

**Governance Arrangements Working Group**

Thursday 11 November 2021 – Held via MS Teams

2.00 p.m. to 2.35 p.m.

## NOTES

<p><b>Present:</b></p> <table border="0"> <tr> <td><u>Members</u></td> <td><u>Officers</u></td> </tr> <tr> <td>Councillor Purle (Chairman)</td> <td>Jayne Bolas</td> </tr> <tr> <td>Councillor Perry</td> <td>Angela Woodhouse</td> </tr> <tr> <td>Councillor English</td> <td>Oliviya Parfitt</td> </tr> <tr> <td>Councillor M Rose</td> <td></td> </tr> </table> <p>Councillor Cox (present as substitute for Councillor Hastie) Councillor Munford</p>		<u>Members</u>	<u>Officers</u>	Councillor Purle (Chairman)	Jayne Bolas	Councillor Perry	Angela Woodhouse	Councillor English	Oliviya Parfitt	Councillor M Rose	
<u>Members</u>	<u>Officers</u>										
Councillor Purle (Chairman)	Jayne Bolas										
Councillor Perry	Angela Woodhouse										
Councillor English	Oliviya Parfitt										
Councillor M Rose											
<b>Item</b>	<b>Minute</b>										
1. Apologies	Apologies were received from Councillors Blackmore and Munford.										
2. Group and Process moving forward.	<p>The Head of Policy, Communications and Governance would be presenting an update report to the Democracy &amp; General Purposes (D&amp;GP) Committee on 27 November, outlining the timetable of the Constitution's review.</p> <p>A recommendation to include Councillor Hastie, with Councillor Cox as a substitute, to the group's membership would be included. This would ensure that all political groups of the Council were represented in the group's membership.</p> <p>The group were informed that Mid-Kent Legal had instructed Simon Goacher as the external legal representative.</p>										
3. For Discussion:	<p>As Part A – Core Provisions and Part C – Rules of Procedure had been provided shortly before the meeting, it was decided that an additional meeting of the group would be scheduled to allow the attendees to read the documentation.</p> <p>The Chairman gave the following direction as to which specific sections should be looked at:</p> <ul style="list-style-type: none"> <li>• Part A – Core Provisions (Articles) particularly; provision 4 in light of the meeting's agenda topics, provision 6 relating to PACs and O&amp;S Committee, provision 7 relating to the Executive, including the 'Administration's Programme' at 7.5</li> <li>• Part C – Rules of Procedure. The rules included were based on the Rules of Procedure in the Council's current constitution, shown at Part 3.1.</li> </ul>										

	<p>It was noted that Parts D and E had been completed and would be distributed to attendees. The allowance scheme would be discussed at a later date.</p>
4. Summary of Agreed Actions	<p><b>Actions:</b> That</p> <ol style="list-style-type: none"><li>1. The Democratic Services Officer schedule an additional meeting of the working group, to occur in the week commencing 22 November 2021.</li><li>2. The group's attendees read the relevant sections as advised by the Chairman.</li><li>3. Parts D and E of the revised Constitution be sent round to the group's attendees.</li></ol>
5. Duration of Meeting	2.00 p.m. to 2.35 p.m.

**Governance Arrangements Working Group**

Thursday 25 November 2021 – Held via MS Teams

2.00 p.m. to 4.15 p.m.

## NOTES

<p><b>Present:</b></p> <p><u>Members</u>  Councillor Purle (Chairman)  Councillor Perry  Councillor English  Councillor M Rose  Councillor Hastie</p> <p><u>Officers</u>  Jayne Bolas  Angela Woodhouse  Oliviya Parfitt</p> <p><u>External</u>  Simon Goacher – Partner, Weightmans LLP</p>	
<b>Item</b>	<b>Minute</b>
1. Apologies	Apologies were received from Councillors Blackmore and Munford.
2. Feedback from Parts A and C for discussion; Any other points for discussion (Item 2 of previous agenda)	<p><u>Part A – Core Provisions Feedback</u></p> <p><u>Leader and Cabinet (Provision 7)</u></p> <p>The Group expressed general support for the provision concerning the Leader and Cabinet.</p> <p>In response to questions on the Administration’s Programme (provision 7.5) it was confirmed that the intention was to maintain a direct link between election pledges and the actions of the Executive. These actions would be prioritised.</p> <p>Provision 7.5.2 intended to provide flexibility to the agreement and implementation of the Administration’s Programme.</p> <p>The External Legal Representative queried provision 7.5.2 as it could lead to the Administration Programme having been approved but then re-presented to another Council meeting if the Budget and Policy Framework required amendment. This could be resolved if the necessary information was provided at the programme’s initial consideration by Council. It was noted that such information may not be readily available at the first Ordinary Meeting of the Municipal Year, however greater flexibility in the wording would be preferable.</p> <p><u>Policy Advisory Committees (PACs) (Provision 6)</u></p> <p>There was general support for the provision concerning the PACs, although there was some suggestion that the wording should be</p>

made clearer in line with the proposed Council procedural rules in Part C, chapter 1.

The Chairman highlighted the procedural rules for the election of Vice-Chairman in Part C of the Constitution (Chapter 2, Rule 3.2) due to the inbuilt preference for a non-administration Member. This would promote a fair representation of non-administration political parties.

It was noted that the Terms of Reference (ToR) for the PACs had not yet been set, which was to allow for flexibility given that the Leader would be responsible for assigning the portfolio's ToR. Whilst these should align to the PACs, these should not be so restrictive that it would cause delay if an item for consideration cut across multiple portfolios in practice. Following discussion, the Leader would appoint the PAC Chairman if there was a cross-over in portfolios.

The definition of a Key Decision was to be confirmed.

#### Overview and Scrutiny Committee (OSC) (Provision 6)

It was highlighted that the separate OSC Procedural Rules (Part C, Chapter 3) had been based on the Tonbridge and Malling Borough Council Constitution.

The Chairman explained that the increased Membership of the OSC from 9, to 13 (with the option to include an additional 2 co-opted Members) was due to the increased number of political groups now represented on the Council. In line with proportional representation, all political groups would be more likely to have at least a seat on the OSC. It was mentioned that an increase in membership size was also suitable as there was only going to be one OSC, as opposed to the four in place under the Council's previous Executive Arrangements.

Whilst not relating directly to Provision 6, the Planning Referrals Procedure was highlighted due to the proposed arrangements from May 2022; If necessary, the OSC would be convened by the Proper Officer to act as the Planning Referrals Committee.

The Monitoring Officer and Head of Policy, Communications and Governance highlighted that this would have a training impact, as planning referral committee members still had to undertake the minimum required planning training.

The External Legal Representative clarified that the proposed planning referral procedure was appropriate, provided that there was a clear and evident separation of the duty being the responsibility of the OSC Committee.

The OSC would also be responsible for acting as the Council's Crime and Disorder Scrutiny Committee, which was a statutory obligation.

Part A Provision 3.3 required amendment, as there should not be conflict within the Constitution.

### Council Procedure Rules (Part C)

The Council Procedural Rules were generally supported as they were well developed and based on the current Constitution's procedural rules (Part 3.1).

It was noted that there could be further clarification and simplification of the rules shown, to make them easier to read and implement. A suggestion was made to include an explanation as to why some rules had/had not been included (from the current constitution, for the benefit of the attendees).

In response to a query, the Chairman explained his interpretation of the explanation provided at the beginning of the procedural rules section. The Monitoring Officer and External Legal Representative stated that its inclusion in the procedural rules was unusual and that they were unsure of the impact, if any in practice, that it would have.

Specific Attention was drawn to the below considerations:

- The Leaders Report on Current Issues – Rule 11, Part C. The Head of Policy, Communications and Governance and the Monitoring Officer expressed concern at the addition of rules 11.2 and 11.3. The rules could be misused and place undue constraints on the Leader.

Further ambiguities including how much additional time would be provided for the Leader to speak on the requested issues and the risk of Council business not being conducted due to the time taken on the issue, were highlighted.

The Group expressed general support for the provisions, including the perceived increase in accountability, but it was suggested that further measures be included to ensure its suitable use. This included an increase in the minimum number of Members required to submit a requested issue and a time limit.

- Rule 13, Motions on Notice was highlighted. It was felt that the rule should be simplified to avoid confusion, particularly in reference to rule 13.9; referral of petitions that fall within an Executive Function.

In discussing the rules on 'Motions' within Part C, it was highlighted that some of the provisions included within the Council's Current Constitution (Part 3.1, Rule 18) had not been included. This was not intentional, and the External Legal Representative would undertake a cross-referencing exercise between the current and proposed draft Constitutions to identify the missing provisions.

- Appendix A – Petition Scheme. The current procedure for petitions was clearly outlined, but that this would become more complex in the Executive System due to the different

	<p>bodies that a petition could be presented to; PACs, the Executive and/or Council.</p> <p>The Monitoring Officer questioned the removal of some of the Mayor's discretions in waiving some of the rules, including those relating to petitions. The Chairman confirmed that this removal had been intentional, to ensure that the same procedure was followed in each instance.</p> <ul style="list-style-type: none"> <li>• Appendix B – Questions by Members of the Public. Point 4.6 was intended to prevent repeated questions on the same topic.</li> </ul> <p>The procedural rules relating to questions had remained the same, except where Members would be permitted to submit a question over the weekend for a Tuesday meeting. This contrasted to the current 10 a.m. one clear working day requirement.</p> <p><u>Other points of discussion</u> (based on the draft Constitution provided)</p> <p><u>Trust Committees</u></p> <p>The governance arrangements for Trust Committee's were discussed, as the following points were highlighted:</p> <ul style="list-style-type: none"> <li>- The difference between Councillors acting as a Corporate Trustee vs. a Borough Councillor;</li> <li>- Ensuring appropriate delegations to Officers to allow the exercise of the Trust Committee's decisions;</li> <li>- Membership of the Committee as a separate Committee or as a Cabinet Sub-Committee, with the possibility of Non-Executive Members acting in an advisory capacity.</li> </ul> <p>The External Legal Representative would conduct research into an appropriate arrangement for the Council's Trust Committee's under the Executive System.</p> <p><u>Training</u></p> <p>It was confirmed that training would be provided to both Councillors and Officers on the Executive Arrangements and Constitution once implemented. Reference was made to the proposed 'Guide to the Constitution' for that purpose.</p>
3. Local Choice Functions	<p>In response to questions, the External Legal Representative confirmed that there were certain functions (outside of statutory requirements) that could be deemed the responsibility of the Executive and/or Council.</p> <p>A list of Local Choice Functions would be compiled and sent to the group for review.</p>
4. Direction for next meeting	<p>The External Legal Representative would complete the below actions, read through Parts A to C of the draft Constitution with the outcome to be provided to the Chairman for discussion in the week commencing 29 November 2021.</p>

	Any amendments would be presented to the Democracy & General Purposes Committee, before the working group undertook the next phase of the Constitution's review.
5. Summary of Agreed Actions	<p><b>Actions:</b> That the External Legal Representative:</p> <ol style="list-style-type: none"> <li>1. Re-Draft Provision 7.5.2 (Part A) to provide for greater flexibility on the approval of an Administration Programme;</li> <li>2. Examine the Planning Referrals Procedure and re-Draft as appropriate to ensure a clear and evident separation of the duty being the responsibility of the OSC Committee;</li> <li>3. Conduct research into the appropriate governance arrangements for the Council's Trust Committees under the Executive Arrangements;</li> <li>4. Compile a list of possible Local Choice Functions;</li> <li>5. Undertake a cross-referencing exercise concerning 'Motions on Notice', between the Council's current constitution and the Draft constitution to identify any gaps.</li> </ol>
6. Duration of Meeting	2.00 p.m. to 4.15 p.m.

**Governance Arrangements Working Group**

Thursday 9 December 2021 – Held via MS Teams

2.00 p.m. to 3.45 p.m.

## NOTES

<p><b>Present:</b></p> <p><u>Members</u>  Councillor Purle (Chairman)  Councillor Perry  Councillor English  Councillor Harper</p> <p><u>Officers</u>  Jayne Bolas  Angela Woodhouse  Ryan O’Connell  Oliviya Parfitt</p> <p><u>External</u>  Simon Goacher – Partner, Weightmans LLP</p>	
<b>Item</b>	<b>Minute</b>
1. Apologies	Apologies were received from Councillors Blackmore, Hastie and Munford.
2. Consideration of the Draft Constitution (in sections)	<p>The Chairman invited comments on the draft Constitution. The group felt that the ‘Purpose’ of the Constitution in Part A1 was well explained.</p> <p>There were views expressed by the Democratic and Electoral Services Manager, Head of Policy, Communications and Governance and External Legal Representative in attendance, with the following points made:</p> <ul style="list-style-type: none"> <li>• Part A1, Rule 3.3 (concerning conflict of rules)</li> </ul> <p>This would likely be restrictive and difficult to implement. The importance of easily and quickly accessible rules was highlighted, to avoid the need to look in multiple places to ascertain the right course of action.</p> <ul style="list-style-type: none"> <li>• Part A’s precedence over other Parts.</li> </ul> <p>The External Legal Representative clarified that the Articles of a Constitution (Core Provisions in the draft) were, to an extent, superfluous in comparison to the rules. The rules should be self-contained, without the need to refer to the earlier parts of the Constitution, as the advice given should originate from the wording of the rules alone.</p> <p>The Chairman stated that further amendment and consideration was expected, in light of the Constitution’s draft status.</p>

	<p>The Democratic and Electoral Services Manager stated that from a practical perspective advice given by the Democratic Services Team did not generally concern the earlier parts of the Constitution, but rather the procedural rules. Instances where these were examined included to find a specific delegation, at which point an interpretation would be made. There was concern that a Democratic Services Officer could be accused of providing deliberately mis-leading advice, through the increased importance of Part A over the other Parts.</p> <p>The Chairman stated that the draft Constitution would require 'stress-testing' and that Parts C2-C4 contained cross-references to be resolved.</p> <p>The Monitoring Officer explained that incorrect and/or misleading advice had further practical impacts, such as the grounds for Judicial Review of the decision.</p> <ul style="list-style-type: none"> <li>• Part C2, Application of Rule 16.6 from C1 (Amendments to Motions). The application of this rule would have significant implications for Planning Committee, as replacing a motion for refusal with approval (and visa versa) allowed the Committee to function efficiently. The disapplication of Council rules to Committee in the current constitution allowed the Chairman to have discretion in managing the meeting.</li> </ul> <p>The unintended implications of re-writing the whole Constitution rather than the parts relevant to the introduction of Executive Arrangements was discussed.</p>
<p>3. Comments from the Democratic and Electoral Services Manager</p>	<p>The Chairman and the Working Group invited the Democratic and Electoral Services Manager to outline his comments on the draft Constitution.</p> <p>The following points were raised:</p> <ul style="list-style-type: none"> <li>• The draft Constitution seemed to curtail the benefits of an Executive System; the ability to be responsive, decisive and have ownership of decision-making;</li> <li>• The Executive System provides for a 'Strong Leader' by law but there was a sense from the draft document that it was attempting to constrain the role of the Leader.</li> <li>• The blurred role between the Executive and the exercise of scrutiny functions on the Policy Advisory Committees (PACs); these would be Council rather than Executive Committees but be Chaired by a Cabinet Member. There was concern that the speed of the decision-making process would be affected;</li> </ul>

- The increased membership size of the Overview and Scrutiny Committee (OSC), to a minimum of 13 Councillors, would likely be too large and difficult to manage;
- The limitation placed on call-ins – Only the OSC Chairman and/or any 3 Members of the Committee could call-in a decision. This reduces the overall effectiveness of call-in whilst concentrating it in the hands of fewer Councillors.
- The sign-off process required for Individual Member decisions was impractical and would prevent individual decision making, by being dependent on co-signatories. This could cause conflict in the event that the Leader refused to co-sign a decision (and therefore prevent its implementation);
- There could be misuse of the Administration Programme, as the contents would be exempt from consideration by the PACs. There would be less scrutiny on these items and broad topic titles could be used when presented to Council, which would also prevent related items being considered by the PACs;
- There had been significant changes to the enforcement delegations within the Planning Committees Terms of Reference (ToR) which would lead to significantly more Part II reports. Further consideration of the effects of the change was needed and the condition on the delegation would be better placed in the ToR rather than the procedure rules;
- The proposed planning referrals system included that a when an application was approved through the Chairman's casting vote or by 1 or 2 votes, it could be called in. This was impractical as the Committee's decisions were implemented immediately which could affect fee's income and open up risks of Judicial Review.

If preferred, there could be no planning referrals process within the new Constitution.

- That the contents and rules within the draft Constitution should allow for flexible rules with boundaries. Having rules that were too restrictive could make them harder to operate in practice or conversely make it easier to find loopholes. For example, the Leader could use the Report on Current Issues as a tool to filibuster a Council meeting. Alternatively, a small group could submit numerous requested issues for consideration on a frequent basis.

The disputes panel could be used as a way of preventing an urgent decision.

In response to concerns about the proposed arrangements, the working group clarified that a Hybrid Model had been proposed as

the previous Executive System had not been suitable for many Councillors.

The key principles and the model itself had been agreed by full Council.

It was recognised that the Constitution provided was in draft form and would require further amendment as the working group continued to review the document.

Further comments provided by the Democratic and Electoral Services Manager on the draft Constitution's usability were as follows:

- The cross-over between the Constitution's parts would make it difficult to use in high-pressure instances;
- Having one rule applicable to all the relevant meetings makes it much easier for a person to familiarise themselves with the rules;
- There were too many types of decision;
- There were conflicts between the ToR between Council and the Committees. For example, Council and the Democracy and General Purposes Committee were responsible for Electoral Matters;
- There were significant questions on how a disputes panel would be facilitated in practical terms;
- The discretions of the Mayor are used to ensure the smooth running of full Council;

The importance of Member-led decision making was reiterated however this would not be achieved through the Constitution itself, but through strong leadership from Councillors.

In response, the group highlighted the importance of inclusivity within the new governance arrangements, alongside a model that would be retained and supported in the long-term. The inclusion of PACs was to involve as many Councillors as possible in the decision-making process.

The Monitoring Officer advised that being Member-led referred to the Council's strategies and policies, rather than operational delegations which were cumbersome. The External Legal Representative stated that they agreed with the comments made by the Democratic and Electoral Services Manager on the importance of easily applied and practical rules.

In relation to individual decision making, the previously used method whereby Individual Executive Members publicised when they would be making a decision, was highlighted as a useful mechanism for the new arrangements.

The group thanked the Democratic and Electoral Services Manager for his comments, and it was requested that the Democratic Services Team provide a list of comments on the draft Constitution.

	This would enable the group to further consider the suitability and applicability of some of the actions and rules proposed.
4. Direction for next meeting	That the comments on the draft constitution drafted by Democratic Services be distributed to the working group, so that these could be considered ahead of the next meeting.
5. Summary of Agreed Actions	<b>Actions:</b> That the Democratic Services Officer distribute the list of comments on the draft Constitution to the meeting's attendees on Monday 13 December 2021, for discussion at the next meeting.
6. Duration of Meeting	2.00 p.m. to 3.45 p.m.

**Governance Arrangements Working Group**

Thursday 16 December 2021 – Held via MS Teams

2.00 p.m. to 4.40 p.m.

## NOTES

<p><b>Present:</b></p> <table> <tr> <td><u>Members</u></td> <td><u>Officers</u></td> </tr> <tr> <td>Councillor Purle (Chairman)</td> <td>Jayne Bolas</td> </tr> <tr> <td>Councillor Perry</td> <td>Angela Woodhouse</td> </tr> <tr> <td>Councillor English</td> <td>Oliviya Parfitt</td> </tr> <tr> <td>Councillor Harper</td> <td></td> </tr> </table> <p>Councillor Burton (present as substitute for Councillor Blackmore)</p> <p><u>External</u> Simon Goacher – Partner, Weightmans LLP</p>		<u>Members</u>	<u>Officers</u>	Councillor Purle (Chairman)	Jayne Bolas	Councillor Perry	Angela Woodhouse	Councillor English	Oliviya Parfitt	Councillor Harper	
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Councillor English	Oliviya Parfitt										
Councillor Harper											
<b>Item</b>	<b>Minute</b>										
1. Apologies	Apologies were received from Councillors Blackmore and Munford. Councillor Hastie was in attendance for part of the meeting.										
2. Recap	The Chairman summarised that progress on the draft Constitution had been made and continued. An updated version of the draft had been circulated to the meeting's attendees with the agenda.										
3. Consideration of Draft Text (v.3.8)	<p>3.1 Members' rights to Information (A2, Provision 3 &amp; C4) (access to Information (AtI) Section sent separately)</p> <p>The Chairman referenced the AtI Document previously provided, which contained the originally drafted section, Simon's suggested version and an updated draft section in response.</p> <p>The working group expressed support for the rules as drafted by the Chairman, as it was felt that this promoted greater transparency and increased involvement for all Councillors.</p> <p>The External Legal Representative, Mr Goacher stated that the section did not accurately reflect the legal position regarding the 'need to know' requirement. There were instances as demonstrated through case law whereby Councillors/decision makers were not given access to a particular piece of information, which was upheld upon legal challenge. This contradicted the 'prima facie' assumption.</p> <p>There was further concern at the ability for a motion to be moved at a full council meeting, regarding a Councillor's right of access. This would mean that the information requested would have to be disclosed to all Councillors before a decision was made, which was not standard or best practice. The Council itself and the Monitoring</p>										

Officer would face increased risk of challenge from individuals and/or organisations as a result.

The disputes panel suggested required further consideration, as the panel members would need a significant legal and data protection expertise to reach a decision, however the principle aim of the body had been understood. The Chairman clarified that the intention was for the Proper Officer the Head of Policy, Communications and Governance would advise Councillors on their initial request to access confidential and/or exempt information, with the Monitoring Officer acting as Proper Officer to advise the Disputes Panel if required.

The working group highlighted the previous ease in accessing agenda papers and wished for this to be promoted where possible. It was felt that Councillors had been previously refused access unnecessarily, however the process of submitting a request to the Monitoring Officer was noted as standard practice.

In response to questions, Mr Goacher clarified that there had not been any legal challenges made against Council's that had disclosed confidential and/or exempt information to Councillors. However, it was likely that local authorities had been managing access to information correctly in the first instance. It was noted that the number of individual data protection claims were generally increasing, but that the Information Commissioner's Office were more likely to issue sanctions where there had been significant and/or consistent failings.

It was agreed that the wording should be in favour of disclosure where possible and that the disputes panel would remain a feature of the new arrangements. In response, the Chairman would amend the AtI section and provide a copy to the external legal representative for comments.

### 3.2 Individual Members' ability to raise issues formally

#### a) Agenda Item Requests (Chapter C2, Rule 6)

The working group was supportive of the rules proposed concerning Councillor agenda item requests.

It was felt that a maximum number of agenda item requests was unnecessary given that there was not currently a limit in place. Further, any request would be managed with the Chairman and relevant officers as part of the agenda setting process.

In response to comments from the Democratic Services Officer, it was agreed that the Chairman would have the discretion to accept agenda item requests that had been submitted after the deadline, with the draft document to be amended in response.

#### c) Questions on Notice (Chapters 1&2, Rules 9&10, Appendix B)

Consideration was given to whether additional wording was required to qualify whether a Councillor's answer reflected their personal views or the Council's position. However, it was felt that

this was unnecessary. For example, if the question submitted was asked of the Cabinet Member, it would be a personal opinion.

It was agreed that Group Leader's would not be given a right of reply.

#### d) Petitions

The Chairman outlined the petition scheme within Appendix A of the Constitution.

Each set of procedure rules within the draft Constitution outlining how a petition would be dealt with procedurally.

It was confirmed that the threshold for an unlimited debate length was 1500 signatures.

The working group supported the petition scheme.

#### e) Referrals to Planning Committee (Chapter 2, Rule 14)

The process of referring an application to the planning Committee was briefly discussed, with specific attention drawn to the increased scope of the draft rules which allowed a greater number of Councillors to refer an application to the planning committee. The 'three members' referral option increase the workload of the Committee with an example being that the Ward Members from a different Ward calling in an application occurring outside of their Ward.

In considering alternatives, the previous role of 'political spokesperson' was highlighted. It was felt that whilst the role had been beneficial, it could not be politically balanced and would not be taken further.

It was agreed that Councillor English would approach the Development Manager (James Bailey) for their advice on the proposed referral's process.

Due to time constraints, it was decided that the agenda be re-ordered to allow for the items within agenda item 4 to be considered.

#### Leader's Report (Chapter 1, Rule 10)

The Chairman highlighted the amended rule which had been simplified and included the addition of 'any subject relevant to the role of the Leader'.

The working group supported the amended rule.

Issues still to be considered:

3.2;

f) Nuisance of serious service failing

	3.3 Local Choice Functions
4. Issues for Resolution	<p><u>Planning Referrals</u></p> <p>It was agreed that there would not be a planning referrals process in the new governance arrangements. The External Legal Representative confirmed that the mechanism was not commonly operational in other local authorities.</p> <p><u>Trustee Committees</u></p> <p>It was agreed that the Trustee Committees would be assigned to the relevant portfolio holder, with the Policy Advisory Committees to oversee the actions taken as required.</p> <p><u>Appointment etc. of Senior Officers</u></p> <p>The External Legal Representative explained that the employment and salary of Senior Officers could not be an executive function and the general process concerning the statutory officers including the Head of Paid Service and Monitoring Officer.</p> <p>Issues such as appointments and disciplinaries, were normally considered by a specifically created standing committee. During the Council's previous executive arrangements, an employment committee had been in place.</p> <p>There was no limit on the involvement of the Executive in the process and it was usual for at least one Executive Member to be involved. An example was given of the Leader and relevant portfolio holder being involved in the recruitment process for a Director. Provisions to allow for executive involvement could be included within the constitution.</p> <p>The working group was in support of an employment committee, with a membership of nine, a quorum of three and a panel size of five. The panels would be convened when necessary and apply to the positions of Chief Executive, Directors and Deputy Directors should such positions be reinstated.</p> <p>As some of the attendees had to leave the meeting due to other commitments, the following items could not be considered:</p> <p>4.1 Overview &amp; Scrutiny – call-in rights: (see draft Chapter 3, Rule 4)</p> <p>4.5 Key Decision definition</p> <p>5. Residual points from Dem Services Paper</p>
5. Direction for next meeting	The agreed actions and amendments (as outlined below) would be implemented into the draft Constitution and sent to the External Legal Representative for consideration.

	<p>A further section would be drafted by the External Legal Representative, to be shared in early January 2022, on the composition and form of an Employment Committee and its sub-committees.</p> <p>As the next report to the Democracy and General Purposes Committee would be published on 18 January 2022, the agreed amendments and the items that could not be considered during the group's meeting would be discussed during the next meeting on the 13 January 2022.</p>
6. Summary of Agreed Actions	<p><b><u>Actions:</u></b> That</p> <ol style="list-style-type: none"> <li>1. The Chairman would amend the Access to Information section and provide a copy to the External Legal Representative for review;</li> <li>2. The Disputes Panel be agreed as a feature of the new arrangements, with further consideration to be given to its operation in practice;</li> <li>3. The rules concerning agenda item requests be amended to reflect the Chairman's discretion in accepting an item submitted after the deadline;</li> <li>4. The Planning Referrals Committee/Procedure be removed;</li> <li>5. An Employment Committee be created, with the External Legal Representative to draft the relevant sections in accordance with the direction provided by the working group; and</li> <li>6. The Development Manager be approached for their advice on the processes outlined in Chapter 1, Rule 14 (Provisions relating to the Planning Committee)</li> </ol> <p>The amendments would be made by the Chairman and then circulated.</p>
7. Duration of Meeting	2.00 p.m. to 4.40 p.m.

## Summary of Actions agreed by working group on 13 January 2022

Action	Location in Constitution
Drafted (technical) amendments agreed.	N/A
Employment Committee text agreed .	A2, 6.6
Additional wording to be drafted to explain that meeting attendance is without prejudice to any other statutory right.	A1, 2.5 (p. 7)
'Structure of the Constitution' to remain as drafted.	A1, 3.3 (p. 8)
'Guide to the Constitution' to remain as drafted.	A1, 9 (p. 10)
'Voting' to remain as drafted.	A2, 1.1.1 (p. 11)
Use of Forward Plan agreed.	A2, 1.1.2 (p. 11)
'Responsibilities' provision to be re-drafted; to highlight that the subject is the exercise of public rights, rather than the removal of public rights.	A2, 1.2 (p. 12)
'Policy Advisory Committees' section to be slightly re-drafted; the Leader will nominate an Executive Member as Chairman with the PAC to elect to the position.	A2, 6.2.4 (p. 22)
'Delegations, Decisions and Proceedings of the Executive' to be re-drafted; to allow Officer decision making to take place without requiring a public meeting.	A2, 7.6.3 (p. 29)
'Joint Arrangements' to be redrafted to remove two-fifths requirement	A2, 9.2.4 (a) (p. 33)
Agreed that the Head of Mid Kent Legal Partnership is an officer of the Authority.	A2 10.3
SG and JB to research the operational arrangements for the Mid-Kent Services Board/other Joint arrangements	Relates to A2, 9.2 (p. 33)

Reference to Rule 14 rather than 17 agreed.	B2, 2.5 (p. 43)
Removal of 'Appointments' agreed.	B4, (p. 71)
Agreed that Proper Officer Functions do not require review	Part B
'Introduction' to Council Procedure Rules to be re-drafted to avoid confusion on Council v. Scrutiny	C1, 1.2 (p. 100)

## Summary of Actions agreed by working group on 3 February 2022

<b>Subject</b>	<b>Action agreed</b>
Charity & Trustee Duties	SG to draft wording to outline that the Charity's would as an Executive Function.
Decision Definitions	De Minimis - £5k – Section 151 to be consulted.  Key Decision definition drafted by SG agreed.
Overview & Scrutiny	Agreed as drafted.
Nuisance & Serious Service Failings	SG to draft additional text to address: <ul style="list-style-type: none"> <li>- Definition for nuisance and serious service failing</li> <li>- Decision-maker on an issue's significance</li> <li>- Requirement to include executive functions</li> </ul>
Petition Thresholds.	Agreed as follows:  100 for Committees  200 for Council or the Executive
Local Choice Functions (table at Part B1, 4)	SG to conduct research and re-drafted the fourth, tenth and eleventh functions and introductory text to the table as required.
Shared Services	Information in current constitution (Part 1) to be re-inserted and governance arrangements for the Mid-Kent Services Board, and other organisations such as Greater North Kent Partnership to be clear.

## Summary of Actions agreed by working group on 10 February 2022

Subject	Action Agreed
Members Access to Information	<p>Section as drafted agreed, subject to the addition of the below wording within point 3.4.4(c):</p> <p><i>'If a Councillor has a reasonable based concern for a problem' and 'such that they can apply their minds and efforts to shaping decision-making'.</i></p>
Other general points raised	<p>Agreed that the following sentences be added:</p> <ul style="list-style-type: none"> <li>- to include maintaining a forward plan</li> <li>- to explain that Officers will use their 'best endeavours' to ensure as much information can be in Part I as possible; Part I reports/Part II appendices, obtaining consent from relevant parties.</li> </ul>
Recap of previously agreed actions	<p>All actions implemented and agreed in response by the group, however further information on Shared Services may be required.</p>
Additional Information Inserted	<p>Agreed the following:</p> <ul style="list-style-type: none"> <li>- movement of procedure rules to C9; (Officer Employment Procedure Rules)</li> <li>- Outside Bodies list required in draft Constitution (appointments not to sit with Council). AW to research how previously dealt with and included within Constitution; and</li> <li>- Annexes to Complaints Code as inserted.</li> </ul>
Outstanding Items (for noting)	<p>Noted the following:</p> <ul style="list-style-type: none"> <li>- Ongoing IRP and review of Crime &amp; Disorder Rules by CHE Committee on 1 March 2022.</li> </ul> <p>Agreed that Officer Delegations would be reviewed by AW following change in management structure.</p>
Direction for next meeting	<p>Agreed that a meeting would be convened if required following Counsel's consideration of Access to Information (as amended in accordance with above action).</p>
AOB	<p>JP to send the guide as drafted to AW by 14/02.</p> <p>SG to make further amendments in line with agreed actions as required and send updated Access to Information section to Counsel.</p>

	<p>Ahead of publication on 1 March 2022:</p> <ul style="list-style-type: none"><li>- JP and OP to format the document;</li><li>- Democratic Services to send out the document to the group;</li><li>- Any technical points raised in response to be sent to AW.</li></ul>
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