

Report to:	Council
Date:	24 February 2020
Title:	Lewes District Council Governance Review
Report of:	Monitoring Officer and Assistant Director of Corporate Governance
Ward(s):	All
Purpose of report:	To review the Democratic Governance structure of Lewes District Council in accordance with approved Council motions
Officer recommendation(s):	<p>(1) That Council approves the deletion of the Scrutiny Committee and the creation of a new Policy and Performance Advisory Committee as summarised in paragraphs 4.2 to 4.4 below and in accordance with the articles, procedure rules and membership set out in Appendices 4, 5 and 6.</p> <p>(2) That Council approves the definitions for scrutiny call-in of Cabinet decisions as set out in paragraph 16.4 of the proposed Policy and Performance Advisory Committee procedure rules in Appendix 5.</p> <p>(3) That Council approves the adoption of revised debating rules in respect of motions as summarised in paragraph 5.6 below and set out in Appendix 7.</p> <p>(4) That the Monitoring Officer be authorised to make the necessary substantive changes along with any other technical changes to the Constitution in order to give effect to the above decisions.</p> <p>(5) That the democratic governance changes agreed above all come into force from the start of the 2020/21 municipal year (May 2020) and be reviewed after a full municipal year in operation.</p>
Reasons for recommendations:	Members of Lewes District Council have expressed a desire to review the Democratic Governance arrangements in order to enable a broader cross section of members to have meaningful input into key decisions to be made by the Executive. The proposals in this report are designed to achieve that objective without the need for additional costs and resources, and whilst maintaining necessary decision-making transparency, efficiency and accountability.

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1 Introduction

- 1.1 As a result of two motions approved by Full Council in February and November 2018, officers were asked to bring an options paper to a future Council meeting to propose a revised governance structure which best provides transparency, openness and democracy, having regard to associated costs and benefits. Further, a cross-party member working group was created to assist and strengthen this work.
- 1.2 The Local Government Act 2000 mandated authorities with populations in excess of 85,000 to move to alternative ‘executive style’ democratic structures, traditional committee structures being considered by the Audit Commission and Department of Environment to be complicated, non-strategic, encouraging micro management, and slow to make decisions. However, the Localism Act 2011 introduced flexibility to allow a return to committee structures or the creation of ‘hybrid’ models.

2 The Working Group Membership and Objectives

- 2.1 The cross-party working group initially set up comprised Councillors Catlin, Davy, Denis, Enever and Osborne. Following the 2019 local elections, the membership changed to be Councillors Banks, Burman, Collier, Davy and O’Brien. The officer project lead has been Peter Finnis (Assistant Director, Corporate Governance), with input from Catherine Knight (Monitoring Officer), Simon Russell (Committee and Member Services Manager), and Sarah Lawrence (Senior Committee Officer).
- 2.2 At the outset, the original working group agreed three objectives for this project and these were reaffirmed by the new membership following the 2019 elections. These agreed objectives were:
- a. To ensure that the governance structure enables all elected members to have sufficient opportunity to input into the Council’s democratic decision making process.
 - b. To ensure that the governance structure enables LDC to function with democratic transparency, efficiency and accountability.
 - c. To ensure that the governance structure can be properly supported within realistic resource levels.

3 Structure Options and Considerations

3.1 In arriving at the recommended proposals in this report, a considerable amount of detailed research was undertaken by the working group into all the various structure options (executives, committees and hybrids) and as part of that research, information was gleaned from 15 local authorities who had departed from executive structures and changed to committee or hybrid structures. Members were extremely mindful of the need to gather information from others whilst retaining focus on the specific needs of Lewes District Council having regard to the particular culture of this Council and its communities.

3.2 As part of the information and knowledge gathering, the working group invited Mr Ed Hammond from the Centre for Public Scrutiny and an acknowledged expert on local government governance, to attend one of their earlier meetings. The key points of advice conveyed by Mr Hammond were:

- The importance of looking at governance ‘in the round’ and accepting that it does not exist in isolation but needs to be linked to the delivery of services, priorities and vision of the Council.
- The working group was cautioned to think very carefully about the implications of a complete change of governance structure.
- The need to understand that leadership takes many forms including decision making, challenge, championing and representation.
- Attitudes and behaviours are more important than governance structure. The structure should reflect and serve the culture.
- Choices are unique to the Council that creates them. It is not possible to transpose a governance structure that has been perceived to be successful elsewhere and expect the same measure of success in a different environment.
- Whilst the flexibilities enabled by the Localism Act has encouraged consideration of ‘hybrid’ systems, these are still, in effect, executive models but with additions or variations connected to the scrutiny process.

3.3 The working group then went on to consider potential structure options for Lewes District Council which included cost implications as well as the democratic pros and cons. In total, 8 structural options (including executive, committee and hybrid models) were considered in detail and tested against the three objectives that the working group had agreed for this project. As a result, a shortlist of 3 final options were chosen to take forward and discuss in detail with party groups on the Council. The final structure proposal being proposed here emerged as the preferred option across all groups on the Council.

4 Structure Proposal

- 4.1 After much detailed deliberation the consensus of the working group was that the objectives of this project could be achieved whilst retaining the Executive system but by re-designing the non-executive element of the structure currently covered by the Scrutiny Committee. It was felt that the culture and intent of Scrutiny was too focused on retrospective performance review rather than input into policy and key decisions yet to be considered by the Executive.
- 4.2 Consequently, it is proposed that the current Scrutiny Committee be deleted, and be replaced by a new Policy and Performance Advisory Committee. For statutory purposes, this committee would still retain the call-in powers of scrutiny and the opportunity for retrospective performance review, but would be distinctly more focused on policy and key decision input. To enable this, it would meet more frequently and be calendared in alignment with Cabinet so as to have the opportunity to input into any selected matters at all Cabinet meetings. This would normally be seven meetings a year (rather than the current four).
- 4.3 The new Policy and Performance Advisory Committee would be chaired by a member of an opposition group on the Council and, whilst it would have a fixed and politically proportioned membership, all Members other than executive members would be 'de facto' substitutes enabling fluidity of attendance depending on subject matters being considered.
- 4.4 Proposed articles, procedure rules and membership for the new Committee are appended to this report at **Appendices 4, 5 and 6**. For comparison, the articles, procedure rules and membership of the current Scrutiny Committee are shown at **Appendices 1, 2 and 3**. The constitution makes a number of references to the current Scrutiny Committee in other sections but these would just need to be amended as technical changes to reflect the new arrangements. The key aspects of operation for the new Policy and Performance Advisory Committee would be:
- A membership made up of non-executive members, chaired by an opposition group and balanced to political proportions. All other non-executive members would be able to act as substitutes for other members of their own groups.
 - Meeting agendas will be split into two distinct parts, firstly covering policy input/development and secondly covering performance review.
 - The committee will input into all/any key matters due for decision by Cabinet and committee meetings will be programmed to meet in each cycle and in close proximity to Cabinet to maximise this opportunity.
 - At each meeting, the Committee will identify key decision matters on the Forward Plan for consideration at the following meeting.
 - Performance Review will be primarily focused on the quarterly performance reports submitted to the relevant scheduled meetings.
 - The statutory call-in powers of scrutiny are retained.
 - The ability to create Review Panels for detailed work is retained.
 - The ability to invite and/or require the attendance of Executive Members and Senior Officers is retained.

- Intended work in respect of Review Panels and any other identified matter for consideration over and above the core policy and performance work will be identified on the annual work programme.

4.5 All other elements of the physical structure would remain as at present. However, it will be important to monitor whether the change being made here achieves the objectives that are desired and that the structure should be reviewed at the end of its first municipal year of operation. The working group was also favourably disposed towards the option of creating two new advisory committees with one focused on policy development and the other specialising in performance review. This would be worth revisiting should the structural change proposed here fail to meet the set objectives.

5 Other Matters

5.1 During the course of this work, other matters relevant to the democratic governance structure arose as follows.

5.2 Firstly, there is no current specific guidance in the Lewes District Council constitution as to what constitutes the legitimate call-in of an item that has been the subject of Cabinet decision. Following research into best practice elsewhere, a suggested set of definitions have been incorporated at paragraph 16.4 in the proposed Policy and Performance Advisory Committee procedure rules at **Appendix 5**.

5.3 Secondly, there was discussion around the issue of meeting days and times for Cabinet and other bodies. There was no particular conclusion to this and it is not something that has to be enshrined into the Council's formal constitution. However, work is currently being done on next year's calendar of meetings and, as well as factoring in dates for the new committee being proposed (if approved), leaders will be consulted on any desired changes to current timings of Cabinet and other Committees.

5.4 The other issue to mention is something which was raised outside of this specific review. A previous project undertook a modernisation review of how Full Council meetings operate. One of the elements agreed by previous group leaders was to require proposed amendments to motions to be submitted by a deadline in advance of the meeting. It is apparent that this has not been entirely welcomed and that some Members would prefer that the Council reverts back to being able to table amendments during motion debates at the meeting. Therefore, Council has the following options for change specifically in respect of motions submitted to full Council by individual Members.

- (a) To maintain current arrangements – Amendments to Council motions must be submitted in advance by the prescribed deadline;
- (b) Amendments on motions can be submitted at the meeting but must be tabled at the start of the debate; or
- (c) Amendments on motions can be submitted at the meeting at any point during the debate.

5.5 Options (a) and (b) both enable a single debate on the issue in hand as all

potential decisions are on the table before the debate commences, but do not allow for potential amendments that emerge during debate to be tabled.

5.6 Option (c) Enables the tabling of amendments during debate and require a fresh debate and vote on each amendment as and when they are tabled, meaning that any Members who have already contributed to the substantive debate can make a further contribution on the amendment debate. This would require a specific set of debating rules to be approved and, in anticipation that this is the favoured option, these are proposed as set out in **Appendix 7**.

5.7 The above options are being suggested specifically for motions tabled by individual Members only. The current debating rules (as reflected in option (a) above) would be maintained for dealing with all other reports and decision matters to Council. This is in recognition of the fact that reports are fully formed and sufficient detail in respect of legitimate options are apparent, thus allowing members the opportunity to make suggested changes in advance and enable a clean single debate. In respect of motions, potential options can emerge during the process of debate and enabling amendments to be tabled during the debate allows members to exercise flexibility in arriving at a desired outcome.

6 Consultation

6.1 As referred to in section 3 above, the working group consulted with the Centre for Public Scrutiny on this project. In addition, there has been ongoing and regular communication with group leaders on emerging proposals. This finalised report has also been the subject of consultation with all Party Groups, Corporate Management Team and Senior Managers across the authority.

6.2 As a result of the above consultations, no objections to the structural change proposals in this report have been received. Also, from feedback received, there appears to be a majority consensus in favour of adopting the more traditional debating procedure for motions at Council set out in paragraph 5.6 (option (c)) above and **Appendix 7** and this is reflected in the recommendations in this report. I have also received broad consensus in respect of call-in definitions as referred to in paragraph 5.2 above and have incorporated these into the new procedure rules in **Appendix 5**.

7 Financial Appraisal

7.1 The proposed new governance structure results in just a small additional number of meetings which should be containable within existing officer support levels. Further, there are no anticipated increases in the number of special responsibility allowances arising from these proposals, though it is noted that Council have yet to consider the report of the Independent Remuneration Panel and may choose to adopt revised allowance levels. As such, there are no likely additional financial implications directly arising from the proposals in this report. However, it will be important to monitor the extent of any requirement for additional meetings and/or review work. Should this become onerous, it will be necessary to review resource levels in future.

8 Legal Implications

- 8.1 The proposed revised governance structure retains the necessary statutory requirements of an executive-style structure and fully complies with current legislation.

9 Risk management implications

- 9.1 The proposed new structure does carry the risk of generating additional work and the potential for slower decision-making. However, these risks can be mitigated by appropriate structure of the calendar of meetings to ensure that the disruption to the timelines of reporting and decision making are minimised. Conversely, these risks are offset by the greater opportunities for wider input into the decision making process, leading to better informed and more inclusive decision making. Fundamental to testing this will be to keep the structure under review.

10 Equality analysis

- 10.1 There are no equality implications directly arising from this report. However, if the structure delivers the intended objectives of wider input into matters under consideration, it can only enhance the opportunity for the broadest possible implications to be deliberated and taken into account in arriving at informed quality decisions to the benefit of the wider community.

11 Environmental sustainability implications

- 11.1 There are no environmental sustainability implications arising from the proposals in this report.

12 Appendices

- Appendix 1 – Current Scrutiny Committee Articles
- Appendix 2 – Current Scrutiny Committee Procedure Rules
- Appendix 3 – Current Scrutiny Committee Membership
- Appendix 4 – Proposed Policy and Performance Advisory Committee Articles
- Appendix 5 – Proposed Policy and Performance Advisory Committee Procedure Rules
- Appendix 6 – Proposed Policy and Performance Advisory Committee Membership
- Appendix 7 – Proposed new debating rules for Motions at Council

13 Background papers

There are no background papers used in compiling this report.