

DEMOCRACY AND GENERAL PURPOSES COMMITTEE MEETING

Date: Wednesday 11 November 2020

Time: 7.30 pm

Venue: Remote Meeting - The public proceedings of the meeting will be broadcast live and recorded for playback on the Maidstone Borough Council Website.

Membership:

Councillors Mrs Blackmore, Chappell-Tay, Mrs Gooch (Chairman), Hastie, Joy, Lewins, Perry, Purle and Webb (Vice-Chairman)

The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.

<u>AGENDA</u>	<u>Page No.</u>
1. Apologies for Absence	
2. Notification of Substitute Members	
3. Urgent Items	
4. Notification of Visiting Members	
5. Disclosures by Members and Officers	
6. Disclosures of Lobbying	
7. To consider whether any items should be taken in private because of the possible disclosure of exempt information.	
8. Minutes of the Meeting Held on 2 September 2020	1 - 4
9. Presentation of Petitions (if any)	
10. Question and Answer Session for Members of the Public	
11. Questions from Members to the Chairman (if any)	
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13. Reports of Outside Bodies	
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Issued on Tuesday 3 November 2020

Continued Over/:

Alison Broom

Alison Broom, Chief Executive

- | | |
|---|---------|
| 15. Access to Information Review Report | 19 - 26 |
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INFORMATION FOR THE PUBLIC

In order to ask a question at this remote meeting, please call **01622 602899** or email committee@maidstone.gov.uk by 5 p.m. one clear working day before the meeting (i.e. by 5 p.m. on Monday 9 November 2020). You will need to provide the full text in writing.

If your question is accepted, you will be provided with instructions as to how you can access the meeting.

In order to submit a written statement in relation to an item on the agenda, please call **01622 602899** or email committee@maidstone.gov.uk by 5 p.m. one clear working day before the meeting (i.e. by 5 p.m. on Monday 9 November 2020). You will need to tell us which agenda item you wish to comment on.

If you require this information in an alternative format please contact us, call **01622 602899** or email committee@maidstone.gov.uk.

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MAIDSTONE BOROUGH COUNCIL

DEMOCRACY AND GENERAL PURPOSES COMMITTEE

MINUTES OF THE MEETING HELD ON WEDNESDAY 2 SEPTEMBER 2020

Present: Councillors Chappell-Tay, Mrs Gooch (Chairman),
Hastie, Joy, Perry, Purle, Webb and Wilby

Also Present: Councillor Munford

111. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Lewins.

112. NOTIFICATION OF SUBSTITUTE MEMBERS

Councillor Wilby was present as Substitute for Councillor Lewins.

113. URGENT ITEMS

There were no urgent items.

114. NOTIFICATION OF VISITING MEMBERS

It was noted that Councillor Munford was present as a Visiting Member for Item 15 – Planning Decisions with Significant Cost Implications – Options for Managing the Risks.

115. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

116. DISCLOSURES OF LOBBYING

Councillors Mrs Blackmore, Chappell-Tay, Mrs Gooch and Hastie had been lobbied on Item 15 – Planning Decisions with Significant Cost Implications – Options for Managing the Risks.

117. EXEMPT ITEMS

RESOLVED: That all items be taken in public as proposed.

118. MINUTES OF THE MEETING HELD ON 1 JULY 2020

RESOLVED: That the Minutes of the meeting held on 1 July 2020 be approved as a correct record and signed at a later date, subject to the addition of the following wording to Minute 106:

'Councillor Hastie seconded the motion as put forward by Councillor Purle, that an officer report be requested'.

119. PRESENTATION OF PETITIONS

There were no petitions.

120. QUESTION AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were no questions from members of the public.

121. QUESTIONS FROM MEMBERS TO THE CHAIRMAN

There were no questions from Members to the Chairman.

122. COMMITTEE WORK PROGRAMME

RESOLVED: That the Committee Work Programme be noted.

123. REPORTS OF OUTSIDE BODIES

There were no reports of Outside Bodies.

124. WORKFORCE STRATEGY UPDATE REPORT

The Head of HR Shared Services introduced the report, with the updates to the workforce plan shown in Appendix 1 to the report. The current Workforce Strategy covered the period 2016-2020, with the work necessary to produce the next draft plan delayed until 2021 due to the Coronavirus pandemic.

Particular attention was drawn to the three staff surveys that had been undertaken this year. This included the Staff Engagement Survey conducted in February 2020 that achieved a 71% response rate, and two surveys that had aimed to understand the impact of Covid-19 on staff wellbeing. Positive responses had been received from all surveys. An additional survey for managers produced similarly positive results. The results for a further survey, to understand the future working arrangements and needs of staff, were currently being reviewed.

The Committee were informed that as of April 2020, the real living wage had been implemented to provide a significant increase in pay to the lowest paid Council employees. It was confirmed that all staff that had been either absent, in self-isolation whilst working from home, or in self-isolation and unable to work, due to Covid-19 had now returned to work.

The Head of HR Shared Services referenced the recent use of webinars, remote weekly quizzes and breakout sessions, with the resulting feedback detailed in Appendix 2 to the report. Due to the success of a pilot scheme that trialled a new approach to staff performance reviews, the process would be implemented for all staff members by the end of 2020. The training budget for the current financial year had been reduced by 35%,

however the central health and safety and safeguarding training would continue to be provided.

The Committee welcomed the report and expressed thanks for the actions undertaken by Human Resources in response to the Covid-19 pandemic, with particular regard to the Webinars that had been introduced. In response to questions, the Head of HR Shared Services confirmed that the Council's staff turnover, at 7.28%, was significantly below the national average of 13.4% and that Webinars would continue to be used for future training purposes.

RESOLVED: That the update provided be noted.

125. PLANNING DECISIONS WITH SIGNIFICANT COST IMPLICATIONS – OPTIONS FOR MANAGING THE RISKS

The Democratic and Electoral Services Manager introduced the report and noted that the Planning Referral Process related to applications that would likely have significant cost implications. It was introduced in 2006 in response to an application that cost the Council £500k at appeal and had been used three times since then, once in its current form.

The Democratic and Electoral Services Manager highlighted the review of the Planning Referral Process that occurred in 2017, and the risks associated with planning decisions with significant cost implications. The feedback provided from the use of the process on 13 July 2020 was set out in the report.

The available options shown within the report were outlined, with attention drawn to Options One and Five which were not recommended. The reasons were that the first option recommended no changes be made and that option five would remove the deferrals process which allows for further consideration of an application and advice from Counsel when necessary. No active recommendation on options two, three or four was made with the Committee asked to decide which option it would prefer.

Councillor Munford addressed the Committee as a Visiting Member, with specific reference made to the deferral and referral processes and the training undertaken by Policy and Resources Committee Members in sitting as the Planning Referrals Body.

During the debate, the options and research were discussed. In response to questions, the Democratic and Electoral Services Manager confirmed that the threshold for a significant cost based on the definitions shown within the Council's Constitution is £30k. The Principal Lawyer confirmed that significant costs refer to the amount of legal costs the Council would be likely to lose at appeal or judicial review. The Committee requested that this be reviewed as there was a feeling the definition of significant in this context was too low.

The Democratic and Electoral Services Manager offered to conduct a consultation process with Members and Officers for the proposed

amendments to the Constitution, as outlined within Option 2 of the report, that would be presented to Full Council.

RESOLVED: That

1. Policy and Resources Committee remain as the Planning Referral Body, with its Members also consulted on planning training together with Planning Committee Members, be agreed;
2. The Power of Planning Officers in Rule 31.3(b) to refer to a matter to Policy and Resources Committee acting as the Planning Referral Body be removed and replaced by a Member-led power, being that a matter where officers advise against significant cost implications may be so referred either upon:
 - a. An agreement between the Planning Committee Chairman and Vice-Chairman; OR
 - b. A resolution of the Planning Committee; be agreed; and
3. The Democratic and Electoral Services manager be given delegated authority to propose written amendments to the Constitution to provide definitions of significant costs, the status of Planning Committee 'decisions' at each stage, the nature of the considerations of the Planning Referral Body and determining an application, be agreed.

126. DURATION OF MEETING

6.30 p.m. to 7.29 p.m.

2020/21 WORK PROGRAMME

	Committee	Month	Origin	CLT to clear	Lead	Report Author
Pay Policy Statement 2021	D&GP	27-Jan-21	Governance	?	Bal Sandher	Bal Sandher
Review of Governance Arrangements	D&GP	27-Jan-21	Governance	Yes	Angela Woodhouse	Ryan O'Connell
Timetable for Community Governance Review	D&GP	27-Jan-21	Governance	No	Angela Woodhouse	Ryan O'Connell
Workforce Strategy Update	D&GP	27-Jan-21	Officer Update	?	Bal Sandher	Bal Sandher
Governance Arrangements for Biodiversity and Climate Change	D&GP	27-Jan-21	Governance	Yes	Angela Woodhouse	Ryan O'Connell

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Agenda Item 14

DEMOCRACY AND GENERAL PURPOSES COMMITTEE

11 November 2020

Member Training Update

Final Decision-Maker	Democracy and General Purposes
Lead Director	Director of Finance and Business Improvement
Lead Officer and Report Author	Angela Woodhouse, Head of Policy, Communications and Governance
Classification	Public
Wards affected	All

Executive Summary

The report sets out the results of the member survey on training and an update on the plans for training in 2020-21

Purpose of Report

Decision

This report makes the following recommendations to this Committee:

To note the update on Councillor Training and approve the proposed additions to the programme for 2020-21 set out in 3.2 and 3.3.

Timetable

Meeting	Date
Democracy and General Purposes Committee	1 July 2020
Democracy and General Purposes Committee	11 November 2020

Member Training Update

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place <p>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, they will support the Council’s overall achievement of its aims as set out in the report</p>	Head of Policy, Communications and Governance
Cross Cutting Objectives	<p><i>The four cross-cutting objectives are:</i></p> <ul style="list-style-type: none"> • <i>Heritage is Respected</i> • <i>Health Inequalities are Addressed and Reduced</i> • <i>Deprivation and Social Mobility is Improved</i> • <i>Biodiversity and Environmental Sustainability is respected</i> <p>The member training programme should be designed with the cross-cutting objectives in mind.</p>	Head of Policy, Communications and Governance
Risk Management	Covered in the risk section	Head of Policy, Communications and Governance
Financial	The proposals set out in the recommendation are all within already approved budgetary headings and so need no new funding for implementation.	Section 151 Officer & Finance Team
Staffing	We will deliver the recommendations with our current staffing.	Head of Policy, Communications and Governance
Legal	There are no legal implications. However, under Section 3 of the Local Government Act 1999 (as amended) the Council as a best value authority has a statutory duty to secure continuous improvement in the way in	Principal Solicitor Contentious and Corporate Governance

	which its functions are exercised having regard to a combination of economy, efficiency and effectiveness. The Learning and Development Charter and this report assist in demonstrating best value and compliance with the statutory duty.	
Privacy and Data Protection	No impact	Policy and Information Team
Equalities	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Policy & Information Manager
Public Health	no impact	Public Health Officer
Crime and Disorder	No impact	Head of Policy, Communications and Governance
Procurement	<i>On accepting the recommendations, the Council will then follow procurement exercises for the external training identified We will complete those exercises in line with financial procedure rules.</i>	Head of Policy, Communications and Governance

2. INTRODUCTION AND BACKGROUND

- 2.1 On the 1st of July Democracy and General Purposes considered a report on the Member training programme for 2020-21.
- 2.2 The Committee agreed to a short survey of Councillors to assess training needed and inform the training programme for 2020-21. This is in-line with the Member Development Charter:

The Charter sets out the following criteria for Member Development:

- There is a clear commitment to councillor development and support
- The council has a strategic approach to councillor learning and development
- Learning and development is effective in building capacity.

- 2.3 A survey was undertaken in August 2020 covering learning delivery methods, general knowledge development, skills development, expanding service knowledge and service satisfaction. 28 Councillors responded to the survey. The survey results are attached at Appendix A for information.
- 2.4 Preferred methods of learning were formal training facilitated sessions, online courses and modules and meetings with officers as needed. These are all approaches we would undertake in a usual training programme. However, with the current pandemic restrictions we are unable to offer any face to face or classroom style training. We will ensure that we re-introduce this when it is appropriate to do so.
- 2.5 Interestingly nearly 70% of respondents indicated that they would like to increase their knowledge of governance, procedures and the constitution, followed by understanding the council's services and policies. Member briefings are regularly scheduled to increase knowledge of services as well as access to council officers and external webinars if Councillors have particular training needs. We have not held training on the constitution and procedures so this will be scheduled as a webinar in January 2021.
- 2.6 We also asked about particular skills the top two identified were Questioning Skills and Social Media. We will commission external training on these two areas using the Member Training Budget and add this to the training programme in 2021. The other areas of diplomacy negotiation, presentation skills, handling the media and networking and advocacy identified will be put forward for the programme for 2021-22.
- 2.7 The following services were identified by 12 or more Councillors as areas where they would like to expand their knowledge:
- Housing and Homelessness
 - Benefits System
 - Community Protection
 - Local Government Finance
 - Local Plan

These areas can be included in the committee and Member briefings.

- 1.8 The majority of respondents were happy with the support provided to them. Some dissatisfaction has been expressed with the legal advice and technology and equipment available. This feedback will be passed on to the Legal Team and we will encourage all members who have problems with technology and equipment to ask for support via our member bulletin.

3. AVAILABLE OPTIONS

- 3.1 In-light of the pandemic the training and methods of training available are limited. The proposal is that we continue with Councillor briefings and trainings virtually.
- 3.2 The following training will be added to the programme:

- In-House - Training on the constitution and rules and procedures
- Externally Facilitated Questioning Skills and Social Media Training

3.3 The following topics be included in Member Briefings:

- Housing and Homelessness
- Benefits System
- Community Protection
- Local Government Finance
- Local Plan

3.4 The Committee could choose not to add any additional training or tailor the briefings to the topics requested by Councillors.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 The Committee is asked to agree to the changes to Member training programme in order to facilitate councillor views and needs expressed in the survey responses. The proposal is to continue training in a virtual environment as required under the current restrictions imposed because of the pandemic.

5. RISK

5.1 This report has no risk management implications.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

6.1 Committees can propose and agree training according to their respective needs and requirements in the constitution. A survey was conducted open to all Councillors and this has been used to inform the development of the Member Training Programme for 2020-21.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 Subject to pandemic restrictions the training programme will be delivered in 2020-21, within budget and an update report will come back to this Committee at the end of the municipal year.

8. REPORT APPENDICES

The following document is to be published with this report and form part of the report:

Appendix A: Member Survey Results

9. BACKGROUND PAPERS

None

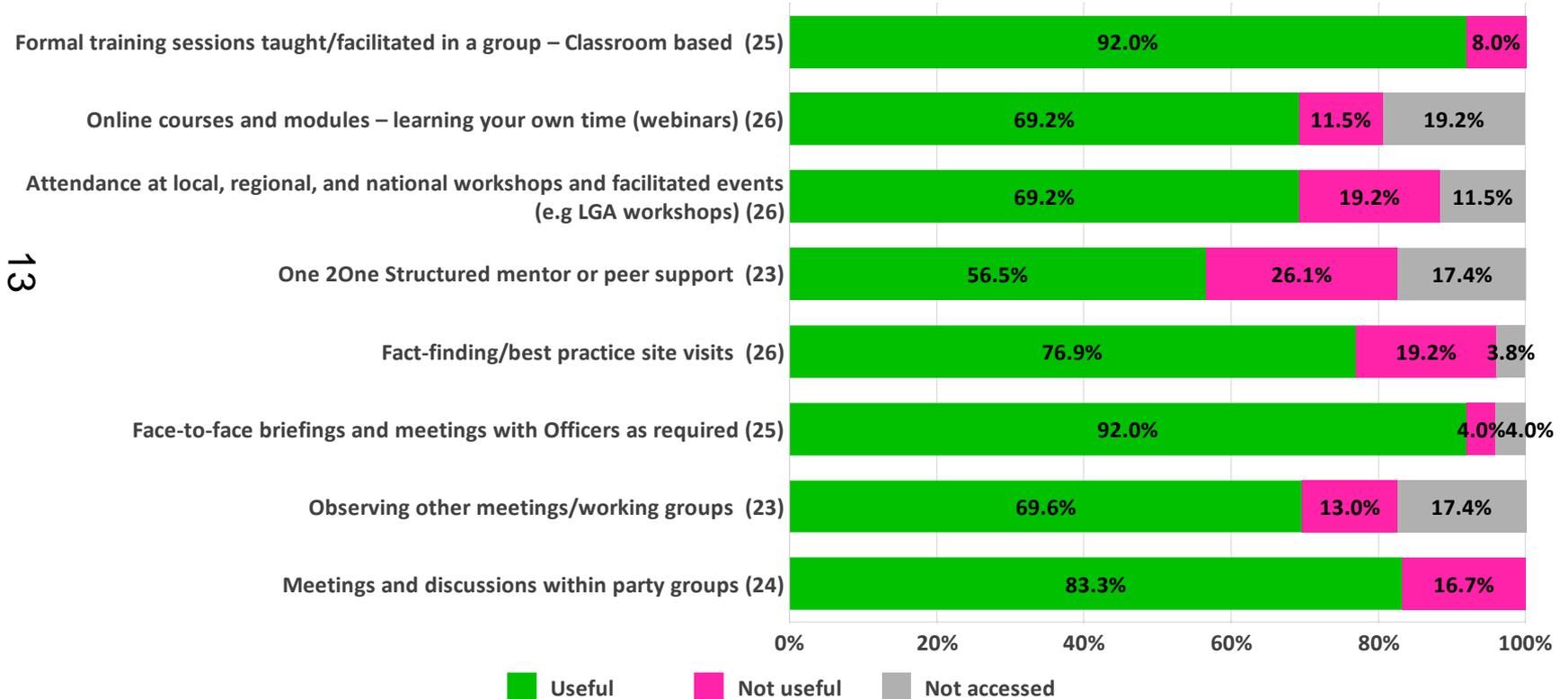
Member Learning & Development Survey

Total responses 28

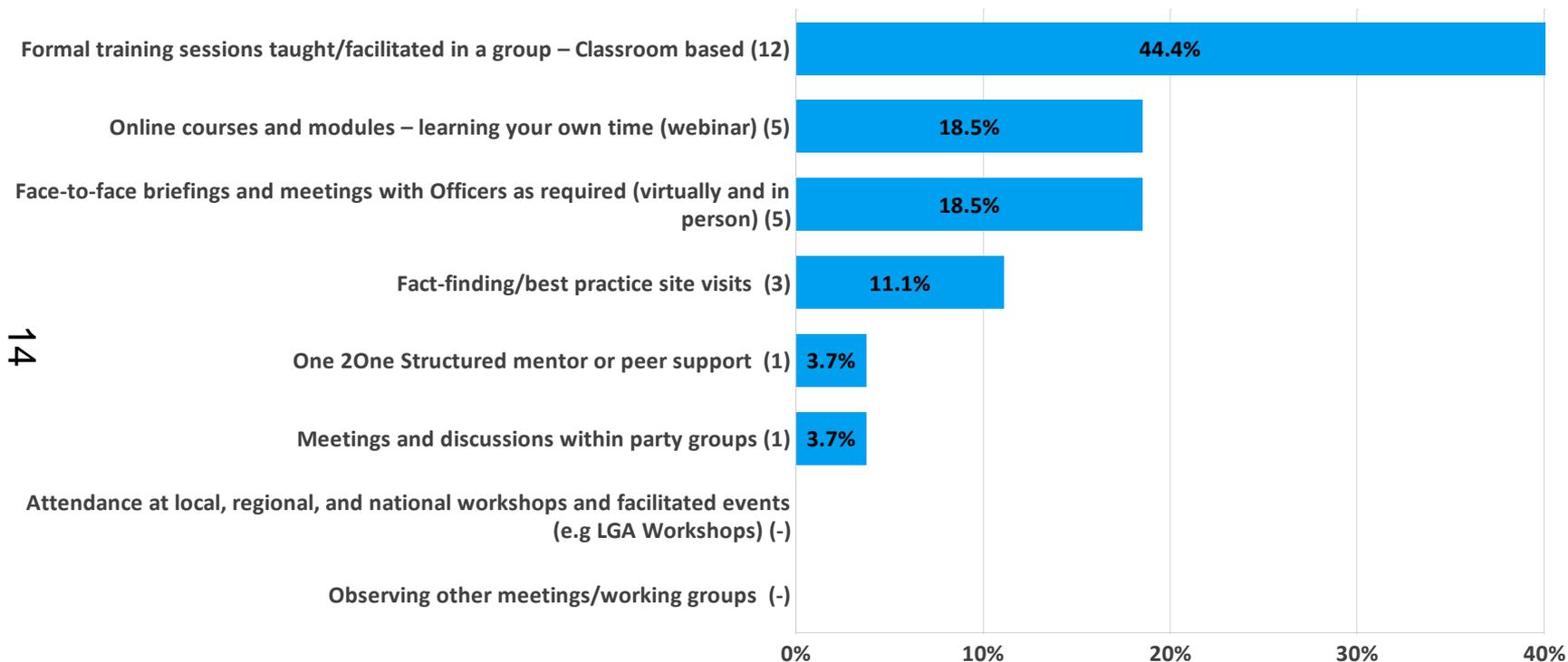
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Learning Delivery Methods

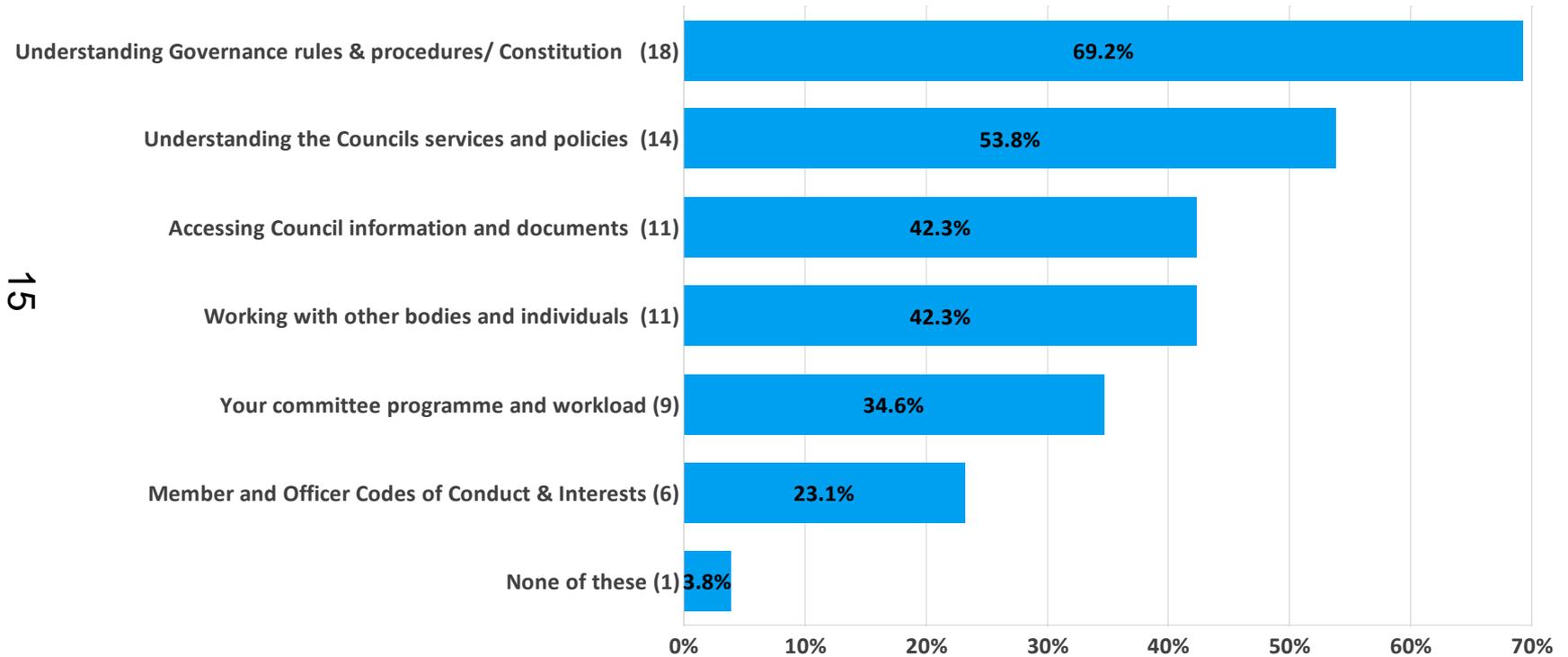


Preferred method of learning

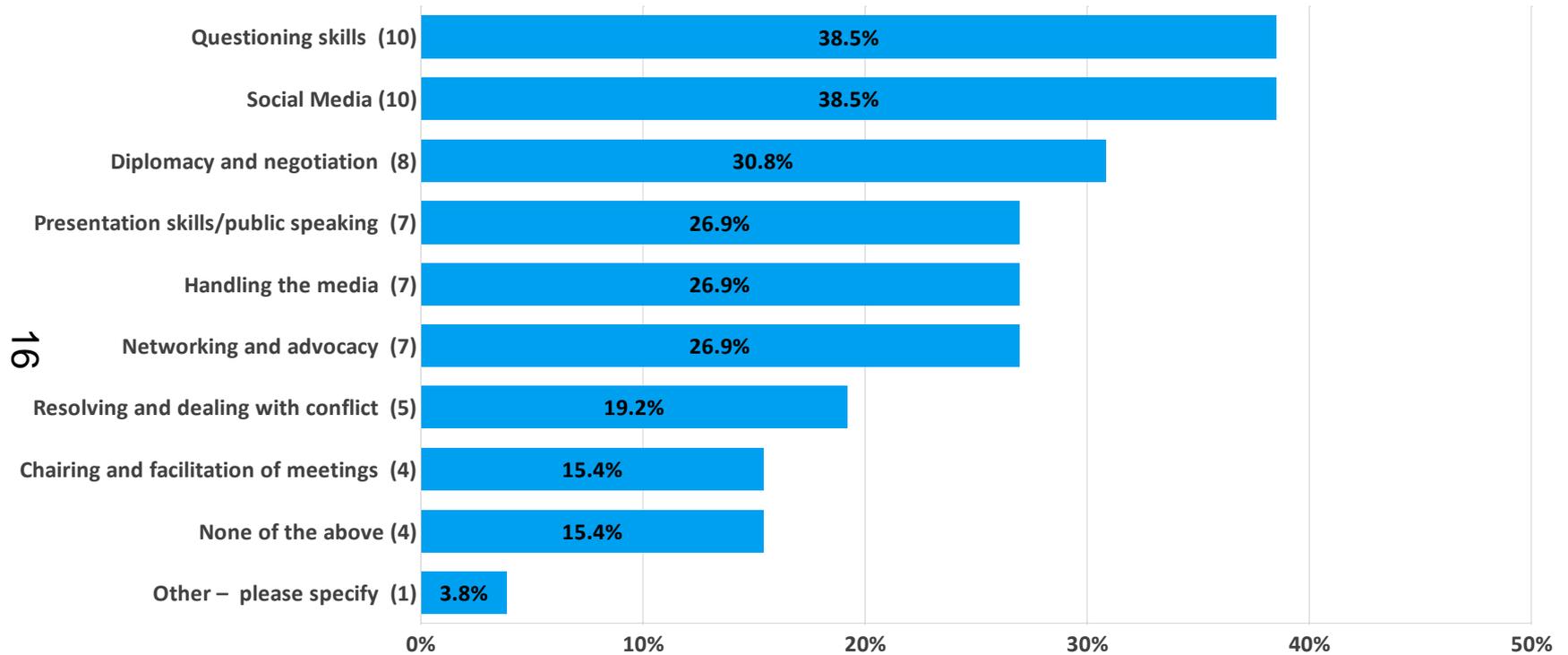


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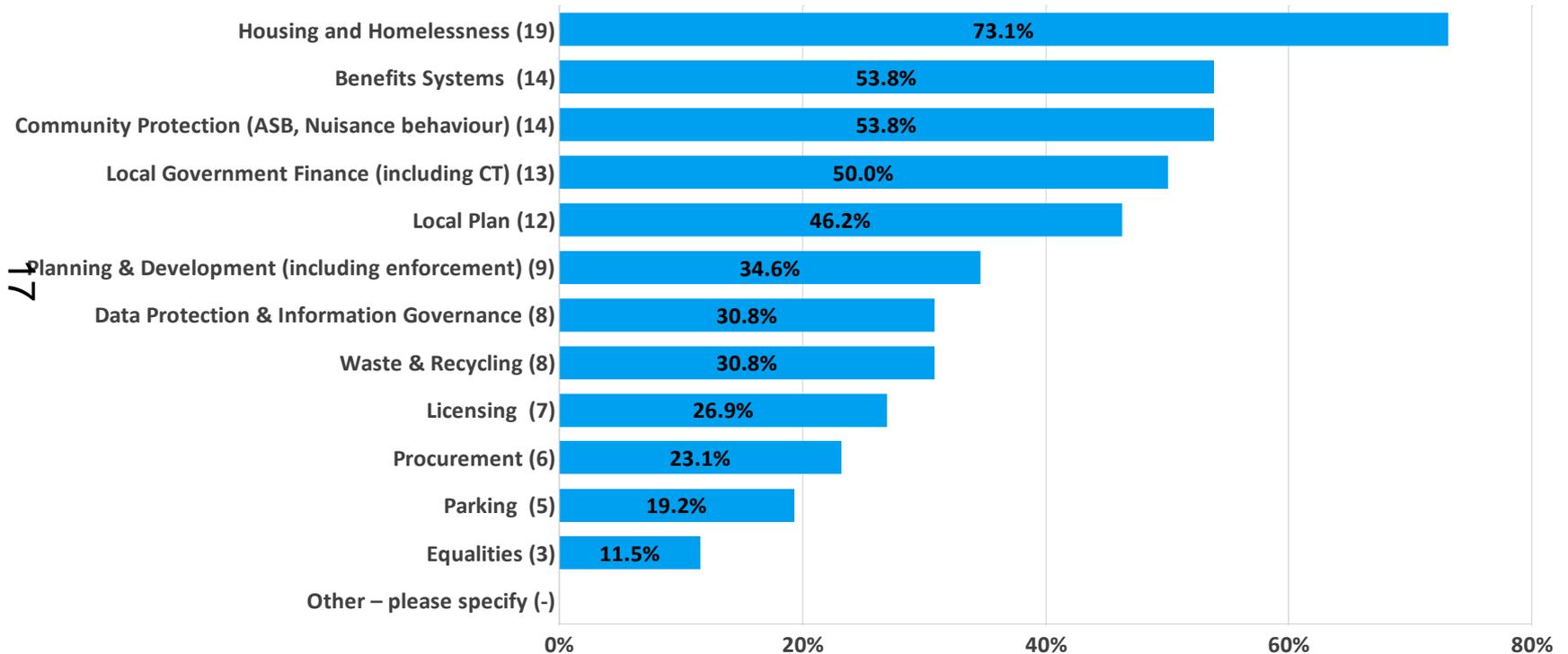
Areas for general knowledge development



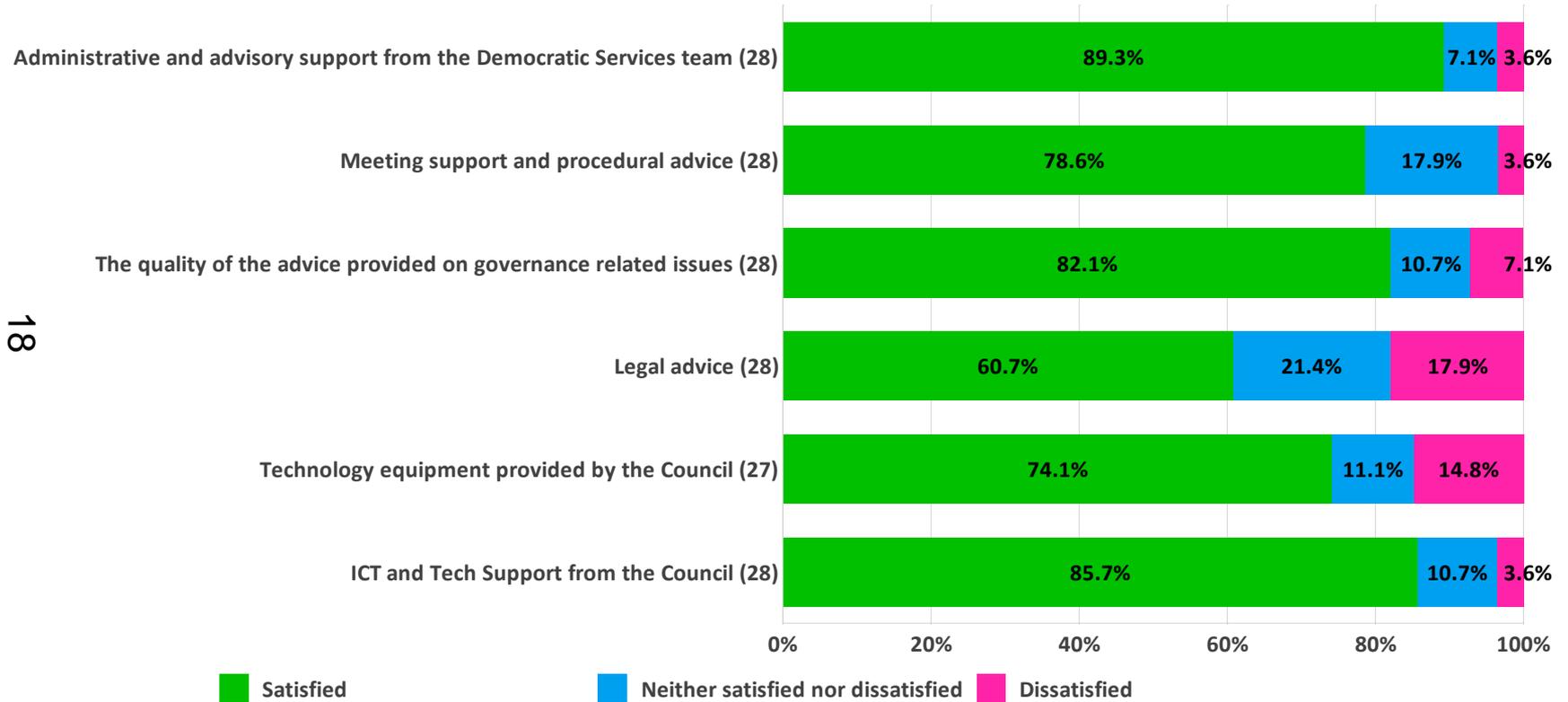
Areas for skill developments



Expanding Service Knowledge



Service Satisfaction



Access to Information Review Report

Final Decision-Maker	Democracy and General Purposes Committee
Lead Head of Service	Patricia Narebor, Head of Mid Kent Legal Partnership
Lead Officer and Report Author	Patricia Narebor, Head of Mid Kent Legal Partnership
Classification	Public
Wards affected	All wards

Executive Summary

The Constitution, Part 3.2 sets out the Access to Information Procedure Rules. This includes the additional rights of access for members on a “need to know” basis for the performance of their duties as a councillor.

Consideration of member requests are to be dealt with on a timely basis taking into account the legal implications. The Constitution provides that the Monitoring Officer or her deputy is to consider these requests.

This paper outlines the arrangement within the Constitution regarding additional rights of access to information for members.

Purpose of Report

The report is for noting.

This report makes the following recommendations to this Committee:

1. That the update in this report be noted.

Timetable

Meeting	Date
Democracy and General Purposes Committee	11 November 2020

Access to Information Review Report

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p><i>The four Strategic Plan objectives are:</i></p> <ul style="list-style-type: none"> • <i>Embracing Growth and Enabling Infrastructure</i> • <i>Safe, Clean and Green</i> • <i>Homes and Communities</i> • <i>A Thriving Place</i> <p>• <i>The decision will have an impact on the governance arrangements of the Council which has an impact on the above priorities.</i></p>	Head of Mid Kent Legal Partnership
Cross Cutting Objectives	<p><i>The decision will have an impact on the governance arrangements of the Council which has an impact on the cross-cutting objectives.</i></p>	Head of Mid Kent Legal Partnership
Risk Management	<p>In determining whether information should be released, the Council is obliged to take into account the legal implications to avoid a risk of challenge and compromising the Council's position.</p>	Head of Mid Kent Legal Partnership
Financial	<p>There are no financial implications other than the potential for a claim for damages should information be released and adverse impacts are demonstrated by a third party together with addressing the cost of defending such claims and/or payment of compensation.</p>	Head of Mid Kent Legal Partnership
Staffing	<p>There are no staffing implications.</p>	Head of Mid Kent Legal Partnership
Legal	<p>The Local Government Act 1972, section 100F enables certain information to be withheld when particular factors are satisfied. Relevant grounds are included under</p>	Head of Mid Kent Legal Partnership

	<p>paragraph 5 of this report.</p> <p>Under section 100F, information can be withheld (but can be available for inspection) where it relates to:</p> <p>(a) Information relating to the financial or business affairs of any particular person (including the authority holding that information) (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract), or</p> <p>(b) Information which reveals that the authority proposes (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.</p>	
Privacy and Data Protection	There are no data protection implications arising from this report.	Head of Mid Kent Legal Partnership
Equalities	There are no equality implications arising from this report.	Head of Mid Kent Legal Partnership
Public Health	There are no public health implications arising from this report.	Head of Mid Kent Legal Partnership

Crime and Disorder	There are no crime and disorder implications arising from this report.	Head of Mid Kent Legal Partnership
Procurement	There are no procurement implications arising from this report.	Head of Mid Kent Legal Partnership

2. INTRODUCTION

- 2.1 This paper outlines the arrangement within the Constitution regarding additional rights of access to information for members. Following queries raised by members regarding a request for information “on a need to know” basis, the Monitoring Officer advised members that the arrangements within the Constitution would be reviewed and an update provided to members regarding how requests are considered
- 2.2 The Constitution, Part 3.2 sets out the Access to Information Procedure Rules. This includes the additional rights of access for members on a “need to know” basis for the performance of their duties as a councillor.
- 2.3 Consideration of member requests are to be dealt with on a timely basis taking into account the legal implications. The Constitution provides that the Monitoring Officer or her deputy is to consider these requests.

3. BACKGROUND

- 3.1 A motion was considered by **Full Council on 25, September 2019**, proposing that all Members should have access to all information held by the Council. In light of possible changes to the Constitution, the motion was referred to Democracy and General Purposes Committee and was considered on **13 November 2019**.

The motion proposed that:

Members of this Council are elected by the Residents of this Borough to represent their interests. In order for Members to carry out their duties effectively this Council agrees that all committee agendas and reports relating to items on the agenda (including minutes, supporting documentation, and urgent updates and relevant exempt information) will be provided to committee members and made available to any other interested members on request.

Counsel’s Opinion regarding Member Access to all Information

- 3.2 The advice, in summary, was that the Council needs to operate within the law and decisions made by the Courts which the Council is obliged to comply with. He also noted that a requirement that all Members of the Council have a right to all information pushes the boundaries too far and would go beyond what the law permits. Democracy and General Purposes Committee also

considered whether to have a report back to review the position but concluded that this would be unnecessary as any Member could ask for a further report should there be continuing issues.

3.3 In view of Counsel's opinion, DGPC decided that it would not be appropriate to consider the motion, since adoption of the proposal would be contrary to the legal requirements taking into account Counsel's advice.

4. The Common Law or Court decisions regarding Members' "need to know" requests

4.1 Members have a right to see documents, or parts of documents, where this is reasonably necessary to enable them to perform their duties as a Councillor or their role within the Council. This is commonly referred to as the 'need to know' principle. The right does not amount to an automatic right to see any and all documents. The basis of the rule is that the member needs the information to carry out their duties.

4.2 The Constitution (Part 3.2 - Access to Information Procedure Rules) sets out how a Member's need to know request should be dealt with as follows:

Additional rights of access for Councillors – Part 3.2 The Constitution, para 12:

All Councillors will be entitled to inspect any document which is in the possession or under the control of the Council or its Committees where they are able to demonstrate a "need to know" to the satisfaction of the Monitoring Officer or his/her Deputy.

4.3 (Minute 12 Council Meeting 16 October 1996)
In addition to Members' other rights, all documents of the Council should be available and open for inspection and copying by all Members, provided either that the documents do not disclose exempt information as described in Schedule 12A to the Local Government Act 1972, or that the Member has a need to know the information contained in the document and has made a written declaration stating why inspection of the documents is necessary for the performance of their duties as a Councillor, provided that access to the document will not be given if to do so would be a breach of the Data Protection Act or other legislation.

4.4 That all information obtained from an inspection and any copy document received shall be treated as confidential to the Member and shall be for his/her use as a Member of the Council only unless the Chief Executive, Director or duly authorised officer concerned agrees at the time of inspection or supply of copy documents that this restriction can be relaxed; and

4.5 That in the event of the Chief Executive, Director or duly authorised Officer not agreeing that the restriction can be relaxed, the Member concerned shall have the right to require the matter to be referred to the relevant Committee and, if necessary, to the Council for final determination.

5. When can a Member's request for information be declined:

- (a) Where a Member has not demonstrated that the information is required for the performance of their duties as a Councillor. If a member is not a member of a committee or sub-committee, the member would have to show good cause why sight of the information is necessary to perform their duties.
- (b) Where release of the document to the Member will lead to a breach of the Data Protection Act or other legislation.
- (c) Where the information relates to financial or business terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or
- (d) Information that reveals that the Council proposes to serve a notice, make an order or direction under any enactment.
(The Local Government Act 1972, section 100F).

6. Who makes the decision whether access can be granted?

- 6.1 The Constitution provides that Members are required to demonstrate the need to know to the Monitoring Officer and/or her Deputy. The monitoring officer will apply the statutory requirements and decisions made by the Courts when considering a need to know request.
- 6.2 Where a Member's need to know request is agreed and the information is copied or inspected, the Chief Executive, Director or duly authorised officer can require the information to be kept confidential. If the Member requires the information not to be kept confidential and the restriction is not relaxed, the Member can appeal to the relevant Committee.

7. Options regarding who determines a Members need to know request?

Please consider the report of the benchmarking exercise under paragraph 8 below.

Recommendation:

The Council is advised to continue with the current arrangement within the Constitution where the Monitoring Officer and/or her deputy considers the need to know request, taking into account the statutory requirements and conditions outlined under paragraph 5 above.

Members will note from the benchmarking exercise below that the Council's arrangement is in line with the approach adopted by other Councils within the County. Generally, a need to know request is either made by the Chief Executive, Senior Officers or the Monitoring Officer in each of the authorities.

8. BENCHMARKING

Determination of members' request for information on a "need to know" basis.

Authority	Committee Member decision	or	Chief Executive, Director	or	Monitoring Officer
KCC	No		Corporate Director	in consultation with the	Monitoring Officer
Canterbury	No		Senior Officer, Monitoring Officer	to review if the member is dissatisfied (or Chief Executive in the absence of the Monitoring officer), whose decision shall be final.	
Dover	No		Senior officers with Monitoring officer	dealing with disputes.	
Gravesham	Ultimately for full Council to determine what is reasonably necessary for a Member to know		In the event of doubt – the Service Manager Communities to decide (in his/her absence) the Monitoring Officer.		
Maidstone	No		Monitoring Officer		
Sevenoaks	No		Relevant officer - deputy chief executive i.e. Director		
Swale	No		Monitoring Officer with advice from Legal if required		
Thanet	No		Monitoring Officer		
Tunbridge Wells	No		Monitoring Officer		

9. AVAILABLE OPTION

- 9.1 The Council is advised to continue with the current arrangement within the Constitution where the Monitoring Officer and/or her deputy considers the need to know request, taking into account the statutory requirements and conditions outlined under paragraph 5 above.
- 9.2 Members will note from the benchmarking exercise below that the Council's arrangement is in line with the approach adopted by other Councils within the County. Generally, a need to know request is either made by the Chief Executive, Senior Officers or the Monitoring Officer in each of the authorities.

10. RISK

- 10.1 The matters outlined under paragraph 5 entitle the Council to withhold information when it is appropriate to do so. The Council's position and/or that of a third party may be compromised should information not be treated as exempt at a particular stage.
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11. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

Not applicable

12. REPORT APPENDICES

None

13. BACKGROUND PAPERS

None

Democracy and General Purposes Committee

11 November 2020

Democratic Representation – Boundary Review

Final Decision-Maker	Democracy and General Purposes Committee
Lead Head of Service	Angela Woodhouse, Head of Policy, Communications and Governance
Lead Officers and Report Authors	Ryan O’Connell, Democratic and Electoral Services Manager and Angela Woodhouse, Head of Policy, Communications and Governance
Classification	Public
Wards affected	All

Executive Summary

This report sets out the considerations arising from a potential ward boundary review by the Local Government Boundary Commission for England.

Purpose of Report

Decision

This report makes the following recommendations to this Committee:

1. That the Local Government Boundary Commission for England (LGBCE) be informed that Maidstone requests a Ward Boundary Review;
2. That in light of the potential changes a boundary review would bring, and the impact of electoral cycle, governance arrangements, and scrutiny arrangements on that review, the following be agreed for the next meeting of the Committee:
 - (a) a report recommending that Council votes on whether to switch to Whole Council Elections, to include the impacts of a Ward Boundary Review;
 - (b) a report recommending that Council votes on its future governance arrangements for decision making and scrutiny (Leader and Cabinet or Committee system); and
 - (c) Political groups be consulted and engaged in the reports on Whole Council elections and governance arrangements and on matters such as council size and the review generally;
3. That it be noted that in the event of any definite proposals on Unitary Authorities coming forward the LGBCE will consider ‘pausing’ a review to allow those proposals to conclude.

Timetable

Meeting	Date
Democracy and General Purposes Committee	11 November 2020

Democratic Representation – Boundary Review

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	Governance and effective democratic representation impacts on all of the Council's priorities.	Head of Policy, Communications and Governance
Cross Cutting Objectives	Governance and effective democratic representation impacts on all of the Council's cross cutting objectives.	Head of Policy, Communications and Governance
Risk Management	Risks are considered in section 5.	Head of Policy, Communications and Governance
Financial	None directly at this stage though financial implications (including the possibility for savings) may arise if a reduction in the number of Members results from any boundary review, or a change is implemented to introduce whole council elections.	Section 151 Officer & Finance Team
Staffing	We will deliver the recommendations with our current staffing.	Head of Policy, Communications and Governance
Legal	<p>The LGBCE will follow its processes and look at the necessary criteria for a review arising from legislation - Local Government and Public Involvement in Health Act 2007 (as amended).</p> <p>Any actions that get taken forward as a result of the work in this report will be reported separately to future meetings, and will need to be in accordance with legislation (i.e. for looking at electoral cycle or Governance arrangements).</p>	Principal Solicitor Contentious & Corporate Governance.
Privacy and Data Protection	None	Policy and Information Team
Equalities	The purpose of looking at democratic representation is to ensure a fair and equitable vote for each elector in choosing their democratic representation.	Policy & Information Manager

Public Health	None	[Public Health Officer]
Crime and Disorder	None	Head of Policy, Communications and Governance
Procurement	None	Head of Policy, Communications and Governance

2. INTRODUCTION AND BACKGROUND

- 2.1 The Director of Finance and Business Improvement took a report to Policy and Resources Committee in July recommending action across a number of work streams to generate savings in order to meet the budget gap created by the impact of Covid19. One of the workstreams agreed was a review of the structure of democratic representation. This review will include a review of the number of Members and changing to whole Council Elections which was last considered by this Committee in 2019, with a focus on reducing costs.
- 2.2 As part of developing a workstream on democratic representation officers contacted the Local Government Boundary Commission for England (LGBCE) to establish the criteria for a boundary review. The LGBCE informed officers that the Council met two of the three criteria for a review and that only one of the criteria needed to be met. The LGBCE were due to consider whether to timetable the Council into its work programme on 19 October 2020. The LGBCE also asked if the Council would like to request a review (the third criterion).
- 2.3 The criteria for a review to be conducted are:
- 1) One or more of its wards has a variance of greater than 30% than the average for that authority **or** if **30%** of wards are greater than 10% from the average for that authority; or
 - 2) It has not been reviewed in over **14 years**; or
 - 3) The Council requests a review
- 2.4 The Council meets the first criterion as 8 out of 26 of our wards vary by 10% or more from the average electorate per councillor (**31%**) and one ward (Park Wood) varies by 26.5%. The Council meets criterion 2 as our last review was in 2000 (**20 years**).

What is a Boundary Review?

- 2.5 A boundary review is conducted by the LGBCE and they determine the following:
- The total number of members to be elected to the council (Council Size);
 - The number and boundaries of electoral areas (wards/divisions) for the purposes of the election of councillors;

- The number of councillors for any electoral area of a local authority; and
- The name of any electoral area.

2.6 The key aim for the review is to *'ensure that the ratio of electors to councillors in each electoral ward is, as nearly as possible, the same'*.

This aim is balanced with: *'...the need to reflect local community identities and interests, and provide for effective and convenient local government.'*

2.7 The LGBCE does not directly cover parishes as part of their review (that is something that the Council does through a Community Governance Review) but indirectly they can make changes to parishes where they are directly impacted by proposed ward boundary changes.

2.8 The indicative timetable provided by the LGBCE for a review is as follows:

Stage	Duration
Preliminary Period (Informal dialogue with Members and Officers)	Up to 6 months ahead of formal start
Council Size Decision (Commission comes to a 'minded to' decision on size)	5 weeks
Formal Stages:	
Consultation on future warding arrangements	12 weeks
Development of draft recommendations	12 weeks
Consultation on draft recommendations	8 weeks
Further consultation (if required)	Up to 5 weeks
Development of final recommendations	12 weeks

2.9 The start date for a review is determined by several factors including the LGBCE's own schedule, whether a Council wants a review and the electoral cycle of a Council. A loose indicative start date has been provided of 2022 for a Council with elections by thirds with a view to implementation in 2024.

2.10 A key element of a review is considering the size of the Council. Maidstone currently has 55 seats on the Council. In determining the appropriate size the LGBCE is mindful of the following:

1. Governance arrangements of the council, how it takes decisions across the broad range of its responsibilities, and whether there are any planned changes to those arrangements;
2. Examine the council's scrutiny functions relating to its own decision making and the council's responsibilities to outside bodies, and whether any changes to them are being considered; and
3. Consider the representational role of councillors in the local community and how they engage with people, conduct casework and represent the council on local partner organisations.

2.11 The Council is reviewing all its activities in view of the reduction in resources that it is likely to have to face from 2021/22 onwards. It was agreed by Policy and Resources Committee in July 2020 that no areas should be exempt from the requirement to make savings. Experience elsewhere has shown that District Councils can operate with 40 or fewer members and some operate with more than 55. A reduction in the number of members to this level and the introduction of whole council elections would allow the democratic function to contribute a commensurate proportion of the total savings required. Members are invited to consider this issue now as any movement on the number of Councillors would need to be agreed and suggested to the LGBCE by the Council.

2.12 It is recognised that a reduction in the number of Councillors would also require consideration of different ways of working for councillors to support them in representing their communities and participating in the Council's scrutiny and decision-making processes. Any review of Councillor numbers would have to be alongside a review of ways of working through dialogue and engagement with Councillors on the implications of a change.

2.13 Crucially the electoral cycle of the Council is also considered for the timing of the review and for determining the ward outputs and numbers on the Council.

2.14 For a Council with elections by thirds the LGBCE guidance states:

'...we start with a presumption that, for example, for local authorities that elect by thirds we will recommend a uniform pattern of three member wards (and, by inference, a council size that is divisible by three) so that every elector has the same opportunity to vote whenever local elections take place.'

2.15 This is a crucial consideration for Maidstone as it means that the status quo of our current combination of one, two and three Member wards is not an option for the review. Though it should be noted that the LGBCE have confirmed that in exceptional circumstances, to be made on a case by case basis for each ward, one or two Member wards can result from a review.

2.16 If a Council has whole council elections then the presumption for all three member wards is removed, and all single member wards become an option. The LGBCE state that '*Some local authorities that currently elect by thirds or by halves may wish to consider changing their electoral cycle to whole council elections prior to an electoral review. Any resolution to that effect must be made and notified to us, at the latest, before we invite proposals on warding patterns*'.

2.17 The LGBCE give a lot of weight to what a local authority wants from a review and in considering the council size and outcomes will conduct extensive consultations with Members, the public, and officers.

Whole Council Elections and Governance Arrangements

2.18 A potential review, with the outcomes and timing heavily impacted by electoral cycles, is a change in the considerations of whether to move to

whole council elections. It was previously agreed that the matter would not be proceeded with to Council, but it is recommended that the Committee reconsider this in light of this change – primarily that the status quo for wards and Members is no longer likely to be an option.

- 2.19 Governance arrangements, including how the council scrutinises its own decisions, and any planned changes to those arrangements are factors that the LGBCE will take into account when determining council size. There are differing views amongst Members on the fundamental options of Leader and Cabinet model or Committee system (as we currently have). The recommendation in this report is to consider those governance arrangement alternatives openly at the next meeting. It should be noted that no indication has been given for a model including a directly elected Mayor so that option has not been recommended.
- 2.20 It is recommended that the positions of political groups be established on these matters so as to allow informed reports to be presented to the Committee and to establish whether there is consensus on these matters, or other options that could be considered.

Local Government Reorganisation

- 2.21 There are national conversations regarding local government and a white paper on Local Government Reorganisation including the introduction of unitary Councils is anticipated. The current focus of the Government is on tackling the pandemic and the work on reorganisation on a national scale has been put on hold until next year. There is a risk that a lot of work is conducted on preparing for and implementing a review that loses its value if local government reorganisation were to be taken forward. The government's approach at the moment is to invite locally driven change rather than take a top down approach; priority in terms of use of resources at the Ministry of Housing, Communities and Local Government is being given to areas where this is the case including Somerset. There is no clear drive for change to local government re-organisation evident in Kent at the current time; in recent discussions Kent Leaders have preferred to postpone any further consideration of the matter until the White Paper is published. However, the LGBCE have confirmed that their aim is to deliver what is wanted locally so if Unitary proposals are firmed up sufficiently and look like they may take place they would 'pause' any review to allow the outcome to be established.

3. AVAILABLE OPTIONS

- 3.1 To inform the LGBCE that Maidstone Borough Council wants to have a review and begin preparation for the decisions necessary to fully facilitate, inform and influence the review to achieve the best local outcomes for the Borough.
- 3.2 To inform the LGBCE that Maidstone Borough Council wants to have a review and undertake some desktop work in preparation, but not take forward decisions on whole council elections and/or governance arrangements at this stage due to the likely timescales for a review to start.

- 3.3 To inform the LGBCE that Maidstone Borough Council does not want a review at this time and undertake some desktop work in preparation due to the likelihood of a review being conducted regardless.
 - 3.4 To inform the LGBCE that Maidstone Borough Council does not want a review and conduct no further work.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Option 3.1 is the preferred option and is covered by the recommendations to the Committee.
- 4.2 The Committee are recommended to agree to inform the LGBCE of the Council's desire to have a review so that the Council can have the most control and influence over the timing of the review and its content. Only one of the three criteria have to be met for a review to be conducted and we currently meet two of the three.
- 4.3 A review should also be requested because there is a clear disparity between wards for the ratio of electors to councillors, arguably creating a democratic deficit where some elector's votes are effectively more influential than others. The purpose of a boundary review is specifically to address this issue.
- 4.4 Requesting a review is not a small undertaking and a significant amount of work will be required to deliver it. As set out above depending on choices the Council makes the likelihood is that a review would start in 2022 Given this commitment and the significant impact a review can have on the borough it is recommended that work is undertaken now, and decisions brought forward for the Council to take on whole council elections and governance arrangements. Given the long timescales involved in implementation this would allow time for changes to be made ahead of the review outcomes.
- 4.5 Those decisions are important decisions as they have significant impacts for the Borough and each one will require careful consideration. It is therefore recommended that political groups be engaged in the processes for those decisions now to understand and present reports to this committee that are not only technically sound but are cognisant of the political issues too.
- 4.6 The Committee and Members more widely will be aware of the issues around Whole Council Elections from their recent consideration of the matter in November 2019. It should be noted that the report to be brought to the next Committee will include a significant change, namely that the status quo for the current setup of Members will not be an option with a boundary review, due to the LGBCE's aim to achieve uniform three member wards.
- 4.7 By agreeing to recommendation 3.1 the committee will be setting the Council in the best position to get the optimum local outcomes from the

review and to establish key choices in good time for the Council going forwards.

5. RISK

5.1 There are four main risks associated with this report.

- 1) There is an identified democratic deficit through having inequitable Councillor to elector ratios across the Borough. The purpose of a boundary review is specifically to address that issue. The report recommends requesting a review for that purpose.
- 2) There is a risk that if the Council does not request a review and does not do any preparatory work that we will have a review anyway and not be able to maximise the local benefit it and/or are caught in a situation where a review is conducted and we change our setup during the review.
- 3) The risk that the Council changes its election or governance arrangements during the review, which would undermine its outcomes, is recommended to be managed through bringing decisions forward now to provide clarity.
- 4) There is a risk that Unitary proposals overtake a boundary review and local changes – however the LGBCE have confirmed that they would likely 'pause' a review under those circumstances.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 Officers have been liaising with the LGBCE and the LGBCE are awaiting a formal indication from the Council as to whether it wishes to proceed with a review.
 - 6.2 The issue of whole council elections has been discussed with the Committee previously and was stopped before it went to Council as it was deemed unlikely to achieve the two-thirds majority required for implementation and the status quo was maintained. Maintaining the status quo would not be an option if a boundary review goes ahead.
 - 6.3 Work has previously been undertaken, including a member survey and workshop, in relation to planning for a Community Governance Review. That feedback will be considered in any review work that comes forwards.
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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 Political groups and informal conversations will take place to establish group positions on matters of whole council elections, governance arrangements, council size and the boundary review generally.

- 7.2 Those views will be fed into two reports to come to Democracy and General purposes requesting that Council takes decisions on whole council elections and its governance arrangements.
- 7.3 The LGBCE will be informed that Maidstone Borough Council wants a boundary review.
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8. REPORT APPENDICES

None

9. BACKGROUND PAPERS

Local Government Boundary Commission for England – [Electoral Reviews \(Technical Guidance 2014\)](#)

Democracy and General Purposes Committee – [Whole Council Elections – Consultation Stage Approval](#) – 13 November 2019