

AGENDA

POLICY DEVELOPMENT AND REVIEW COMMITTEE MEETING

Date: Wednesday, 17 July 2019

Time: 7.00pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, Kent ME10 3HT

Membership:

Councillors Lloyd Bowen, Mike Dendor, Alastair Gould (Chairman), Ann Hampshire, Benjamin Martin, Ken Pugh, Ken Rowles, Julian Saunders, Sarah Stephen, Ghlin Whelan (Vice-Chairman) and Corrie Woodford.

Quorum = 3

Pages

1. Emergency Evacuation Procedure

The Chairman will advise the meeting of the evacuation procedures to follow in the event of an emergency. This is particularly important for visitors and members of the public who will be unfamiliar with the building and procedures.

The Chairman will inform the meeting whether there is a planned evacuation drill due to take place, what the alarm sounds like (i.e. ringing bells), where the closest emergency exit route is, and where the second closest emergency exit route is, in the event that the closest exit or route is blocked.

The Chairman will inform the meeting that:

(a) in the event of the alarm sounding, everybody must leave the building via the nearest safe available exit and gather at the Assembly points at the far side of the Car Park; and

(b) the lifts must not be used in the event of an evacuation.

Any officers present at the meeting will aid with the evacuation.

It is important that the Chairman is informed of any person attending who is disabled or unable to use the stairs, so that suitable arrangements may be made in the event of an emergency.

2. Apologies for Absence and Confirmation of Substitutes

3. Minutes

To approve the [Minutes](#) of the Meeting held on 19 June 2019 (Minute Nos. 57 - 61) as a correct record.

4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.

The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:

(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.

(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.

(c) Where it is possible that a fair-minded and informed observer, having considered the facts would conclude that there was a real possibility that the Member might be predetermined or biased the Member should declare their predetermination or bias and then leave the room while that item is considered.

Advice to Members: If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the Meeting.

Part B reports for the Committee to decide

5. Objectives of a Constitution Review 5 - 10

The Committee is asked to consider the objectives of a Constitution Review.

6. Constitution Review - Area Committees 11 - 24

The Committee is asked to consider the report on Constitution Review – Area Committees.

Members are asked to consider the report on the Constitution Review: Models of Governance.

Issued on Tuesday, 9 July 2019

The reports included in this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEMOCRATIC SERVICES on 01795 417330**. To find out more about this Committee please visit www.swale.gov.uk

Chief Executive, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT

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| Policy Development and Review Committee | |
|--|--|
| Meeting Date | 17 July 2019 |
| Report Title | Objectives of a constitution review |
| Cabinet Member | Cllr Mike Baldock Deputy Leader and Cabinet Member for Planning |
| SMT Lead | David Clifford |
| Head of Service | Head of Policy, Communications and Customer Services |
| Lead Officer | Sarah Porter, Policy Officer |
| Recommendations | This report is for discussion purposes only |

1 Purpose of Report and Executive Summary

- 1.1 Following the May elections a new coalition Cabinet formed and outlined their objectives for the next four year administration. One of these objectives was around constitutional review, diffusing power among members and improving public engagement in decision making.
- 1.2 This report sets out the legal context to governance in local authorities and the process that should be followed for any review of a council's constitution. The discussion should help to clarify Members' views and objectives before moving forward with subsequent discussions around area committees or models of governance.

2 Background

- 2.1 There have been some fundamental changes to local authority governance in the past seven years, particularly in respect of how a local authority is controlled and how decisions are taken. The Local Government Act 2000 required most councils to adopt a Leader and Cabinet system, the exception being small shire districts with populations of less than 85,000. The Localism Act 2011 made possible a return to the committee system, if a council chooses to.
- 2.2 A number of councils have either moved to the committee system or considered moving to the committee system since the 2011 legislation came into effect. Details on some research undertaken into some of these councils follows further in this report. There are some key factors that appear to support any successful review of governance.
- Having clear objectives
 - Ensuring that Members across all parties are involved in the review
 - Supporting the review with independent advice

- 2.3 Typically councils that have reviewed their system of governance have done so because of dissatisfaction among members with engagement in the decision making process. At Tunbridge Wells, for example, they had a high number of call-ins which clearly showed a lack of engagement and buy-in from backbench members with decisions that were being made. The changes they have subsequently made have significantly reduced the number of call-ins.
- 2.4 Wider research by other bodies (the Local Government Information Unit and the Centre for Public Scrutiny) have identified some of the challenges of implementing a committee system. These are broadly the same across the spectrum and reflected in the conversations Swale officers have had with other councils. These challenges are mostly around these key issues:
- The committee system needs excellent forward planning and timetabling of meetings in order to make sure that the length of time to make decisions does not become onerous
 - Members working in the committee system need to dedicate more time so that they can effectively contribute to their committees
 - There needs to be watertight clarity around delegations and where decisions are to be made, particularly with regard to decisions that might straddle two committees
 - Consideration needs to be given to senior officers' capacity to liaise effectively with a higher number of senior members (both committee chairs and group leaders, individually and collectively).
 - There is a danger of important cross-cutting issues (e.g. health or environmental sustainability) being overlooked by thematic service committees unless there is a clear steer from full council.
 - Consideration needs to be made around how decision-makers will be held to account by council in the likely absence of a formal scrutiny system.

Early research into other councils' experiences

Canterbury

- 1.3 Canterbury City Council agreed in July 2014 to adopt the committee system for implementation at the Annual Council meeting in May 2015. They set four clear objectives around which the new framework should be designed. These were:
- Engagement – the committee structure should ensure that decision-making is connected to local people.
 - Economy – that the overall resources under the new system, including the number of meetings and workload for councillors, should aim to be no greater than under the present Leader and Executive system and be capable of further refinement.
 - Efficiency – the structure allows the council's operations with sufficient process both to run smoothly and to achieve timely decision making.

- Effectiveness – decisions taken address issues identified as needing to be addressed.
- 1.4 Canterbury set up a cross party governance commission which was chaired by a retired former chief executive of the council, in order to develop a proposed model based on the above objectives. The commission came up a structure which was agreed by Council in November 2014.
 - 1.5 Canterbury carried out a review of the committee system in April 2019, part of which looked at whether the system had met the four objectives set out five years earlier. Largely it appears that they have. The number of meetings has reduced by 8%, so their objective around resourcing was clearly met – although they were unable to provide Swale with any financial information around the cost of meetings.
 - 1.6 There has been a community governance review of the area member panels which made some changes in order to improve engagement with the wider community. The review only made four recommendations in total and only two were changes to the structure and governance. This would suggest that Canterbury's system does essentially work.

Maidstone

- 1.7 Maidstone Borough Council agreed in September 2014 to convene a working group to carry out a full review of governance arrangements. The cross-party working group came up with an objective and some principles under which to consider governance.
- 1.8 Their objective was to achieve greater involvement and participation of all Members in decision making whilst avoiding a cumbersome, bureaucratic structure that lacks direction and accountability.
- 1.9 Their principles were:
 - To be cost neutral
 - To increase member participation in decision making
 - To lead to more effective and efficient decision making
- 1.10 This working group reported back to full council on 10 December 2014 with a clear recommendation to move to the committee system.
- 1.11 A recent review of the committee structure was carried out and the report was presented to full council in April 2019. The review generally concluded that the principles had been met. Costs to the council had decreased over the four years the committee system had been in place by approximately 6%, although the review report was clear that some, and possibly all, of these savings would have been made under the old system as they had significantly reduced printing and had some changes in staffing.

- 1.12 There was also a view that more Members were involved in the decision-making process, although it was clear from interviews with Members that there was a preference for even larger committees given that “there are not enough spaces for all Councillors who wish to be involved”. However, there was also a view expressed that the increase in Member participation did not necessarily lead to more effective or efficient decision making: “The more Members that are on a committee, the longer decisions take, and the quality of debate is not improved”.
- 1.13 The review recommended no change to committee size. There was also a view that scrutiny style work is not undertaken by Members in the current system (although it is available) but that making more use of this function could improve Member participation. There was a recommendation in the report to promote this to Members as a way of improving Member engagement.

Tunbridge Wells

- 1.14 In 2011 Tunbridge Wells reviewed their way of working as a result of an increased number of call-ins (i.e. scrutiny committee exercising its legal right to review cabinet decisions before they are implemented, a power which is generally intended to be used sparingly).
- 1.15 They wanted to improve involvement from backbench members before decisions got to Cabinet. Their review concluded that they would set up three Cabinet Advisory Boards to feed into the Cabinet. These groups do not have any decision making power but meet approximately three weeks before each Cabinet meeting in order to feed into the decision making process.
- 1.16 The Boards are themed around key focus areas: Planning and transportation, Communities and Economic Development, and Finance and Governance. Consultation with these advisory boards is included in the forward plan so that officers are clear about where decisions need to go and Members of Cabinet Advisory Boards can see what work is coming up.
- 1.17 Anecdotally, Members are much happier with this way of working, with a significant decrease in the number of call-ins and more Member involvement in decision making.
- 1.18 No details on cost were available to be released to us however it could be presumed that the increase in meetings has led to an increase in cost of administering the committees.

Others

- 1.19 From research to date, only one local authority has moved in the opposite direction, from the Committee System to the Leader and Cabinet Model. A ‘peer challenge’ review by the Local Government Association recommended in 2017 that Melton Borough Council review its decision-making structures in order to make more timely decisions. It appears that, as a small district, they had not

moved from the Committee System following the Local Government Act 2000, but they have now moved over to the Leader and Cabinet Model from May this year.

- 1.20 Any changes to governance arrangements should be made at the council's annual general meeting, which meets in May. Before the AGM, the council needs to have resolved formally to make a governance change. There is no minimum period of time between the resolution and the AGM, but there does need to have been enough time for the council to publish the proposal and consult on it. Typically there has been approximately eight months between resolution and the AGM.
- 1.21 Councils cannot reverse the decision to change their governance system for five years following adoption.

3 Discussion

- 3.1 While this paper is for discussion only, it would be useful to consider some of the suggestions below as a springboard for discussion and give feedback on them.
- 3.2 Any review of the constitution would be best started by articulating some of the principles or objectives to be achieved as part of the review. Examples of these could be:
 - Diffusing power to Members
 - Improving public engagement in decision making
 - Ensuring any changes are cost neutral, and understanding in detail what this really means
 - Improving the quality of decision making
 - Improving or sustaining the timeliness of decision-making
- 3.3 There are essentially three potential scenarios that the review could consider:
 - Changes to the way people behave in the current structure, which may already be happening given the very recent change in Cabinet, for example through changes to the delegations.
 - Changes to the committee structure and delegations in force currently and how these could enhance decision-making, for example through cabinet advisory boards, area committees or enhanced scrutiny arrangements.
 - Changes to the fundamental governance model, i.e. a move to the committee system
- 3.4 In any of the above scenarios we would need to consider how any changes in the constitution would involve parish and town councils, the public and other key partners, such as Kent County Council and other public sector organisations in the borough. If one of the objectives of the review is about improving public engagement then we need to make sure that this is done openly and by involving as many interested parties as possible.

- 3.5 Any review would need to set out how these different groups would be involved and the different engagement mechanisms for involving them. This may be a discussion for a later PDRC meeting, which could include wider consideration of improving public engagement.

4 Alternative Options

- 4.1 This report makes no recommendation to agree a specific proposal, so there are no alternative options at this stage.

5 Consultation Undertaken or Proposed

- 5.1 None undertaken to date.

6 Implications

- 6.1 Cross-cutting implications have not been fully analysed at this stage because the report is for discussion only and does not contain any recommendations for decision.
- 6.2 However, the most significant implication to note at this stage is the financial one. The Council has a constrained revenue budget position and is highly dependent upon funding streams whose future is unclear. Any constitutional changes which resulted in higher direct staff costs and/or increased demands on senior management resources would need to be offset by ceasing other activities.

7 Appendices

- 7.1 None

8 Background Papers

- 8.1 None

| Policy Development and Review Committee | |
|--|--|
| Meeting Date | 17 July 2019 |
| Report Title | Constitutional Review: Area Committees |
| Cabinet Member | Cllr Mike Baldock Deputy Leader and Cabinet Member for Planning |
| SMT Lead | David Clifford |
| Head of Service | Head of Policy, Communications and Customer Services |
| Lead Officer | Bob Pullen, Policy and Performance Officer |
| Recommendations | This report is for discussion purposes only |

1 Purpose of Report and Executive Summary

- 1.1 Following the May elections a new coalition Cabinet formed and outlined their objectives for the next four year administration. One of these objectives was around a constitutional review – diffusing power among members and improving public engagement in decision making. One of the areas the constitutional review will explore is area committees.
- 1.2 This report sets out the legal context to area committees in local authorities, and provides some background and initial suggestions as a starting point for discussion at PDRC. The discussion should help members in deciding whether the council should consider adopting area committees as part of the constitutional review, and if so how these might be structured and what remit they might have.

2 Background

- 2.1 One element of the proposed constitutional review will be to seek ways to improve public engagement in council decision-making. A possible avenue for achieving this would be the introduction of area committees which operate in many local authorities across the country.
- 2.2 In either of the two primary models of local authority governance (i.e Leader and Cabinet Executive or the Committee system) it is possible to also delegate certain powers to an area committee.
- 2.3 In law, area committees must be made up of all ward Members who are elected to wards either partially or fully within the area.
- 2.4 Committees can have some specific decision-making delegated to them. Those local authority areas that run area committees typically tend to delegate decisions to them about how to allocate specific – often capital – funding streams.

- 2.5 Cambridge City Council's area committees, for example, make decisions on developer contributions, and allocate area committee funding, which is focused on supporting people whose opportunities are restricted by disability, low income or discrimination as well as funding around their environmental improvement programme.
- 2.6 Ipswich Borough Council's area committees have area action plans and allocate funding based on bids that align with area actions plans (which in turn align with the Council's corporate plan). In Ipswich, which operates under leader-and-cabinet governance, the committees also have elements of a scrutiny function.
- 2.7 Bristol City Council has area committees that agree area priorities and infrastructure projects with the local community and use money from both Community Infrastructure Levy and S106 to improve their local area.
- 2.8 Area committees or forums can take many forms and undertake a variety of roles. For example, they can comprise of solely borough ward councillors, but they can also include members of the public or representatives from other bodies in the area, including parish and town councils. Area committees or forums can be purely an engagement mechanism, or they can act as advisory and consultative bodies, or they can have delegated decision-making powers and resource allocation responsibilities.

Position at Swale

- 2.9 Swale has established several types of area committee/forum over the years. Some 20 years ago, the council operated area committees which had delegated authority to allocate funds for minor street works and other public realm schemes.
- 2.10 Swale Rural Forum was established in 2005 encompassing all of the wards within the EU Leader Plus programme area. Its primary purpose was to 'rural proof' relevant policy and strategy documents and to respond to consultations.
- 2.11 'Local engagement forums' were established for the Faversham, Sheppey and Sittingbourne areas in 2009 with the purpose of engaging, informing and consulting residents in response to the 'localism' agenda being promoted by government at the time. These forums comprised county, district and parish councillors, as well as key local partners including Kent Police, Kent Fire and Rescue Service and other public bodies. Their purpose was to act as an engagement mechanism only, with no delegated powers or budgets.
- 2.12 The local engagement forums and the rural forum were disbanded in 2016 following an extensive review which determined that they were ineffective and inefficient as engagement mechanisms as a result of the habitually low attendance by members of the public.

3 Discussion

3.1 This discussion paper is based on the assumption that any new area committee structure the council wanted to introduce would be based on the committees having at least some delegated powers to take decisions and allocate resources rather than being purely engagement or consultative bodies. With that in mind, the following 'SWOT' analysis describes some of the key considerations for introducing area committees.

| | |
|---|---|
| Strengths <ul style="list-style-type: none">• potential to bring decision-making closer to residents;• residents get to identify/meet ward councillors – public face of council;• more locally informed decision-making. | Opportunities <ul style="list-style-type: none">• more opportunity for local residents to observe (and participate in?) council decision-making/resource allocation;• opportunity to enhance council's capacity for meaningful public consultation. |
| Threats <ul style="list-style-type: none">• risk of inconsistent decision-making between the area committees ('postcode lottery?');• hijacking of business/priorities by those who shout loudest and "usual suspects". | Weaknesses <ul style="list-style-type: none">• current organisational structure does not lend itself to officers servicing three or four new area structures;• could need additional resources to function effectively? |

Current arrangements

3.2 As mentioned above, the council does not currently have any area-based committee arrangements, but it did so in the past. Currently, the responsibility for functions and decision-making is vested in a number of committees, joint committees and individuals, summarised for reference in Appendix I.

3.3 Any move to establish area committees and provide them with a delegated decision-making/resource allocation role would require changes to the council's constitution.

Why would we establish area committees?

- 3.4 One of the objectives of the coalition is to diffuse power more widely among members and improving public engagement in decision making. Area committees can bring an opportunity to local residents to observe and participate in the council's decision-making arrangements.
- 3.5 The flip side of this is that area committees are very resource intensive. For example, the previous local engagement forums meetings typically called for the presence of a Cabinet Member, a member of the senior management team, officers from the Policy and Economic and Community Services Teams, and an officer from Democratic Services to take the minutes. Other officers from the council also attended as necessary. Each forum was held quarterly and required the preparation of agenda, reports and minutes.
- 3.6 It is important to remember that LEFs were purely an engagement device and an area committee which has decision-making or resource allocation powers would need comprehensive officer support, perhaps in the form of a staff officer or secretariat.
- 3.7 The Council has a constrained revenue budget position and is highly dependent upon funding streams whose future is unclear. Any constitutional changes which resulted in higher direct staff costs and/or increased demands on senior management resources would need to be offset by ceasing other activities.
- 3.8 A case study on the area committee arrangements Ipswich Borough Council have put in place is at Appendix II. That council has clearly been developing these arrangements for a number of years, and the remit and responsibility of their area committees is extensive.

What would be their remit?

- 3.9 It is envisaged that area committees would first and foremost have a role in local decision-making and place shaping. The committees could also act as a conduit for consultation and engagement by informing and scrutinising policy and decision making made by other committees. They could also have some resource to allocate towards issues or projects particular to their area.

Who would be members?

- 3.10 Area committees can be established as a fully constituted committees with published agendas, reports and minutes, and with meetings held in public and minuted to record decisions and actions. These committees would need to be chaired by an elected member of the borough council and include all ward members for the area covered by the committee. There would be no requirement for the committees to be politically balanced.
- 3.11 Many of the communities covered by area committees would also have existing town or parish councils. Consideration needs to be given to how parish and town

councils would be represented and what status their membership of these committees may have.

- 3.12 Other councils have established alternative means of engaging with parish and town councils. For example, Sevenoaks District Council has for several years had a forum for parish and town clerks. This forum, which doesn't meet in public, meets bi-monthly and discusses mainly council service issues, although they do invite in other organisations as necessary.
- 3.13 There are a number of ways that area committees could be organised to cover the various areas of the borough, including a three- or four-committee system, as illustrated at Appendix III.

What role would the public have?

- 3.14 By virtue of the area committees being properly constituted council committees, the public would be able to attend any meeting. The question is what involvement beyond attendance this could involve. Suggestions include:
- speaking on an item for decision;
 - nominating or advocating a particular project;
 - being part of resource allocation or project selection process;

How frequently would they meet?

- 3.16 Traditionally these types of committees have met on a quarterly basis. If their remit is as a consultative committee and to engage with residents then a less frequent meeting may be more productive. The frequency of meetings would have a very clear cost implication.
- 3.17 If the committees were given a role in commenting on decisions or policy the schedule of meetings would need to dovetail with those of the relevant committees in Swale House, unless a means could be found for the area committee work to be conducted 'offline'.

4 Alternative Options

- 4.1 This report makes no recommendation to agree a specific proposal, so there are no alternative options at this stage.

5 Consultation Undertaken or Proposed

- 5.1 None undertaken.

6 Implications

- 6.1 Cross-cutting implications have not been fully analysed at this stage because the report is for discussion only and does not contain any recommendations for decision.
- 6.3 However, the most significant implication to note at this stage is the financial one. There would be two financial pressures from setting up area committees. These are firstly the direct support staff costs to administer the committees and secondly the increased demand on senior management resource. Any additional funding required to accommodate this should be included as part of the 2020/21 budget process, and may need to involve the cessation of other activities.

7 Appendices

- 7.1 The following documents are to be published with this report and form part of the report:
- Appendix I: Responsibility for current decision-taking
 - Appendix II: Case study – Ipswich Borough Council
 - Appendix III: Committee structures

8 Background Papers

None.

Responsibility for current decision-taking

| Responsible body/committee | Item |
|----------------------------------|--|
| Council | Budget and policy framework, and all non-executive items |
| Cabinet | Decisions relating to executive functions, including: <ul style="list-style-type: none"> - to take in year decisions on resources and priorities to deliver and implement the budget and policies decided by the Council. |
| Cabinet members | Delegated decisions relating to executive functions: <ul style="list-style-type: none"> - can take decisions within their respective portfolio areas except for the following:- <ol style="list-style-type: none"> 1. key decisions; 2. decisions which are outside the policy and budget framework; 3. decisions which cut across two or more portfolios; and 4. proposals for new or amended policies or strategies. |
| Planning Committee | All aspects of decision-making under the Town and Country Planning Act 1980 and Planning Act 1980. |
| Licensing Act 2003 Sub-Committee | Determining applications and appeals on applications for Licencing Act 2003 and Gambling Act 2005. |

Area Committees – Case study: Ipswich Borough Council

Population: 135,000
Governance: Leader and Cabinet (10 members)
Councillors: 48 councillors representing 16 wards

Area Committees: Five area committees, meet bi-monthly, produce area action plans and allocate resources in line with those plans

Terms of reference:

The Committee shall deal with any matters falling within the scheme of delegations below where connected to its Area.

Any items of business shall normally be the subject of a written report unless otherwise specifically requested by the Executive or the Council, and the Committee shall take legal or other professional advice as required according to the nature of the business.

Each Area Committee shall adopt and thereafter review annually an Area Action Plan that identifies its local priorities. Each Committee must ensure that its actions contained in its Area Action Plan are defined as S.M.A.R.T actions ((Specified, Measurable, Achievable, Realistic and Time-framed) and that they identify the scope for working with other public bodies or other stakeholders.

Each Area Committee shall report to the Executive on an annual basis detailing its activities and achievements.

Scheme of delegation:

Each Area Committees shall have the following powers and responsibilities:

- To decide its own annual work programme and Area Action Plan and the spending of its budgets within these terms of reference and as permitted by law;
- To make comments on strategic planning matters affecting either its own area or the Borough as a whole;
- To act as a consultee in respect of consultations carried out by outside organisations in respect of issues affecting its area and reporting to the Executive on any responses given on such consultations;
- To monitor and maintain an overview of council services and other stakeholder performance in its area, and to report to the Executive or council committee on these issues as the Area Committee feels necessary;

- To make representations in the form of reports or 'action requests' to the Executive or the Council as the case may be on any of the following matters relating to its Area:
 - Provision and maintenance of Public open space, allotments, and other recreation or leisure facilities;
 - Provision of facilities for local children, young people, the elderly and disadvantaged members of the community;
 - Provision of Police community support officers and neighbourhood policing teams;
 - Provision of Crime & Grime and other enforcement operations;
 - Provision of CCTV services;
 - Provision of Waste collection services;
 - Provision of Energy conservation schemes;
 - Provision of Street cleansing and lighting;
 - Road safety issues;
 - Provision of Public transport and car parking;
 - Health and wellbeing issues;
 - Area based regeneration schemes and Town & District Centre projects;
 - Area Action Plans;
 - Provision of and Use of Community assets in its Area;
 - Local Community improvement schemes;
 - Local Community Development issues;
 - Strategies for Community engagement, consultation and involvement exercises on matters of local community interest in its area;
 - On any requirement for further devolution of powers to the Area Committees.
- To take executive function decisions in relation to any works or services to be provided in its Area out of its budgets

- To provide 'ward intelligence' to the Executive and relevant heads of services in relation to the Borough's enforcement activities, the siting of CCTV cameras and other crime or anti-social behaviour in its Area.
- To respond to any other specific matter referred to it by the Executive the council or a senior council officer.
- To assist with policy development on matters pertinent to its Area, including the power to make recommendations to the Executive or Council on policy changes.
- To develop an Area Action Plan to deliver locally determined priorities and objectives and to take decisions to allocate and spend the annual Area budget provided for such purposes by Council to deliver local area priorities, provided that the actions to be taken are lawful and fall within the overall remit of the terms of reference and that the estimated costs of any scheme or matter in terms of capital expenditure shall not exceed the allocated budget for the relevant year for the Area Committee.
- Local area priorities may include consideration of schemes involving physical works, or delivery of actions referred to in the Area Action Plans developed in accordance with paragraph 6.10 may include services or supplies to or by local community groups provided the same can be met within the allocated Area Committee Budget.
- The Area Committee may submit proposals or bids for future funding in subsequent years to the Executive as part of the budget setting process.
- Area Committees are empowered to devolve up to 10% of their annual budgets to the Head of Service appointed by the Chief Executive to act as Lead Support Officer for the relevant Area to establish a 'Making a Difference Budget' for use after consultation with the Area Chair on small scale community initiatives in their Area (or jointly with a neighbouring Area) submitted by ward councillors to meet immediate community needs that are connected to the relevant Area Action Plan approved by the relevant Area Committee.

NB Any delegation to Area Committees at Swale would need to be consulted on, drafted and agreed as part of the constitution review

SPECIMEN COMMITTEE STRUCTURES

Three committee structure

Faversham Population 34,480* (23.5% of total population)

| Ward | Number of members |
|------------------------|-------------------|
| Abbey | 2 |
| Boughton and Courtenay | 2 |
| East Downs | 1 |
| Priory | 1 |
| St Ann's | 2 |
| Teynham and Lynsted | 2 |
| Watling | 2 |
| TOTAL | 12 |
| Conservative | 3 |
| Green | 2 |
| Labour | 2 |
| Liberal Democrats | 5 |

Sittingbourne Population 67,450* (46% of total population)

| Ward | Number of members |
|----------------------------------|-------------------|
| Bobbing, Iwade and Lower Halstow | 2 |
| Borden and Grove Park | 2 |
| Chalkwell | 1 |
| Hartlip, Newington and Upchurch | 2 |
| Homewood | 2 |
| Kemsley | 2 |
| Milton Regis | 2 |
| Murston | 2 |
| Roman | 2 |
| The Meads | 1 |
| West Downs | 1 |
| Woodstock | 2 |
| TOTAL | 21 |
| Conservatives | 6 |
| Independent Group | 1 |
| Labour | 7 |
| Swale Independent Alliance | 7 |

Sheppey Population 44,770* (30.5% of total population)

| Ward | Number of members |
|----------------------------|--------------------------|
| Minster Cliffs | 3 |
| Queenborough and Halfway | 3 |
| Sheerness | 3 |
| Sheppey Central | 3 |
| Sheppey East | 2 |
| TOTAL | 14 |
| | |
| Conservative | 7 |
| Independent Group | 1 |
| Labour | 2 |
| Swale Independent Alliance | 3 |
| Ungrouped member | 1 |

Four committee structure

Faversham

Population 19,990* (13.6% total population)

| Ward | Number of members |
|-------------------|-------------------|
| Abbey | 2 |
| Priory | 1 |
| St Ann's | 2 |
| Watling | 2 |
| TOTAL | 7 |
| | |
| Labour | 2 |
| Liberal Democrats | 5 |

Rural

Population 35,600* (24.3% of total population)

| Ward | Number of members |
|---------------------------------|-------------------|
| Bobbing, Iwade and Lower | 2 |
| Borden and Grove Park | 2 |
| Boughton and Courtenay | 2 |
| East Downs | 1 |
| Hartlip, Newington and Upchurch | 2 |
| Teynham and Lynsted | 2 |
| West Downs | 1 |
| TOTAL | 12 |
| | |
| Conservative | 6 |
| Green | 2 |
| Independent Group | 1 |
| Swale Independent Alliance | 3 |

Sittingbourne

Population 46,340* (31.6% of total population)

| Ward | Number of members |
|----------------------------|-------------------|
| Chalkwell | 1 |
| Homewood | 2 |
| Kemsley | 2 |
| Milton Regis | 2 |
| Murston | 2 |
| Roman | 2 |
| The Meads | 1 |
| Woodstock | 2 |
| TOTAL | 14 |
| | |
| Conservative | 3 |
| Labour | 7 |
| Swale Independent Alliance | 4 |

Sheppey

Population 44,770* (30.5% of total population)

| Ward | Number of members |
|----------------------------|-------------------|
| Minster Cliffs | 3 |
| Queenborough and Halfway | 3 |
| Sheerness | 3 |
| Sheppey Central | 3 |
| Sheppey East | 2 |
| TOTAL | 14 |
| | |
| Conservative | 7 |
| Independent Group | 1 |
| Labour | 2 |
| Swale Independent Alliance | 3 |
| Ungrouped member | 1 |

*All population figures taken from mid-year 2017 estimates from ONS (latest available at the time of writing).

| Policy Development and Review Committee | |
|--|--|
| Meeting Date | 17 July 2019 |
| Report Title | Constitutional Review: Models of Governance |
| Cabinet Member | Cllr Mike Baldock Deputy Leader and Cabinet Member for Planning |
| SMT Lead | David Clifford |
| Head of Service | Head of Policy, Communications and Customer Services |
| Lead Officer | |
| Recommendations | This report is for discussion purposes only |

1 Purpose of Report and Executive Summary

- 1.1 This report sets out to inform a discussion of whether a constitution review should include a change to Swale’s fundamental governance model, and if so how this would need to happen. It outlines the different models of governance available to local authorities and the extent to which these could prove flexible enough to meet the objectives of the constitution review once these are agreed.

2 Background

- 2.1 The fundamental purpose of a local authority’s system of governance is to regulate the allocation and exercise of decision-making power in a way which balances the democratic mandates of all elected representatives while enabling coherent, efficient, timely, transparent and accountable decision-making. In practice, not all of these aims are perfectly mutually compatible, and different models of governance are therefore likely to privilege one subset of aims over another.

Swale’s current governance: the leader-and-cabinet model

- 2.2 Like the majority of councils, Swale currently operates under the leader-and-cabinet model, the essential features of which are set out in the Local Government Act 2000. In this model, all ‘executive’ authority – that is, broadly speaking, authority to make both day-to-day and more strategic decisions in all matters which are not expressly reserved to full council or its committees – is vested in the executive leader. This leader is elected by a simple majority on full council and can be removed at any time in the same way.
- 2.3 The executive leader is obliged to appoint a cabinet of between two and nine further members, each of whom takes on a portfolio of functions, services and responsibilities. The leader’s executive authority is then delegated down to cabinet, and in many cases to cabinet members individually, in order that it can

be efficiently exercised in the practical running of the council's operations. Cabinet members serve at the pleasure of the leader, and can be dismissed at any time. There is no requirement for cabinet to be politically balanced (i.e. for its membership to reflect the relative strength of different political groups on the council).

- 2.4 Under the leader-and-cabinet model, councils are obliged to appoint at least one scrutiny committee of non-cabinet members, whose role is to hold the cabinet to account on behalf of the full council and which has powers in law to review cabinet decisions, make recommendations to cabinet (which cabinet is obliged to respond to but not necessarily to implement), and in some cases to delay implementation of cabinet decisions until cabinet has responded to scrutiny concerns.

Alternatives to the leader-and-cabinet model

- 2.5 Prior to the Local Government Act 2000, local authorities operated a range of models all loosely based on the concept of functional committees exercising what is now known as executive authority over specified services or thematic areas (leisure, environment, housing, etc). These committees were all politically balanced in the same way that non-cabinet committees such as planning and licensing remain balanced in the leader-and-cabinet model.
- 2.6 The 2000 Act obliged most councils to switch to the leader-and-cabinet model, which was intended to streamline the conduct of council business to make it more efficient and more coherent, even at the cost of considerably disenfranchising a large proportion of members. The analogy of course is with the position of the government vis à vis that of parliament, with scrutiny playing the role of parliamentary select committees.
- 2.7 However, while there are very clear reasons for needing to separate executive from legislative functions in a national government, which needs to be able to react immediately to emerging national and international issues and where the legislative assembly is made up of 650 members, the arguments for doing so in a local authority are perhaps more finely balanced.
- 2.8 With many local councillors reacting unfavourably to the changes brought in by the 2000 Act, the Localism Act 2011 provided councils with the option of returning to a committee-based system. Since then, there have been three possible governance models for councils to choose from:
- Leader and cabinet.
 - Directly-elected mayor and cabinet.
 - Committee system.

The first of these was described above. The second is largely the same as the leader-and-cabinet model but with an even more powerful directly-elected leader known as a mayor. This model is not discussed here as there appears to be little appetite for it among Swale members. The third model is discussed below.

3 Discussion

The committee system

- 3.1 Under a committee system, decisions which are taken by cabinet members either collectively or individually in the leader-and-cabinet model are taken by politically balanced service- or function-oriented committees. In a typical district arrangement, there might be four or five such committees, with one focused on (say) environment, another on housing, etc. There is usually some form of central coordinating committee (often known as the policy and resources committee), which has a role in providing strategic oversight to the service committees. In some cases, this committee is comprised of group leaders and/or the chairs of the service committees.
- 3.2 Depending on the strength of the role allotted to a central coordinating committee, there is generally a need for service committees' terms of reference, which are set by council, to be much more detailed and explicit about what is and what is not included than would typically be the case for cabinet portfolios, in order to avoid conflict between committees on matters which could be argued to pertain to more than one committee. In the leader-and-cabinet model, of course, such issues can usually be resolved within the cabinet, or if necessary by a decision of the leader.
- 3.3 Among other issues that require careful consideration by a council moving to a committee system are the need to find mechanisms to ensure that important issues which cut across multiple service committees' remits (for example health or climate change) do not fall down the cracks between the relatively narrow focus of each committee. Of course this can also be an issue in cabinet systems, but typically less so given the generally higher degree of political cohesion between cabinet members than between service committees.
- 3.4 As with a leader-and-cabinet system, some functions are still reserved to full council under the committee system, and the list of these functions is not necessarily very different in either case. (In the committee system these are known as non-delegable versus delegable functions, as opposed to non-executive versus executive.)
- 3.5 As an example of how this would work in practice, under the committee system one would still expect to see both a planning committee as a committee of the full council making decisions on planning applications, and a service committee with responsibility for strategic planning exercising approximately the same power that the cabinet member for planning has currently.
- 3.6 One or more scrutiny committees are optional under the committee system, whereas at least one such committee is legally mandated under the leader-and-cabinet model. The focus of scrutiny is likely to be different under a committee system given that the committees are themselves committees of the whole council, and it could be that scrutiny of the council's financial and non-financial

performance would sit better either with individual committees and/or with any central coordinating committee.

- 3.7 Committee chairs can be extremely powerful under the committee system, not least because there is generally a mechanism enabling them to take urgent decisions which can be ratified retrospectively by the committee. For this reason it is important that the constitution sets out clear rules on how these chairs are appointed.
- 3.8 It is also worth reflecting briefly on the differences between the political dynamics at play in councils operating the different models. Clearly, where a single group has a majority in a leader-and-cabinet council, that group is likely to monopolise all the executive authority in the council. Groups forming coalitions in leader-and-cabinet councils in no overall control can either do so on the basis of a joint programme, if one can be agreed, or on the basis of very autonomous portfolios, so that one group provides the cabinet member for environment while another does so for housing, and those groups do more or less as they please within the portfolios they control.
- 3.9 Under the committee system, any party with an overall majority will have a corresponding majority on all the committees, so is likely to monopolise decision-making just as much as under a leader-and-cabinet model: the difference, of course, is that the power dynamics *within the group* are likely to be altered.
- 3.10 Most interesting is the case of a council in no overall control operating the committee system, because this opens the possibility of groups forming alliances with other groups in order to achieve a majority on individual committees, or indeed on individual decisions, without there necessarily being any expectation that such alliances will be of long duration or extend across functions and services to other committees.

Hybrid models

- 3.11 It is worth noting the flexibility inherent in the leader-and-cabinet model, which could provide a means of meeting the objectives of a constitutional review without the need for a formal change to the committee system. The leader's executive power can be delegated in a fairly flexible way, and there is no legal reason to prevent this including delegations to politically balanced committees.
- 3.12 The residual role of cabinet in this scenario would need to be carefully considered, but there is probably a point at which a highly devolved leader-and-cabinet model sees power apportioned within a council in a way which to all practical intents and purposes is very similar to a committee system with a strong central coordinating committee.
- 3.13 Another option which could merit further investigation would be to expand the number and/or remit of policy development and review committee(s), for example allowing them to make recommendations to cabinet on all or most decisions before they are taken. This approach has been used in Tunbridge Wells for some

time, as a means of addressing the perceived disenfranchisement of backbench members in a more traditional leader-and-cabinet arrangement.

- 3.14 It should be noted that once a council has changed from the leader-and-cabinet model to the committee system (or the other way round) it cannot change back for five years. In the case of more minor changes to the existing system, these would be susceptible to being changed back at any point in time were a future cabinet minded to do so.
- 3.15 It is also worth noting that area committees can form part of a council's governance arrangements under both the leader-and-cabinet and committee systems.

Process and timescales for moving to a committee system

- 3.16 The Localism Act specifies that in order to change from one model of governance to another a local authority must first pass a resolution to do so, and then, as soon as possible after that, make the provisions of the new arrangements available for inspection, including by publishing the features of the new system and the timetable for implementation in a local newspaper. The new constitution can then be adopted at the next annual council.
- 3.17 If the intention at Swale were to adopt the new constitution at annual council in May 2020, we would want to pass the resolution probably at some point in late 2019. There is no minimum period which has to elapse between the resolution and the annual council meeting, but it would be important to allow time to undertake meaningful public consultation.
- 3.18 However, it would also be possible to move towards a committee system in a phased way, utilising the flexibility of the leader-and-cabinet model to introduce either area committees and/or cabinet advisory committees (whether in a single phase or as separate phases) and to develop these in a way which would render cabinet increasingly redundant before moving in a final stage to scrap cabinet altogether.

4 Alternative Options

- 4.1 This report makes no recommendation to agree a specific proposal, so there are no alternative options at this stage.

5 Consultation Undertaken or Proposed

- 5.1 None undertaken to date.

6 Implications

- 6.1 Cross-cutting implications have not been fully analysed at this stage because the report is for discussion only and does not contain any recommendations for decision.

6.2 However, the most significant implication to note at this stage is the financial one. The Council has a constrained revenue budget position and is highly dependent upon funding streams whose future is unclear. Any constitutional changes which resulted in higher direct staff costs and/or increased demands on senior management resources would need to be offset by ceasing other activities.

7 Appendices

7.1 None

8 Background Papers

8.1 None