. Background Documents

None

<u>IS THIS A KEY DECISION REPORT?</u>		<u>THIS BOX MUST BE COMPLETED</u>	
Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
If yes, this is a Key Decision because:			
.....			
Wards/Parishes affected:			
.....			