

Policy Development and Review Committee		Agenda Item: 4
Meeting Date	27 January 2021	
Report Title	Draft report to Cabinet Member for Planning on Constitutional Review – Cabinet Advisory Committees	
Lead Member	Councillor Elliott Jayes, Chairman – Cabinet Advisory Committees Working Group	
Lead officers	Bob Pullen, Policy and Performance Officer Janet Dart, PA to Council Leader/Cabinet	
Key Decision	No	
Classification	Open	
Forward Plan	Reference number:	
Recommendations	1. That the Policy Development and Review Committee consider and approve this report on cabinet advisory committees for submission to the Cabinet Member for Planning	

1. Purpose of Report and Executive Summary

- 1.1. At the invitation of the Cabinet Member for Planning, the Policy Development and Review Committee established a working group to take forward consideration of whether the Council should introduce cabinet advisory committees as part of the constitutional review. This report invites the Committee to consider the findings of the working group and to approve this report and recommendations for submission to the Cabinet Member for Planning.

2. Background

- 2.1. Following the May 2019 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 that has been considered to date includes setting up cabinet advisory committees.
- 2.2. The Cabinet Member for Planning asked the Committee to consider Cabinet’s proposals for establishing cabinet advisory committees and to make any recommendations. The Committee resolved to establish a working group, consisting of Committee members and co-optees, to consider these further.
- 2.3. The working group was comprised of the following members:

Councillor Elliott Jayes (Chairman);
Councillor Steve Davey;
Councillor Mike Dendor;
Councillor Tim Gibson;
Councillor Ken Rowles;
Councillor Julian Saunders; and
Councillor Ghlin Whelan.

- 2.4. The group met three times on 5 November, 18 November and 14 January 2021. This report and the recommendations it contains are the conclusion of the group's work.

3. Background

- 3.1 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.
- 3.2 A summary of each Kent district council's current governance arrangements, with an emphasis on cabinet advisory committees, is at Appendix I.
- 3.3 The Coalition Agreement formulated following the 2019 local elections undertook to carry out a Constitutional review to explore different governance mechanisms in order to diffuse power among members and improve public engagement in decision making. The first part of this review has been completed and resulted in the establishment of four area committees. This report addresses the second area which is the establishment of cabinet advisory committees.

4. Proposals

- 4.1 Appendix I illustrates that most authorities in Kent have some system of committees in place in order to offer advice to their cabinets. The exceptions are Ashford and Swale, and the two Kent districts who have moved to the committee system, Canterbury and Maidstone.
- 4.2 Swale does have the Policy Development and Review Committee which can advise Cabinet and give feedback on new and revised policies and the Local Plan Panel was established with the express purpose of advising Cabinet on all matters relating to the Local Plan.
- 4.3 Many councils have sought to rebalance the role of non-executive councillors by establishing advisory committees which provide cabinet with input and advice before the formal decision-making stage.
- 4.4 These advisory committees take many forms but typically have been established to act as a sounding board and source of advice to cabinet, enabling backbench members to participate in policy formulation prior to the final decision, whether on

an informal basis or through formal recommendations. The overlap with Swale's PDRC should be noted here.

- 4.5 It is a requirement of the Local Government Act 2000 that all committees of a council need to be politically balanced. The exception is cabinet itself and any committees established under cabinet, where the political balance rules do not apply.
- 4.6 The arrangements in place in other Kent district councils operating with a leader and cabinet are detailed in Appendix I. There appear to be three main schools of thought on how to arrange for non-executive councillors to have an input into executive decision-making, in addition to Swale's current approach involving a single PDRC and a separate Local Plan Panel.
- 4.7 The first approach is councils such as Gravesham, Sevenoaks and Tonbridge & Malling, which have a large number of standing advisory committees, in some cases apparently set up in response to being forced to dispense with the old committee system under the Local Government Act 2000.
- 4.8 Others, such as Dartford, Thanet and Tunbridge Wells have fewer committees with a smaller number of members which are more 'task and finish' in their approach, as opposed to being standing committees.
- 4.9 And finally councils such as Folkestone & Hythe has established small, time-limited, advisory panels to focus on specific topics.
- 4.10 Cabinet have considered all these models and decided that they are minded to adopt the models operating in Gravesham, Sevenoaks and Tonbridge & Malling. To reflect the particular needs of Swale, this could feature the following elements:
 - three advisory committees covering the following Cabinet portfolios:
 - health and environment;
 - finance and housing;
 - community and economic development.
- 4.11 At its meeting on 14 October 2020, the Policy Development and Review Committee resolved to set some boundaries for the establishment of cabinet advisory committees including that, if established, cabinet advisory committees:
 - would be politically balanced; and
 - they be chaired by a non-Cabinet or Deputy Cabinet member.
- 4.12 In the various discussions the working group had, they also considered that:
 - cabinet advisory committees should not replicate the role the Scrutiny Committee already played in holding Cabinet to account;

- the political make-up of the authorities in the case studies (Gravesham BC, Sevenoaks DC and Tonbridge and Malling BC) were very different to Swale BCs;
 - there was general agreement that the Tonbridge and Malling model is the closest fit to what Swale BC were trying to achieve;
 - Cabinet members to provide brief summary update reports for the committee to consider; and
 - the committees should be non-partisan, not trying to score political points.
- 4.13 The working group considered that, if established, the effectiveness of cabinet advisory committees should be reviewed after a year.

Number and remit of committees

- 4.14 The working group agreed with Cabinet's proposals that there should be three cabinet advisory committees with the following remits:
- health and environment;
 - finance and housing; and
 - community and economic development.
- 4.15 The working group considered that corporate issues would fit with the finance theme, and transport with economic development.

Terms of reference

- 4.16 The working group considered the terms of reference of Gravesham BC's, Sevenoaks DC's and Tonbridge and Malling BC's cabinet advisory committees alongside those of Swale BC's Policy Development and Review Committee. These are at Appendix II.
- 4.17 As well as considering the terms of reference of other councils, the working group also studied the agendas of the cabinet advisory committees. This revealed that a considerable amount of items on the Gravesham and Sevenoaks committees were simply reports back from either the Cabinet member or senior officers on activity that had already taken place. It was felt this was not a practice Swale should adopt. Instead, the focus of the committees should be on feeding ideas into Cabinet thinking about new policies and processes at the early possible stage, which is something Swale has been seeking to achieve in relation to PDRC over the last few years.
- 4.18 While wishing to avoid excessive 'reporting back' by Cabinet members to the committees, the working group considered that some sort of periodic 'Cabinet

members statement' to a committee, along the lines of the Leaders Update to Council, would be helpful, although not to every meeting.

4.19 Taking all the above into account, the working group has suggested the following terms for reference for the Swale cabinet advisory committees:

- Cabinet Advisory Committees shall be politically balanced and will be chaired by a member of the Council who is not a Cabinet or Deputy Cabinet Member;
- the purpose of Cabinet Advisory Committees is to give initial consideration, within their respective terms of reference, to matters that will come before the Cabinet and to make recommendations to the Cabinet in respect of such matters;
- the Cabinet Advisory Committees shall consider such matters as are referred to it by Cabinet or on their own initiative if they are matters included in the Forward Plan;
- where requested to do so by Cabinet, carry out specific research and development projects and to submit recommendations to Cabinet to help shape and develop emerging policies, strategies, procedures or projects/schemes.

Membership

4.20 The working group agreed with Cabinet's proposal that each cabinet advisory committee comprise of 15 members each to give a good spread of cross-party input.

4.21 However, they recommend that Cabinet members do not have seats as voting members, but would attend as determined by agendas items which in themselves would be largely dictated by what was on the Cabinet Forward Plan. Furthermore, Deputy Cabinet Members, who had no formal executive powers, could be full voting members of the committees, but would have to exercise caution regarding conflicts of interest in relation to items falling within their Cabinet members portfolios.

Resources

4.22 The Working Group studied some analysis of what impact any new Cabinet Advisory Committees would have on resources. While this was difficult to ascertain the impact in financial terms, it was possible to look at the impact on senior officers and democratic service teams.

4.23 The schedule at Appendix III compared a number of factors between Swale, Tonbridge and Malling, Sevenoaks and Gravesham Councils. A number of these factors are fairly evenly split including:

- number of councillors supported;
- number of meetings per year supported; and
- size of the democratic services teams.

4.24 Even with a proposal for three Cabinet Advisory Committees at Swale, the abolition of PDRC would only result in a net increase of about five meetings per year which seems to be within what the other three councils can support through their democratic service teams. In addition, the practice at Swale is for the Policy Team to support such committees as Scrutiny, PDRC, Area Committees etc. and this is also likely to be the case with the establishment of Cabinet Advisory Committees.

4.25 The big contrast is the relative size of the Swale senior management team on the one hand, and the Gravesham, Sevenoaks and Tonbridge and Malling ones on the other. The Swale columns list all staff at Head of Service and above and these numbers are considerably lower than those for Gravesham, Sevenoaks and Tonbridge and Malling. This could potentially have a big impact on senior management in terms of attendance, undertaking research, producing reports etc. This also underlines the need to avoid the practice of Gravesham and Sevenoaks advisory committees of having so much of their agendas focused on 'reporting back'.

5. Recommendations

5.1. The working group suggest PDRC make the following recommendations to the Cabinet Member for Planning.

Recommendations

- Consideration be given to the establishment of three cabinet advisory committees covering:
 - health and environment;
 - finance and housing; and
 - community and economic development.
- Committees should not perform a scrutiny role and business should be conducted in a non-partisan manner;
- Cabinet should implement the recommendation of the Policy Development and Review Committee that committees should be politically balanced and not be chaired by a Cabinet member;
- Cabinet members should not be full members of the cabinet advisory committees, but should attend as appropriate;

- e) Deputy Cabinet members should be voting members, but not be a member of a committee relating to that of their Cabinet Members portfolio responsibilities;
- f) The committees should have 15 members each to give appropriate cross-party representation and councillors can be members of more than one committee;
- g) Shall have the terms of reference as listed in paragraph 4.19;
- h) Consider the resource implications of introducing cabinet advisory committees, particularly in respect of officers in view of Swale's very lean senior management structure;
- i) That the effectiveness of cabinet advisory committees should be reviewed after a year.

6. Alternative Options

- 6.1. No alternative options are proposed.

7. Consultation undertaken or proposed

- 7.1. The working group has not undertaken any formal consultation process.
- 7.2. The working group has updated the Policy Development and Review Committee during the review.

8. Implications

- 8.1. Implications of introducing cabinet advisory committees will be a matter for Cabinet to consider.

9. Appendices

- 9.1. The following documents are to be published with this report and form part of the report:
 - Appendix I: Summary of Kent district council's current governance arrangements
 - Appendix II: Examples of terms of reference of cabinet advisory committees
 - Appendix III: Resource considerations

10. Background Papers

- 10.1 Report to Policy Development and Review Committee on cabinet advisory committees 14 October 2020:

<https://services.swale.gov.uk/meetings/documents/s15478/Cabinet%20Advisory%20Committees.pdf>

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KENT DISTRICT COUNCILS – GOVERNANCE AND COMMITTEE ARRANGEMENTS

Ashford Borough Council

- Leadership: Leader and Cabinet (ten members)
- Scrutiny: Single committee (eleven members)
- Advisory: No Cabinet advisory committees. Selection and Constitutional Review Committee (twelve members) advises the Council on Constitutional issues. Membership includes Cabinet members
- Area forums: None
- Other: Standard regulatory committees, standards, appointments, joint transportation board etc. plus a committee overseeing the Council's trading companies

Canterbury City Council

- Leadership: Committee system comprised of three principal committees:
Policy and Resources Committee (thirteen members plus a sub-committee);
Community Committee (twelve members);
Regeneration and Property Committee (thirteen members).
- Scrutiny: No formal scrutiny committee, but the Decision Review Committee (twelve members) is able to review the decisions made by the three main service committees
- Advisory: Governance Committee (ten members) advises Council on constitutional matters
- Area forums: Four area forums consisting of ward councillors for the three main population areas and rural areas
- Other: Standard regulatory committees, Whitstable Harbour Board, COVID-19 Emergency Committee

Dartford Borough Council

- Leadership: Leader and Cabinet (seven members)
- Scrutiny: One main Scrutiny Committee (seventeen members) plus a Crime and Disorder Panel (seven members) and a Policy Overview Committee (seventeen members)

Advisory: Two Cabinet Advisory Panels (twenty members each) act as a sounding board and source of advice to the Cabinet and to enable backbench Members to participate in policy formulation pre-decision

- Cabinet Advisory Panels A and B;
- Terms of reference - act as a sounding board and source of advice to the Cabinet and to enable backbench Members to participate in policy formulation pre-decision. These Panels are consultative forums with no decision-making powers and are advisory only i.e. reporting/recommending accordingly to the Cabinet;
- twelve members each; meet quarterly; chaired by non-Cabinet members;
- separately, the council has a Policy Overview Committee (not a scrutiny committee) which undertakes a range of functions relating to policy overview and service delivery, providing advice and recommendations to Cabinet as necessary – seventeen members, meets quarterly, chaired by a non-executive councillor

Area forums: None

Other: Standard regulatory committees, plus various appeals panels

Folkestone and Hythe District Council

Leadership: Leader and Cabinet (ten members)

Scrutiny: Single overview and scrutiny committee (ten members)

Advisory: Two small working groups to advise Council on constitutional and climate change issues, plus four small working groups to advise Cabinet on specific geographical issues (e.g. M20/Junction 11)

- to consider matters in council resolution dated 24 July 2019 (climate and ecological emergency);
- the Working Group is advisory and has no decision-making powers. Officers will make the views of the group known to both cabinet and the overview and scrutiny committee through the formal decision-making processes;
- the Working Group shall report to the Cabinet and Full Council as appropriate;

- six members (exec and non-exec); chaired by Cabinet Member for the Environment; scheduled to meet monthly or as frequently as business dictates.

Area forums: None

Other: Standard regulatory committees

Gravesham Borough Council

Leadership: Leader and Cabinet (seven members)

Scrutiny: Overview Scrutiny Committee (nine members) and Crime and Disorder Scrutiny Committee (fourteen members)

Advisory: Six cabinet advisory committees (ten members each) which make recommendations to the relevant Cabinet Member as to determining any matters within their remit

- Commercial Services Cabinet Committee;
- Community and Leisure Cabinet Committee;
- Housing Services Cabinet Committee;
- Operational Services Cabinet Committee;
- Performance and Administration Cabinet Committee; and
- Strategic Environment Cabinet Committee.

The common characteristics of all of these advisory committees are:

- ten members each;
- held quarterly;
- all chaired by Cabinet members;
- they are all Cabinet committees (political balance rules don't need to apply);
- their common terms of reference are:
 - to make recommendations to the relevant portfolio holder as to determining any matters within his/her remit.

Area forums: None

Other: Standard regulatory committees

Maidstone Borough Council

Leadership: Committee system comprised of four principal committees:

Policy and Resources Committee (fifteen members);

Strategic Planning and Infrastructure (twelve members);

Communities, Housing and Environment (twelve members);

Economic Regeneration and Leisure (eleven members).

Scrutiny: None

Advisory: None

Area forums: None

Other: Standard regulatory committees, plus committees dealing with constitutional and staffing issues

Sevenoaks District Council

Leadership: Leader and Cabinet (six members)

Scrutiny: Single overview and scrutiny committee (eleven members)

Advisory: Six cabinet advisory committees (twelve members)

Sevenoaks has six Cabinet advisory committees:

- Cleaner and Greener Advisory Committee;
- Development and Conservation Advisory Committee;
- Finance and Investment Advisory Committee;
- Housing and Health Advisory Committee;
- Improvement and Health Advisory Committee; and
- People and Places Advisory Committee.

The common terms of reference for each committee are:

- the Advisory Committee shall undertake policy initiation and development;
- the Advisory Committee shall consider such other matters as are referred to it by the Portfolio Holder;
- at the request of either Cabinet or the Audit Committee carry out specific research and development projects and to submit recommendations to Cabinet;
- the Advisory Committee shall develop and approve its annual work plan ensuring that there is efficient use of the Committee's time; and
- the Cabinet Member be requested to provide a report to each meeting outlining their activities since the previous meeting and any decisions they intend to take in the following three months.

Area forums: None

Other: Standard regulatory committees

Thanet District Council

Leadership: Leader and Cabinet (five members)

Scrutiny: Single overview and scrutiny panel (fourteen members)

Advisory: Three Cabinet advisory panels (seven-nine members)

Thanet has three Cabinet advisory groups:

- Fees and charges Cabinet Advisory Group;
- Health and wellbeing Cabinet Advisory Group; and
- Local plan review Cabinet Advisory Group.

Each Advisory Group has individual terms of reference related to their specific purpose, but all are aimed at providing advice to Cabinet.

The common features of each Advisory Committee are:

- Each Group has specific provisions regarding who can chair (e.g. cabinet or non-cabinet member);
- Groups are not required to be politically balanced, but membership of each is drawn from across the political groups on the council;
- Membership of each is relatively small (e.g. seven to nine members from an council with 56 members);
- Meetings are on ad-hoc basis.

Area forums: None

Other: Standard regulatory committees

Tonbridge and Malling Borough Council

Leadership: Leader and Cabinet (six members)

Scrutiny: Single overview and scrutiny committee (eighteen members)

Advisory: Five cabinet advisory boards (sixteen members each)

Area forums: One (Tonbridge Forum – membership formed of ward members and Tonbridge based organisations)

Tonbridge and Malling have five advisory boards to assist Cabinet in its decision-making. They are:

- Communities and Housing Advisory Board;
- Economic Regeneration Advisory Board;
- Finance, Innovation and Property Advisory Board;
- Planning and Transportation Advisory Board; and

- Street Scene and Environment Services Advisory Board.

Each Advisory Board has individual terms of reference related to their specific purpose, but all are aimed at providing advice to Cabinet. The common features of each board are:

- chaired by a non-executive member;
- meet quarterly; and
- boards are politically balanced.

Other: Standard regulatory committees, including three area-based planning committees

Tunbridge Wells Borough Council

Leadership: Leader and Cabinet (five members)

Scrutiny: Single overview and scrutiny committee (twelve members)

Advisory: Three cabinet advisory boards (ten-eleven members)

Tunbridge Wells have three Cabinet advisory boards as follows:

- Communities and Economic Development Cabinet Advisory Board;
- Finance and Governance Cabinet Advisory Board; and
- Planning and Transportation Cabinet Advisory Board.

Each Cabinet advisory board has common terms of reference as follows, with specific remits for particular executive functions:

- Each Cabinet Advisory Board will have the following general responsibilities:
 1. Consider and where necessary make recommendations on all key and non-key decisions to be taken by Cabinet that fall within the remit of the Cabinet Advisory Board;
 2. Assist and advise the Cabinet in the development of the Policy Framework issues that fall within the remit of the Cabinet Advisory Board;
 3. Assist in the development of Cabinet decisions within the remit of the Cabinet Advisory Board that require wider member involvement.
- Cabinet Advisory Boards will have the power to:
 1. Request members of the Cabinet and officers to attend before it to answer questions;

2. Question and gather evidence from any person (with their consent);
3. Co-opt expert individuals on a non-voting basis to assist their work.

- The common features of each Board are:
 - each Board is chaired by a Cabinet member;
 - the Boards are politically balanced;
 - they meet quarterly.

Area forums: None

Other: Standard regulatory committees

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Examples of terms of reference of cabinet advisory committees

Gravesham Borough Council

Gravesham's Cabinet Advisory Committee's common terms of reference are:

- to assist and advise the Leader and the Cabinet on the development of the Council's Policy Framework by investigating topics referred to them by the Leader or Cabinet;
- to request the Leader, Cabinet members and officers to attend and answer questions;
- to invite input, where appropriate from external sources, to assist in the Committees' deliberations; and
- to investigate service performance, policy issues and possible options.

Sevenoaks District Council

Sevenoaks District Council's Cabinet Advisory Committees have the following common terms of reference:

- the Advisory Committee shall undertake policy initiation and development;
- the Advisory Committee shall consider such other matters as are referred to it by the Portfolio Holder;
- at the request of either Cabinet or the Audit Committee carry out specific research and development projects and to submit recommendations to Cabinet;
- the Advisory Committee shall develop and approve its annual work plan ensuring that there is efficient use of the Committee's time; and
- the Cabinet Member be requested to provide a report to each meeting outlining their activities since the previous meeting and any decisions they intend to take in the following three months.

Tonbridge and Malling Borough Council

Tonbridge and Malling's Advisory Boards have specific terms of reference relating to their particular purposes. The following is a catch all provision relating to all of the Council's Advisory Boards:

- advisory boards will be chaired by a member of the Council who is not a member of the Executive and their purpose is to give initial consideration, within their respective terms of reference, to matters that will come before the Executive and to make recommendations to the Executive in respect of such matters.

Swale Borough Council

The terms of reference of Swale BC's Policy Development and Review Committee are:

- consider any built-in review of any existing policies, strategies or plans of the Council;
- consider existing policies in the light of changes to legislation or national guidance;
- consider other reviews of existing council policy referred by a Cabinet Member or by resolution of Cabinet, Scrutiny Committee or Full Council;
- consider proposals for new council policy referred by a Cabinet Member, Cabinet or Full Council;
- provide pre-decision comment on policy decisions. A policy shall not be re-considered by the committee within two years or before its built-in review period, unless by resolution of the full Council or Cabinet, or as required by a change in legislation or national guidance.

RESOURCE IMPLICATIONS

	Swale BC	Sevenoaks DC	Tonbridge and Malling BC	Gravesham BC
Number of councillors	47	54	54	44
Senior management structure	<ul style="list-style-type: none"> • Chief Executive; • Director of Regeneration; • Head of Finance; • Head of Policy, Communications and Customer Services; • Head of Commissioning, Environment and Leisure; • Head of Development Services; and • Head of Housing, Economy and Community Services • Heads of Services for Mid Kent Services 	<ul style="list-style-type: none"> • Chief Executive; • Assistant Chief Executive (Strategy & Transformation); • 4 x Deputy Chief Executive & Chief Officers (Finance & Trading, People Places, Planning & Regulatory Services, Customer & Resources); and • the Head of Legal & Democratic Services 	<ul style="list-style-type: none"> • Chief Executive; • Director of Central Services and Deputy Chief Executive; • Director of Finance and Transformation; • Director of Street Scene, Leisure and Technical Services; and Director of Planning Housing and Environmental Health. • These have Service Heads sitting under them for each area of work (e.g. Leisure, Planning, Housing etc.) 	<ul style="list-style-type: none"> • Chief Executive; • Director (Communities); • Director (Corporate Services); • Director (Housing & Operations); • Director (Planning & Development); • Head of Legal Services (shared with Medway Council); and • 15 Assistant Directors, Service Managers or Service Heads.
Democratic services team	1 x Senior Democratic Services Officer; 3 x Democratic Services Officers	1 x Democratic Services Team Leader; 2 x Democratic Services Officers	1 x Principal Democratic Services Officer (30 hours); 1 x Democratic Services Officer (full time); 1 x Democratic Services Officer (22.5 hours)	1 x Committee Services Manager; 2 x Committee Services Officers; 1 x Committee Services Assistant
Number of meetings per year	c.80	c.80-90	c.90	c.90
Number of Cabinet Advisory Committee meetings per year	Currently none, but PDRC meetings average 7 per year	6 which meet 4 times each per year	5 which meet 4 times each per year	6 which meet 4 times each per year

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