

Governance Arrangements

Final Decision-Maker	Democracy and General Purposes Committee
Lead Head of Service	Head of Policy, Communications and Guidance
Lead Officer and Report Author	Angela Woodhouse, Head of Policy, Communications and Governance
Classification	Public
Wards affected	All

Executive Summary

This report outlines the legislative requirements and process for changing the council's governance arrangements.

Purpose of Report

Decision.

This report makes the following recommendations to this Committee:

1. To consider the options for governance and decide on the most appropriate course of action.

Timetable

Meeting	Date
Democracy and General Purposes Committee	27 January 2021
Council	TBC

Governance Arrangements

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>Any change to governance arrangements would need to ensure there was effective decision making processes in place linked to our strategic priorities.</p>	Head of Policy, Communications and Governance
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>Any change to governance arrangements would need to ensure there was effective decision making processes in place linked to our strategic priorities.</p>	Head of Policy, Communications and Governance
Risk Management	Already covered in the risk section	Head of Policy, Communications and Governance
Financial	Changing governance arrangements could have financial implications both in terms of member remuneration, the support and advice required to change (i.e. drafting a new constitution) and staffing required to support the change.	[Section 151 Officer & Finance Team]
Staffing	We will deliver the recommendations with our current staffing.	Head of Policy, Communications and Governance

<p>Legal</p>	<p>The Localism Act 2011 amended and inserted Part 1A of the Local Government Act 2000. The provisions enable a Council to operate one of three permitted forms of governance:</p> <ul style="list-style-type: none"> (a) Executive arrangements; or (b) A committee system; or (c) Arrangements prescribed by the Secretary of State. <p>The executive arrangement may consist of a 'executive' leader and cabinet under the 2000 Act, section 9C(3); or the directly elected mayor and cabinet model of governance under section 9C(2). The executive may not exceed 10 members of the Council, to include the Leader and/or Mayor.</p> <p>The hybrid form of governance may involve the Cabinet ratifying decisions recommended to it by Cabinet cross-party committees.</p> <p>The executive arrangement of a Council must include provision for the appointment of one or more overview and scrutiny committees to review and scrutinise executive decisions made, or other action taken – LGA 2000, section 9F.</p> <p>If the Council elects to form an executive form of governance, the 2000 Act divides the functions into Council functions, local choice and executive functions. The allocation of functions is prescribed under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended). Anything not listed in these regulations is an executive function.</p> <p>The Council is required to have an up to date written Constitution setting out how the Council conducts its business, who takes which decisions and how to work with the Council. The Constitution should contain the Council's Standing Orders, the Code of Conduct, information required by the</p>	<p>Head of Mid Kent Legal Partnership</p>
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	Secretary of State and other information as the Council considers appropriate – section 9P LGA 2000. The proposals in this report and the appendix are in accordance with the statutory requirements.	
Privacy and Data Protection	No impact identified.	Policy and Information Team
Equalities	The recommendations do not propose a change that will require an equalities impact assessment	Senior Policy and Engagement Officer
Public Health	We recognise that the recommendations will not negatively impact on population health or that of individuals.	Public Health Officer
Crime and Disorder	No implications	Head of Policy, Communications and Governance
Procurement	There may be a need to procure additional support if the option goes forward to progress to a new system at pace.	Head of Policy, Communications and Governance

2. INTRODUCTION AND BACKGROUND

2.1 Democracy and General Purposes on 11 November 2020 agreed that a Ward Boundary Review should be requested, in light of the potential changes a review would bring and the need for clarity on the Council’s governance arrangements it was agreed that a report be brought to this committee recommending that the Council votes on its future governance arrangements for decision making and scrutiny (Leader and Cabinet or a Committee System). As more than five years has passed since the Council changed to its current governance model in 2015 a change can now be made.

Legislative Context

2.2 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;

- (c) Prescribed arrangements (to be set out in regulations by Secretary of State); or
- (d) 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.

2.3 Process for Changing the Governance Arrangements

The Localism Act specifies in order to change their governance arrangements, local authorities must:-

- Pass a resolution to change their governance arrangements, setting out the date it will take effect and details of change;
- 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 above, authorities are required to cease operating their old form of governance arrangements and start operating their new arrangements. This must take place "at the relevant change time" which is defined as:-

(a) The first annual meeting of the local authority to be held after the resolution to make the change in governance arrangements is passed; or

(b) A later annual meeting of the local authority specified in that resolution.

It should be noted that any change to a new scheme would be a 5 year commitment to that model.

Governance Models

2.4 Executive Model

Under executive arrangements strategic decision-making powers lie with a small number of elected members (Cabinet and cabinet members) with the executive making the majority of the member decisions (usually controlled by the largest political group). 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 scrutiny.

2.5 Committee System

The system we have at present. A Committee system involves groups of councillors from all parties/groups sitting as committees in political balance to make decisions as delegated by Council. Most of the committees present in the Council's current committee structure would remain in the Committee system including Planning and Licensing Committees.

2.6 Hybrid Model

Please see Appendix A for examples of hybrid models of governance, combining Cabinet, Scrutiny and Cabinet Advisory Committees. Or Committee system and overview and scrutiny.

2.7 Directly Elected Mayor Executive Model

A person is elected to the office of Mayor by the electorate following a vote across the Borough they do not have additional powers over and above those available in authorities using the leader and cabinet model or committee system. Once the Mayor is elected they can then put in place a Cabinet and the system would be similar to the Leader and Cabinet Model, although the Mayor may choose to exercise more power individually. Overview and scrutiny would still be required.

Originally an elected mayor could only be created following a referendum in favour in the relevant authority, since 2007, local authorities have also been able to create elected mayors by resolution. The first election of a directly-elected mayor may take place separately from elections to the Council, either in May or October.

The Council could opt for a Directly Elected Mayor – as in the first report no indication has been given by members on a preference for a directly elected mayor so this has not been put forward for consideration as a governance model as part of option 1 or 2.

3. AVAILABLE OPTIONS

3.1 Democracy and General Purposes could recommend a change to a new system to be in place by the Annual Meeting in 2021 or for the Annual Meeting in 2022 or they could make no recommendation and retain the status quo.

3.2 An agreement to change governance arrangements would require a new constitution, a review of staffing to ensure the new model was supported

and a revised Members Allowances Scheme for the new roles and responsibilities created. Any new model of governance should have full member involvement in its development. The timetables below would not apply if the council chose to opt for a directly elected Mayor – Councillors have previously indicated that this is not an option that would be taken forward.

3.3 **Option 1 – A new governance model to be in place for the Annual Meeting in May 2022.**

This would involve a resolution expressing the intention to change from the Committee system at full council and instructing the development of the new model by D&GP or a task and finish Group, then a further resolution to change to the new governance model at a later date. The new Governance Model would come into place at the May 2022 Annual Meeting. To impact the boundary commission's review the commitment to change governance would need to be made by November 2021, the timetable set out below assumes this Committee would make a reference to Council in July this could be earlier or later.

Timetable

Meeting/Activity	Date	Purpose
Council consider motion from DGP	July 2021	Agree intention to change governance model on AGM May 2021 and the process for creating the new model i.e. give to Democracy and General Purposes
Task and Finish Group/ D&GP/ Group Leaders	July – September 2020	Develop the new model
Council	October 2021	New Model approved by Council and resolution to move to a new governance system passed
Publication of Proposals	October 2021	Publish Detailed Proposals and required notices
Officers reporting to D&GP	October 2021 to March 2022	Develop Constitution
Officers	October 2021 onwards	Officers to develop staffing to support new arrangements ready for 1 May 2021
Panel	March 2022	Members Allowance Scheme reviewed
Council	April 2022	Approve Constitution and members Allowance Scheme
Council	May 2022	New arrangements in place

3.4 **Option 2 –A new Governance Model to take effect as of the May 2021 AGM**

A recommendation is made by this Committee which is then passed by Council to change Governance Arrangements including the date on which this would take effect and broad details of those arrangements i.e. Leader and Cabinet Model to come into place at May 2021 AGM.

Timetable

Meeting/Activity	Date	Purpose
Council	March 2021	Resolution to change governance arrangements setting out the new model, date it will take effect and giving delegation to publish notices etc
Publication of Proposals	March 2021	Publish Detailed Proposals and required notices
Officers reporting to D&GP on constitution etc – could be working with a Member group	March 2021- April 2021	Develop Constitution Develop Staffing model Members Allowance Scheme reviewed
Council	May 2021	Approve Constitution – may have to be in phases Approve Members Allowance Scheme New arrangements in place

3.5 **Option 3 – Retain status quo**

The Council continues with the Committee system and no recommendation is made from this Committee to Council. This would not prevent any Councillor from coming forward with a motion to Council to request change.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The Committee is asked to review the three options and agree whether to make a recommendation to Council to change the governance arrangements.
- 4.2 Option 1 requires a recommendation to Council to agree to a change in 2022, option 2 requires a recommendation to Council outlining the change proposed and the date of effect as the Annual meeting in May 2021. Option 2 will require an extensive amount of work in a short space of time, it will prove very challenging to do this within the current resource, with elections and other duties falling on those who will be responsible for drafting a new constitution, new staffing structure, new governance model and other changes that would be required.

- 4.3 If a change is required it would be preferable to take the approach that allows the greatest time for the new arrangements to be developed and the greatest amount of Member involvement in their development as set out in Option 1.
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5. RISK

- 5.1 Changing the Council's governance arrangement will incur risk in terms of managing and delivering change and ensuring any new system is effective and robust.
- 5.2 Seeking clarity on whether any change is required will give more certainty to the Boundary Review and should mitigate risk to that process.
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6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 As identified in the November report an early draft of this report has been shared with Group Leaders to allow full consideration of options prior to the meeting.
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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 The next steps will be dependent on the option the Committee choose to take forward, options 1 and 2 will both require recommendations to Council and then the consequent steps that have been set out in the timetables for options put forward in section 3.
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8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix A: Examples of Hybrid Governance Models
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9. BACKGROUND PAPERS

None