

**Governance Review: Changing to an Executive Model**

<b>Final Decision-Maker</b>	Council
<b>Lead Head of Service</b>	Angela Woodhouse, Head of Policy, Communications and Governance
<b>Lead Officer and Report Author</b>	Angela Woodhouse, Head of Policy, Communications and Governance
<b>Classification</b>	Public
<b>Wards affected</b>	

**Executive Summary**

This report sets out options for the Committee to take forward the actions requested by the Council at its meeting on 22 May to bring forward final proposals for executive arrangements as well as meet the requirement to review interim arrangements and other aspects of member involvement.

**Purpose of Report**

Decision

**This report makes the following recommendations to this Committee:**

1. To approve the proposed approach and timetable for the change to executive arrangements

**Timetable**

<b>Meeting</b>	<b>Date</b>
Corporate Leadership Team	15 June 2021
Democracy and General Purposes	30 June 2021
Council	29 September 2021

# Governance Review: Changing to an Executive Model

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> <li>• Embracing Growth and Enabling Infrastructure</li> <li>• Safe, Clean and Green</li> <li>• Homes and Communities</li> <li>• A Thriving Place</li> </ul> <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
<b>Cross Cutting Objectives</b>	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> <li>• Heritage is Respected</li> <li>• Health Inequalities are Addressed and Reduced</li> <li>• Deprivation and Social Mobility is Improved</li> <li>• Biodiversity and Environmental Sustainability is respected</li> </ul> <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
<b>Risk Management</b>	Already covered in the risk section	Head of Policy, Communications and Governance
<b>Financial</b>	<p>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 as well as potentially additional ongoing cost to provide and support the new model. Last time £30,000 was allocated for a new constitution. Officers will take a report to Policy and Resources should additional</p>	Section 151 Officer & Finance Team

	resources be required in developing the model and/or constitution.	
<b>Staffing</b>	<p>As Councillors will be aware there are a number of large important projects being undertaken within the governance sphere the Boundary Review and potential shift to Whole Council Elections as well as other work that is being requested by Members to improve how we work. This piece of work will be led by the Head of Policy, Communications and Governance with extensive involvement from Mid Kent Legal Service and Democratic Services Officer support. It is also a time limited project that must be completed swiftly, to ensure its completion we will look to bring in expertise to facilitate pieces of work. The Centre for Good Governance and Scrutiny have been approached to support member workshops and Mid Kent Legal Services have identified some additional expertise in governance will be needed. This support will have financial implications. There is also likely to be staffing implications for Democratic Services to enact and support the new model.</p>	Head of Policy, Communications and Governance
<b>Legal</b>	<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"> <li>(a) Executive arrangements; or</li> <li>(b) A committee system; or</li> <li>(c) Arrangements prescribed by the Secretary of State.</li> </ul> <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 executive arrangement of a Council must</p>	Head of Mid Kent Legal Partnership

	<p>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>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 Secretary of State and other information as the Council considers appropriate – section 9P LGA 2000.</p> <p>The proposals in this report and the appendix are in accordance with the statutory requirements.</p>	
<b>Privacy and Data Protection</b>	No impact	Policy and Information Team
<b>Equalities</b>	The recommendations do not propose a change that will require an equalities impact assessment	Policy & Information Manager
<b>Public Health</b>	We recognise that the recommendations will not negatively impact on population health or that of individuals.	Public Health Officer
<b>Crime and Disorder</b>	No implications	Head of Policy, Communications and Governance
<b>Procurement</b>	There will be a need to procure additional support for the review.	Head of Policy, Communications and Governance

## **2. INTRODUCTION AND BACKGROUND**

2.1 At the Annual Council meeting on 22 May 2021, the following motion was approved:

- “ (1) That Council agrees, in principle, to revert to executive arrangements from its next Annual Meeting for the municipal year 2022/23 onwards.
- (2) That Council recognises the substantial work required to bring forward final proposals, to review interim arrangements and other aspects of member involvement.
- (3) That Democracy & General Purposes Committee be requested to consider the matters outlined in (2) and put a proposed executive arrangements model to Council for adoption in order to allow the executive arrangements to be adopted to meet the principle agreed in (1).”

2.2 Democracy and General Purposes as per the motion have been tasked with developing a model of executive arrangements for the Council to adopt.

### Legislative background

#### 2.3 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.

## 2.4 Process for Changing the Governance Arrangements

- (i) 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.
- (ii) 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.

Any change to a new scheme would be a 5 year commitment to that model.

## 2.5 Executive Arrangements

Under executive arrangements strategic decision-making powers lie with a small number of elected members – ‘the Executive’ (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. Non-executive committees such as Planning, Licensing and (a form of) Audit Governance and Standards would be retained.

## 2.6 Link to the Local Government Boundary Review

The decision to change the council’s governance model from committee to executive arrangements will have an impact on the Local Government Boundary Review. The model of Governance and its implementation is a consideration in the Council’s size proposals to the Local Government Boundary Commission. The Council’s decision on its preferred size will be taken in December 2021. The timetable included in this report takes the review into account.

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### 3. AVAILABLE OPTIONS

3.1 Council have defined the scope of the work for the Committee to develop executive arrangements for approval by full Council. This Committee needs to consider how it will complete that task. Developing a model will require consideration of:

- number many cabinet members
- the portfolios that will be covered
- whether we opt for cabinet committees and for which portfolios
- the size and type of overview and scrutiny arrangements within the model
- staffing and financial implications

Following Council approval of the model and publication of that model, the next step will be to develop and approve a new constitution, this would also sit with the Democracy and General Purposes Committee so is included in the timetable for completeness.

3.2 The Committee could approach the review in a number of ways:

***Option 1: Develop new executive arrangements through agenda items at Committee Meetings***

The Committee could use their diarised committee meetings to develop the executive model through agenda items. It is achievable, however it will be challenging, additional meetings may be needed as there are only two meetings scheduled after June and one of these (8 September) will be to approve the model for submission to Council on 29 September 2021. The committee will need to give direction as to what information they will need in July to progress and develop a model; for example, arrangements elsewhere and other desktop research and any additional member involvement outside the committee such as consultation via a survey or invitation to the meeting for key councillors (i.e. group leaders or Committee Chairmen or Vice Chairmen). The format of formal committee meetings would be a challenging environment to develop ideas and initiatives within and would use up a lot of the Committee's time, infringing on other work.

***Option 2: A working group made up of members of this committee or nominated by group leaders develops the new executive arrangements***

A working group of Democracy and General Purposes (DGP) be created to discuss, develop and agree a model for presentation to the Committee in September taking into account those points in 3.1 and any additional requirements put forward by this committee. The group could be formed from this Committee or through nomination by group leaders. The advantage of a working group is meetings can be held at pace, and at a greater number to allow for this work to be done quickly and inclusively.

There is also more opportunity to collaborate on topics as there will be more opportunity for discussion and group work. The working group would be able to call witnesses, seek evidence and would be supported by officers to assist with the development of the model. No formal decisions can be made by the working group.

***Option 3: Officers be tasked to develop a model based on principals and direction from this committee and bring this back for decision in September***

This option would require the Committee to instruct officers on the type of model sought and any other direction on design or principles for the model. Officers would then develop models for consideration by the Committee at it's July meeting for discussion and consideration. Any additional work needed would then be completed in time for a final decision in September by this committee on the model to be recommended to Council on 29 September.

3.3 Timetable

Meeting/Activity	Date	Purpose
Council consider motion and instruct D&GP Committee	May 2021	Agreed intention to change governance model on AGM May 2022
D&GP (through preferred method)	June –August 2021	Develop the new model
D&GP Committee Meeting	8 September 2021	Approve model for recommendation to Council
Council	29 September 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 (possible working group)	October 2021 to March 2022	Develop Constitution
Officers	October 2021 onwards	Officers to develop staffing to support new arrangements ready for 1 May 2022
Panel	January - March 2022	Members Allowance Scheme reviewed
Council	April 2022	Approve Constitution and members Allowance Scheme
Council	May 2022	New arrangements in place

3.4 Reviewing Interim Arrangements and Other aspects of Member Involvement

Reviewing the interim arrangements and other aspects of member involvement were also cited in the motion to Council. Democracy and General Purposes Committee has responsibility for regularly reviewing the constitution in conjunction with the Monitoring Officer and recommend proposed changes, where significant to the Council. The points in tge motion

are congruent with this responsibility, rather than creating a separate project or wrapping matters up in the development of a new model it would be better to address concerns as they are raised through the committee's work programme. Any member of the committee can put items forward for the work programme and the Chairman and Vice Chairman also have a responsibility and active role in agenda development. Issues and concerns have been successfully dealt with via agenda items and reports in the past for example the scheme relating to Honorary Alderman, constitutional changes in respect of planning.

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#### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 The preferred option is Option 2 as this will allow the greatest flexibility to for a model to be developed by Councillors with support in the short time frame available.
- 4.2 On reviewing interim arrangements and other aspects of member involvement, the Committee throughout the year as matters are identified can add these to their work programme for review and action as appropriate. A discussion on the matters that need to be reviewed as part of the development of the work programme would be helpful.
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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. The Committee will need to ensure that a training programme is developed for Councillors to ensure the new system operates effectively
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#### **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 The consultation requirements for changing governance arrangements are set out in part 1 of this report:
- 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.
- 6.2 The Committee should give consideration as to the best way of engaging others in the development of the new Executive model.
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**7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

7.1 A timetable is set out in part 3.

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**8. REPORT APPENDICES**

None

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**9. BACKGROUND PAPERS**

None.