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<b>Subject:</b>	<b>REVIEW OF COMMITTEE ARRANGEMENTS</b>
<b>Meeting and Date:</b>	<b>Governance Committee – 27 June 2019</b> <b>Council – 24 July 2019</b>
<b>Report of:</b>	<b>Joint Report of the Head of Governance and the Monitoring Officer</b>
<b>Classification:</b>	<b>UNRESTRICTED</b>

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**Purpose of the report:** To review the current committee structure and size and provide options for consideration by the full Council.

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**Recommendation:**

Governance  
Committee:

- (a) That it makes recommendations to the full Council on whether any changes need to be made to the existing committee structure (excluding scrutiny) agreed at the Council meeting on 17 May 2019 and/or to the number of seats on each committee.
- (b) That it makes recommendations to the full Council on the number of scrutiny committees (minimum of one) to be operated by the Council and the number of seats on the scrutiny committee(s).
- (c) That, having due regard to the statutory guidance, it makes recommendations to the full Council on whether any changes need to be made to the Constitution in respect of the participation of lead members on scrutiny committees.
- (d) That, having due regard to the statutory guidance, it makes recommendations to the full Council on whether any changes need to be made to the method by which the Chairman and Vice-Chairman of scrutiny committee(s) are elected.
- (e) That it be noted that officers will consider any other matters arising from the Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities as part of the annual Review of the Constitution in 2019.

Council:

- (a) That Council determines whether any changes need to be made to the existing committee structure (excluding scrutiny) agreed by Council at its meeting on 17 May 2019 and whether any changes need to be made to the number of seats on each committee.
  - (b) That Council determines whether any changes need to be made to the number of scrutiny committees (minimum of one) to be operated by the Council and the number of seats on the scrutiny committee(s).
  - (c) That, having due regard to the statutory guidance, Council determined whether any changes need to be made to the Constitution in respect of the participation of lead members on
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scrutiny committees.

(d) That, having due regard to the statutory guidance, Council determines whether any changes need to be made to the method by which the Chairman and Vice-Chairman of scrutiny committee(s) are elected.

(e) That it be noted that officers will consider any other matters arising from the Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities as part of the annual Review of the Constitution in 2019.

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## 1. Summary

1.1 The Council at its meeting held on 17 May 2019 instructed officers to review (a) the committee structure and (b) the number of seats on each committee. This report sets out potential options to be considered by the Governance Committee and full Council.

## 2. Introduction and Background

2.1 The elections held on 2 May 2019 were the first held since The Dover (Electoral Changes) Order 2019 was brought into effect. The Order reduced the number of district councillors from 45 to 32 and the number of wards from 21 to 17. Following this change it was decided by full Council that it was an appropriate time to review the committee structure to ensure it was still fit for purpose for a smaller council size. This report sets an analysis of the impact of the change in council size on the committee arrangements and sets out the options that Members may wish to consider arising from this.

2.2 In addition to the review requested by full Council, the Department for Housing, Communities and Local Government issued statutory guidance in May 2019 in respect of Overview and Scrutiny that the Council must have regard to in making its scrutiny arrangements.<sup>1</sup> The phrase ‘must have regard’ comes directly from the statutory guidance (page 5) and is defined as follows:

“The phrase ‘must have regard’, when used in this context, does not mean that the sections of statutory guidance have to be followed in every detail, but that they should be followed unless there is a good reason not to in a particular case.”

2.3 The statutory guidance also suggests that authorities may have regard to other material they might “choose to consider, including that issued by the Centre for Public Scrutiny, when exercising their overview and scrutiny functions.”

2.4 Finally, in setting out the parameters of this report it should be noted that alternative models of governance arrangements permitted under the Local Government Act 2000 (as amended by the Localism Act 2011) have not been considered as this is outside the remit set by Council.

## 3. Committee Structure

3.1 The Council currently appoints the following committees:

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<sup>1</sup> *Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities (May 2019)*  
<https://www.gov.uk/government/publications/overview-and-scrutiny-statutory-guidance-for-councils-and-combined-authorities>

COMMITTEE	ESTABLISHED BY
Dover Joint Transportation Board	Agreement with Kent County Council
Electoral Matters Committee	Decision of the Council
General Purposes Committee	Decision of the Council
Governance Committee	Decision of the Council
Joint Staff Consultative Forum	Collective bargaining agreement
Joint Health, Safety and Welfare Consultative Forum	Health and Safety at Work Act 1974
Licensing Committee	Licensing Act 2003
Planning Committee	Decision of the Council
Regulatory Committee	Decision of the Council
Scrutiny (Community & Regeneration) Committee	The Local Government Act 2000 (s.21(1)) requires at least one scrutiny committee (see section 5 of this report for more information)
Scrutiny (Policy & Performance) Committee	

- 3.2 The functions exercised by each of these committees are set out in Appendix 1 of this report for information.
- 3.3 The above list of committees provides limited scope for the abolition or merger of committees. For example, one option considered by officers was the amalgamation of the statutory Licensing Committee (which routinely considers all matters under the Licensing Act 2003 and Gambling Act 2005) and the non-statutory Regulatory Committee (which deals with licensing matters outside of the Licensing & Gambling Acts) into a single committee. However, it is the view of the Solicitor to the Council that for all practical purposes the Licensing Act 2003 requires it to only exercise the functions set out in the legislation, which would therefore prevent such an amalgamation.
- 3.4 The Dover Joint Transportation Board is a non-statutory joint forum with Kent County Council which advises on the exercise various functions relating to highways and road traffic. The membership and functions are specified in an agreement with Kent County Council and provide parity between the numbers of members of each authority. Any changes would require the agreement to be renegotiated with Kent County Council.
- 3.5 There is a statutory minimum requirement that the Council have one scrutiny committee as it operates executive arrangements. This means that the Council could potentially reduce the number of scrutiny committees to one. This is set out in more detail in section 5 of the report.
- 3.6 This leaves the following committees that could potentially be merged or abolished (with their functions reabsorbed by the full Council):
- Electoral Matters Committee
  - General Purposes Committee
  - Governance Committee
  - Planning Committee

- Regulatory Committee

- 3.7 The Electoral Matters Committee and General Purposes Committee are the two committees that in terms of remit offer the most potential for abolition or merger as they are exercising functions they could be absorbed relatively easily by the full Council. However, it should be noted that the small size of each committee (5 members on each) and the infrequency of meetings (neither has scheduled meetings) mean that in practical terms there is little benefit from abolishing the two bodies. Furthermore, the recent electoral arrangement review has demonstrated the benefits in having a more flexible body (such as a committee) for discussions prior to final decisions at the full council as opposed to having to call meetings of the full council at every stage in the review process. In respect of the option of merging the two committees, the dissimilar remits while not insurmountable would have to be given consideration.
- 3.8 The Governance Committee fulfils the role of an 'independent audit committee' required by the Code of Practice for Internal Audit in Local Government (CIPFA 2006), although this has subsequently been superseded by the UK Public Sector Internal Audit Standards (PSIAS) it has not changed the requirement for an 'independent audit committee'. The CIPFA guidance also recommends that "to be effective, the audit committee needs to be independent from executive and scrutiny" and on this basis abolishing the committee would not respect the guidance and merging its functions with another committee would weaken this focus. The other role exercised by the Governance Committee in respect of the ethical framework for elected members has significant synergy with its role in respect of the risk framework for audit and also needs to remain independent from the executive and scrutiny functions. It is therefore not recommended that any changes be made to the Governance Committee.
- 3.9 The Planning and Regulatory Committees exercise functions which in common parlance (though not in law) are often referred to as being quasi-judicial in nature. The decision making functions of these committees required a high degree of procedural fairness which, in practice, would present problems if exercised directly by the full Council. For this reason it is not recommended that either committee be abolished. Officers examined the potential for merging the two committees but, other than some potential synergy in respect of the licensing of street furniture, it was felt that the remits were too dissimilar (e.g. considering planning applications compared to considering taxi driver applications and 'fit and proper' person reviews) to justify such a change as it would result in effectively two separate agendas as part of the same meeting or separate meetings to cover each area. It is therefore not recommended that any changes be made to the Planning Committee or Regulatory Committee.

#### 4. **Committee Sizes**

- 4.1 The next matter to consider following the number of committees is the size of the committees which, with the exception of the full Council (as all councillors are automatically members of the full Council) and the Dover Joint Transportation Board (which is governed by an agreement with Kent County Council) can be altered by a majority vote of the Council.
- 4.2 The Annual Meeting of Council held on 17 May 2019 appointed members to a total of 84 Committee Seats (excluding the full Council, the Cabinet, Project/Policy Advisory Groups, Licensing Sub-Committees, Executive Groups and appointments of fewer than 3 members), on the basis of proportional entitlement (either required or agreed to by Council to be treated as proportional) as follows:

<b>COMMITTEE</b>	<b>Current seats on each committee</b>
Dover Joint Transportation Board	7
Electoral Matters Committee	5
General Purposes Committee	5
Governance Committee	7
Joint Staff Consultative Forum	5
Joint Health, Safety and Welfare Consultative Forum	5
Licensing Committee	15
Planning Committee	10
Regulatory Committee	5
Scrutiny (Community & Regeneration) Committee	10
Scrutiny (Policy & Performance) Committee	10
<b>Total</b>	<b>84</b>

4.3 The table above results in a **current mean average of 2.62 committee places per member**, excluding full Council, Cabinet, Project/Policy Advisory Groups, Licensing Sub-Committees and Executive Committees. It should be noted that within this average, some members will be appointed to more and some to less than the average number of seats. This compares with a mean average of 1.86 committee places per member prior to the elections on 2 May 2019.

4.4 A breakdown of the number of committee seats (excluding full Council, Cabinet, Project Advisory Groups and committee) currently held by individual members is set out below:

<b>Number of Committee Seats</b>	<b>Number of Councillors</b>
0	1
1	9
2	6
3	10
4	5
5	1

4.5 However, it should be noted that the meeting frequency for each committee is not the same for each committee with committees meeting either on an ad-hoc basis, quarterly, bi-monthly or monthly. In addition, some committees may also require meetings in addition to the number set out in the next table. A list of scheduled meetings is set out below.

<b>COMMITTEE</b>	<b>Total Seats</b>	<b>Number of Scheduled Meetings 2019/20</b>
Dover Joint Transportation Board	7	4
Electoral Matters Committee	5	As Required
General Purposes Committee	5	As Required
Governance Committee	7	4
Joint Staff Consultative Forum	5	4
Joint Health, Safety and Welfare Consultative Forum	5	4
Licensing Committee	15	4
Planning Committee	10	12
Regulatory Committee	5	6
Scrutiny (Community & Regeneration) Committee	10	11
Scrutiny (Policy & Performance) Committee	10	11
<b>Total</b>	<b>84</b>	<b>60</b>

- 4.6 In looking at ways in which the average committee places per member could be reduced, there are a number of caveats that need to be kept in mind. Firstly, as mentioned earlier in this report the following committees have specified sizes set out in either the operating agreement with a partner authority or legislation:

Committee	Reason
Dover Joint Transportation Board	To ensure parity with the number of Kent County Councillors (7) for the Dover District
Licensing Committee	The Licensing Act 2003 requires that the Licensing Committee has between 10 – 15 members.

- 4.7 In addition, the Council could recommend changes to the size of the Joint Staff Consultative Forum and the Joint Health, Safety and Welfare Forum but these would require consultation with trade unions before any changes could be implemented. The issue of merging the fora was considered by officers but rejected as it was not consistent with good practice and there were concerns about whether this was consistent with the principles establishing the Joint Health, Safety and Welfare Forum. In operational terms, the two meetings are run consecutively and the memberships are the same so the impact of there being two fora is minimal. However, it does remain an option open to Members should they wish officers to enter into consultation with the trade unions on an alternative size of fora.
- 4.8 One approach to reducing the average number of committee places per member would be to adjust the number of seats on each committee proportionally to reflect the decrease in overall council size from 45 to 32 councillors (a 28% reduction). Subject to the committee size restrictions set out above, this results in the following committee sizes:

<b>COMMITTEE</b>	<b>Current Seats</b>	<b>Proportionally adjusted Seats*</b>
Dover Joint Transportation Board	7	7
Electoral Matters Committee	5	4 (3.60)
General Purposes Committee	5	4 (3.60)
Governance Committee	7	5 (5.04)
Joint Staff Consultative Forum	5	4 (3.60)
Joint Health, Safety and Welfare Consultative Forum	5	4 (3.60)
Licensing Committee	15	11(10.80)
Planning Committee	10	7 (7.20)
Regulatory Committee	5	4(3.60)
Scrutiny (Community & Regeneration) Committee	10	7 (7.20)
Scrutiny (Policy & Performance) Committee	10	7 (7.20)
<b>Total</b>	<b>84</b>	<b>64</b>

(\*) As it is not possible to have less than a whole seat, numbers have been rounded to the nearest whole number.

- 4.9 This would result in a proposed mean average of 2.00 committee places per member, a reduction on the current average of 2.62 committee places per member and significantly closer to the pre-May 2019 average of 1.86 committee places per member.
- 4.10 However, it is not recommended that committee sizes be reduced below 5 seats due to the significantly increased risk of inquoracy in such circumstances. It should be noted that the current quorum for most committees is 3 members.
- 4.11 In addition, the main work of the Licensing Committee is undertaken by the Licensing Sub-Committees which have a statutory size of 3 members under s.9 of the Licensing Act 2003. In order to ensure that all members of the Licensing Committee have equal access to membership of a Sub-Committee, it is suggested that the size of the Licensing Committee should be a multiple of three.
- 4.12 If the sizes of committees are adjusted proportionally to reflect the decrease in overall council size from 45 to 32 councillors (a 28% reduction) but with a minimum size of 5 seats on committee was applied, together with the recommendation in respect of the Licensing Committee, it would result in the following committee sizes.

<b>COMMITTEE</b>	<b>Current Seats</b>	<b>Proportionally adjusted Seats*</b>
Dover Joint Transportation Board	7	7
Electoral Matters Committee	5	5(4)
General Purposes Committee	5	5(4)
Governance Committee	7	5

<b>COMMITTEE</b>	<b>Current Seats</b>	<b>Proportionally adjusted Seats*</b>
Joint Staff Consultative Forum	5	5(4)
Joint Health, Safety and Welfare Consultative Forum	5	5(4)
Licensing Committee	15	12(11)
Planning Committee	10	7
Regulatory Committee	5	5(4)
Scrutiny (Community & Regeneration) Committee	10	7
Scrutiny (Policy & Performance) Committee	10	7
<b>Total</b>	<b>84</b>	<b>80</b>

4.13 This would result in a proposed mean average of 2.50 committee places per member, a small reduction on the current average of 2.62 committee places per member but still significantly higher than the pre-May 2019 average of 1.86 committee places per member.

4.14 The option of a more radical reduction in numbers that still respects a minimum committee size of 5 members is set out below:

<b>COMMITTEE</b>	<b>Current Seats</b>	<b>Proportionally adjusted Seats*</b>
Dover Joint Transportation Board	7	7
Electoral Matters Committee	5	5
General Purposes Committee	5	5
Governance Committee	7	5
Joint Staff Consultative Forum	5	5
Joint Health, Safety and Welfare Consultative Forum	5	5
Licensing Committee	15	10
Planning Committee	10	5
Regulatory Committee	5	5
Scrutiny (Community & Regeneration) Committee	10	5
Scrutiny (Policy & Performance) Committee	10	5
<b>Total</b>	<b>84</b>	<b>69</b>

4.15 This would result in a proposed mean average of 2.09 committee places per member, a reduction on the previous table's mean average of 2.50 committee places per member and much closer to the pre-May 2019 average of 1.86 committee places per member.



4.16 If the table set out at paragraph 4.15 was adjusted to increase the Planning Committee to seven seats in recognition of its workload, it would result in a mean average of 2.25 committee places per member.

## 5. **Scrutiny Committees**

5.1 The Local Government Act 2000 (s.21(1)) requires that authorities such as Dover District Council that operate executive arrangements (i.e. the Cabinet system) must make arrangements that “include provision for the appointment by the authority of one or more [scrutiny] committees of the authority”.

5.2 The Council in 2003 following the adoption of the Leader and Cabinet model of executive arrangements had four scrutiny committees with eight members on each committee. This was reduced to two scrutiny committees in 2006 with ten members on each committee.

5.3 The Local Government Act 2000 (s.21(2)) requires that the Council must ensure that the one or more scrutiny committees have the power to exercise the following functions:

- to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive;
- to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive;
- to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive;
- to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive; and
- to make reports or recommendations to the authority or the executive on matters which affect the authority’s area or the inhabitants of that area.

5.4 The statutory guidance also indicates that any model of scrutiny adopted by the Council should also facilitate the ‘Four Principles of Good Scrutiny’ championed by the Centre for Public Scrutiny, which are as follows:

- Provide constructive ‘critical friend’ challenge;
- Amplify the voices and concerns of the public;
- Be led by independent people who take responsibility for their role; and
- Drive improvement in public services

5.5 It should be noted that these principles have been espoused by the council since 2006 as aspirations of good scrutiny and are publicised on the Council’s website.

5.6 As long as the above criteria can be met in terms of functions, the number of scrutiny committees that the Council appoints is a matter for its determination. There are two options open to the Council – the single scrutiny committee model or the multiple scrutiny committee model. A comparison with Kent and CIPFA Nearest Neighbour authorities can be found at Appendix 2.

### Single Scrutiny Committee Model

5.7 As previously mentioned, the Council is required to make “provision for the appointment by the authority of one or more [scrutiny] committees”. This means that the Council does not have to retain the current two committee model, as it could combine the terms of reference to create a single scrutiny committee.

- 5.8 The creation of a single scrutiny committee while representing a change in the current arrangements could have a number of potential benefits over the current multiple scrutiny committee model, as follows:
- As the sum of all scrutiny functions, it would be able consider cross-cutting and wider strategic issues and provide a consistent, single point of focus for member and public engagement in the decision-making system.
  - It would provide for a more flexible model avoiding gaps or overlaps between multiple scrutiny committees while giving the breadth of remit to respond to a wide range of issues.
  - A single scrutiny committee would be easier to support administratively (1 work programme) and, given the reduction in the size of the officer corps, reduce the pressure on the wider corporate diary that serving multiple scrutiny committees on different dates creates.
  - It would enable members with a broad range of expertise to avoid being forced into choosing a specialism based on the separate remits of multiple scrutiny committees.
  - It prevents an inconsistency of approach to scrutiny that work undertaken by separate committees can create.
  - It could still create specific 'task and finish' groups from within its membership to focus on a particular area of work (such as service reviews or specific regeneration projects) and potentially adopt innovative practices for scrutinising specific issues that might not apply to the wider scrutiny function.
  - A wider remit avoids the temptation to search for business purely to fill agendas of multiple committees' scheduled meetings.
- 5.9 The potential disadvantages of this model would in effect constitute the advantages of having multiple scrutiny committees and so has been addressed under that section (para 5.15 below).
- 5.10 In respect of the countywide approach to scrutiny, Dover District Council is the only district/borough authority in Kent to operate two full scrutiny committees. Dartford and Gravesham operate a two scrutiny committee model but the second scrutiny committee is limited to crime and disorder matters and only meets twice per year.
- 5.11 A reduction in the number of scrutiny committees to a single scrutiny committee (based on the table at paragraph 4.13) would reduce the number of seats on committees from 80 to 73 and reduce the mean average of committee places per member from 2.50 to 2.28.
- 5.12 A single scrutiny committee of seven members would equate to 21.87% of the total membership of the council serving on scrutiny. Currently, the two scrutiny committee model with ten members (across two committees) serving on scrutiny equates to 31.25% of the total membership of the council. This compares to a Kent mean average of 27.25% and a CIPFA Nearest Neighbour mean average of 22.12% of the total memberships of the council.
- 5.13 A suggested term of reference for a single scrutiny committee is set out in Appendix 3.
- The Multiple Scrutiny Committee Model
- 5.14 The preferred multiple scrutiny committee model would be the retention of the current two scrutiny committee model rather than increasing the number of scrutiny committees due to the increased ratio of committee seats per member that would result from creating additional scrutiny committees. This could either be with the retention of the same number of members on each committee or with a reduction

from the current numbers to reflect the reduction in the total number of members on the Council.

- 5.15 The retention of the current multiple scrutiny committee model, albeit with a reduced number of members on the committees, offers the following potential benefits:
- That by having specialised remits, it would enable members to specialise in certain areas of scrutiny to the degree that a wider remit, cross-cutting single committee might not encourage.
  - It enables different approaches to scrutiny to be followed by each committee with the potential for innovative scrutiny arising.
  - It spreads the workload between two scrutiny committees ensuring that one committee is not overloaded with work.
  - That Members and officers are familiar with the current model.
- 5.16 Within this approach the current remits for each scrutiny committee could be retained or new remits more closely aligned with directorate/portfolio arrangements could be implemented.
- 5.17 The table set out at paragraph 4.13 demonstrates the average mean number of committee seats per member if two scrutiny committees of seven members each were to be appointed.
- 5.18 There are currently ten members appointed to each of the scrutiny committees. However, as the same members are appointed to each scrutiny committee this means in practical terms ten members are occupying a total of twenty committee seats. If the number of seats on each scrutiny committee was to be reduced to five members each (instead of seven members as set out in paragraph 4.13) to reflect the actual number of councillors serving on scrutiny, this would reduce the number of seats on committees from 80 to 76 and reduce the mean average of committee places per member from 2.50 to 2.37.
- 5.19 A multiple scrutiny committee model of two committees of seven members each would equate to 43.75% (21.87% if the same members were on both scrutiny committees) of the total membership of the council serving on scrutiny. Currently, the two scrutiny committee model with ten members (across two committees) serving on scrutiny equates to 31.25% of the total membership of the council. This compares to a Kent mean average of 27.25% and a CIPFA Nearest Neighbour mean average of 22.12% of the total memberships of the council.
- 5.20 The current terms of reference for the Scrutiny (Policy and Performance) Committee and the Scrutiny (Community and Regeneration) Committee are set out in Appendix 4. If Members wished a revised terms of reference for a two scrutiny committee model that better aligns with the current directorates/portfolios can be developed by officers.

### **Scrutiny Committee Membership**

- 5.21 Section 21(11) of the Local Government Act 2000 makes scrutiny committees bodies to which the political balance rules apply unless the Council resolves, with no one voting against it, to vary this principle. The Local Government Act 2000 also prevents executive members from serving on scrutiny committees (Section 21(9FA(3))) and the Chairman and Vice-Chairman of the Council (who have the ability to suspend call-in).
- 5.22 The Council also must have regard to the statutory guidance which makes reference to the existence of less formal executive positions (such as Lead Members in the case of Dover District Council) as follows (page 15):

“Authorities should take care to ensure that, as a minimum, members holding less formal executive positions, e.g. as Cabinet assistants, do not sit on scrutinising committees looking at portfolios to which those roles relate. Authorities should articulate in their constitutions how conflicts of interest, including familial links (...), between executive and scrutiny responsibilities should be managed, including where members stand down from the executive and move to a scrutiny role, and vice-versa.”

- 5.23 The Leader of the Council has currently appointed two lead members – Councillor J Rose who is the lead member for Dover Waterfront (part of the Environment and Commercial Services portfolio) and Councillor M Rose who is the lead member for Digital Services (which is part of the Community and Tourism portfolio). There are also a number of shadow lead members but these could not be considered as informal executive positions as their role is to support the shadow portfolio holders.
- 5.24 It should be noted that Article 1 of the Council’s Constitution states that one of the purposes of the Constitution is to “ensure that no one will review or scrutinise a decision in which they were directly involved” and the Overview and Scrutiny Procedure Rules also state that “no member may be involved in scrutinising a decision in which he/she has been directly involved.”<sup>2</sup>
- 5.25 In executive terms, while lead members at Dover District Council do not exercise executive decision-making powers directly themselves they do advise the portfolio holders who will be making executive decisions (either individually or collectively as part of the Cabinet). They will therefore be covered by Article 1 of the Council’s Constitution and would have to declare a conflict of interest and withdraw from the meeting during the scrutiny of any decisions in which they have been involved.
- 5.26 However, this does not go quite as far as the statutory guidance set out in paragraph 4.6 above, which suggests that “as a minimum, members holding less formal executive positions... do not sit on scrutinising committees looking at portfolios to which those roles relate” and it is for Council therefore to consider whether it needs to adopt this specific exclusion. If it is the view of the Council that it wishes to make this amendment a suggestion as to how this could be done is set out in Appendix 5.

#### **Scrutiny Committee Chairmanship**

- 5.27 The statutory guidance (page 16) recognises the importance of the chairman of scrutiny committees in providing a leadership role and the need for the chair to “possess the ability to lead and build a sense of teamwork and consensus among committee members.” It goes on to state that scrutiny committee chairmen should “pay special attention to the need to guard the committee’s independence. Importantly, however, they should take care to avoid the committee being, and being viewed as, a de facto opposition to the executive”.
- 5.28 The Council’s Constitution (Part 4 Rules of Procedure – Overview and Scrutiny Procedure Rules (paragraph 6)) requires that the chairmanship of Overview and Scrutiny Committee(s) be held by a “councillor who is not a member of the largest political group on the Council, unless there is no such person serving on the committee/sub-committee.” This is in line with the view of the Centre for Public Scrutiny that “appointing minority party chairs helps to promote a non-partisan culture in scrutiny, and makes it more likely that scrutiny members (and chairs) will think and act independently.”<sup>3</sup>

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<sup>2</sup> Article 1, paragraph 1.03 (purpose of the constitution), page 16 & Overview and Scrutiny Procedure Rules, paragraph 2, page 216

<sup>3</sup> Scrutiny bodies: membership and political management, Centre for Public Scrutiny (2014)

- 5.29 In Kent, out of the 10 district/borough authorities operating executive arrangements 6 (including Dover) are opposition chaired and 3 are controlling group chaired. The remaining authority (Folkestone and Hythe) has no political party restriction on who can chair scrutiny and rather appoints the chairmanship at the first meeting of the scrutiny committee each year rather than at full Council.
- 5.30 In respect of selecting the chairman of a scrutiny committee, the statutory guidance states that this “is for each authority to decide itself, however every authority should consider taking a vote by secret ballot” to select the chair. The secret ballot process, while historically not common amongst local authorities as a means of selecting chairmen, is used by a number of House of Commons Select Committees to select their chairmen. If it is the view of the Council that it wishes to adopt the election of scrutiny chairs by secret ballot, a suggestion as to how this could be done is set out in Appendix 6.
- 5.31 The statutory guidance also “strongly recommends” (page 16) that the chair of a scrutiny committee “not preside over the scrutiny of their relatives.” This issue will be considered by officers as part of the annual Review of the Constitution in 2019.

## 6. Identification of Options

- 6.1 This review has identified the following areas that Members will need to consider:

### Committee Structure (non-scrutiny)

- 6.2 Option 1: To make no change to the number of committees set out in paragraph 3.1 (excluding scrutiny committees which are addressed elsewhere) of the report.
- 6.3 Option 2: To make a change to the number of committees set out in paragraph 3.1 (excluding scrutiny committees which are addressed elsewhere) of the report through merging or abolishing committees.

### Committee Sizes

- 6.4 Option 1: To make no change to the number of seats on committees set out in paragraph 4.2 (excluding scrutiny committees which are addressed elsewhere) of the report.
- 6.5 Option 2: To make a change to the number of seats on committees set out in paragraph 4.2 (excluding scrutiny committees which are addressed elsewhere) of the report.

### Scrutiny Committees - Number

- 6.6 Option 1: To reduce the number of scrutiny committees to the statutory minimum number of one committee.
- 6.7 Option 2: To maintain the current number of scrutiny committees (two) on the current remits.
- 6.8 Option 3: To maintain the current number of scrutiny committees (two) by change the remits to better reflect the directorate and cabinet portfolio structure of the authority.
- 6.9 Option 4: To increase the number of scrutiny committees to a number to be determined by the Council.

### Scrutiny Committees - Membership

- 6.10 Option 1: Having given due regard to the statutory guidance, no change be made to the Constitution in respect of lead Members serving on scrutiny committees on the grounds that the current measures in place to prevent Members from scrutinising a decision that they have been involved in are sufficient.

- 6.11 Option 2: Having given due regard to the statutory guidance, the Constitution be amended to prevent lead members from sitting on any scrutiny committee which relates to the portfolio for which they are the lead member. In the event that a single scrutiny committee model was adopted, this would prevent lead members from serving on scrutiny.

#### Scrutiny Committees - Chairmanship

- 6.12 Option 1: Having given due regard to the statutory guidance, opt to leave the current arrangements for the appointment of a chairman and vice-chairman of scrutiny committee(s) unchanged (e.g. by the full Council).
- 6.13 Option 2: Having given due regard to the statutory guidance adopt arrangements for the appointment of a chairman and vice-chairman of scrutiny committee(s) by secret ballot by the members of the scrutiny committee.

### **7. Evaluation of Options**

#### Committee Structure (non-scrutiny)

- 7.1 As mentioned earlier in the report, the Council is required to have a Licensing Committee and the Joint Health, Safety and Welfare Consultative Forum. The Governance Committee was created as part of CIPFA best practice recommendations (and a survey of all Kent authorities found they had an audit/governance committee in some form) and should be retained. In addition, to this there are agreements in place for the Dover Joint Transportation Board and the Joint Staff Consultative Forum that would need to be reviewed and subject to consultation/negotiation before any changes could be made.
- 7.2 There are a number of committees where the dissimilar remits mean an amalgamation would not be recommended due to operational issues in delivering. On this basis there are no straightforward changes that could be recommended.
- 7.3 It should be noted that any change to the number of committees appointed by the Council will require a recalculation of the political balance arrangements of the Council.

#### Committee Sizes (non-scrutiny)

- 7.4 There are a number of committees, as mentioned earlier, where the membership is defined as a specific number by agreement with other parties (Dover Joint Transportation Board and the two fora) or legislation (the Licensing Committee). In the case of those specified by agreement this would have to be subject to consultation/negotiation with the relevant parties.
- 7.5 The remaining committees can have their numbers adjusted by the full Council down to a minimum of 3 members, although operationally it is not recommended that any committee should be smaller than 5 members. A proportional reduction in line with that of the reduction in the total size of the Council (subject to the caveats mentioned above) is therefore the recommended option. This can be found at paragraph 4.13.

#### Scrutiny Committees - Number

##### Option 1: Single Scrutiny Committee

- 7.6 This fulfils the statutory requirement of s.21 of the Local Government Act 2000 for those authorities operating Executive arrangements which is that the Council must make arrangements that "include provision for the appointment by the authority of one or more [scrutiny] committees of the authority".
- 7.7 The single scrutiny committee model is the most prevalent in Kent and the CIPFA Nearest Neighbour Group and there is a trend in many district/borough authorities to move to this model. It is also the model that most easily delivers a reduced burden on

councillors following the reduction in council size while still maintaining a reasonably sized committee.

- 7.8 The key strengths of this model are set out in paragraph 5.8 of this report.
- 7.9 The most significant risks with this model of a single scrutiny committee are (i) that through the overuse of 'Task and Finish' working groups it effectively recreates a second scrutiny committee in all but name; and (ii) that it does not effectively prioritise its work programme resulting in long meetings and/or numerous additional meetings. However, practice at other authorities demonstrates that these risks can be mitigated.

#### Option 2: Multiple Scrutiny Committees

- 7.10 This model also fulfils the statutory requirement of s.21 of the Local Government Act 2000 and is the model currently operated by the Council. While not the most common model of scrutiny amongst the local authorities surveyed, it does operate effectively in a number of authorities.
- 7.11 The key strengths of this model are set out in paragraph 5.15 of this report.
- 7.12 The most significant risks with this model of multiple scrutiny committees are (i) that it does not as easily deliver on reducing the overall burden on Members without significant reductions in committee sizes; and (ii) it does not provide as well for cross-cutting scrutiny of issues and with separate defined remits can risk becoming overly bureaucratic.
- 7.13 The current scrutiny committee remits have been set out in Appendix 4 of this report. If the Council wished to maintain multiple scrutiny committees it does not have to do so on the current remits and officers can be asked to bring forward alternative remits for a two (or more) scrutiny committee model.

#### Scrutiny Committees - Membership

- 7.14 The statutory guidance makes a recommendation in respect of avoiding conflicts of interest arising from members occupying less formal executive posts being involved in scrutinising decisions that they have been involved in. As long as the Council gives regard to the statutory guidance in this matter it does not have to follow it. However, if the Council decides not to adopt the statutory guidance it must have a good reason for not doing so (as set out at paragraph 2.2 of this report) and be confident that its existing arrangements prevent such a conflict of interest arising.

#### Scrutiny Committees - Chairmanship

- 7.15 As previously stated, as long as the Council gives regard to the statutory guidance on the appointment arrangements for the chairman and vice-chairman of a scrutiny committee it does not have to follow them. However, if the Council decides not to adopt the statutory guidance it must have a good reason for not doing so (as set out at paragraph 2.2 of this report).
- 7.16 If the Council were to adopt the secret ballot model of electing the chairman and vice-chairman, a procedure for this is set out in Appendix 6.

## 8. **Resource Implications**

- 8.1 A reduction in the number of committees with a resulting reduction in the number of Chairmen and Vice-Chairmen would potentially result in savings in the Members' Allowance Scheme. However, an increase in the number of committees with a resulting increase in the number of Chairmen and Vice-Chairmen would potentially result in a cost to the Members' Allowance Scheme.

- 8.2 For example, the Chairman of a Scrutiny Committee receives an allowance of £3,708 per annum and the Vice-Chairman of a Scrutiny Committee receives an allowance of £927 per annum for a total of £4,635. An increase in the number of scrutiny committees would result in a cost to the Members' Allowance Scheme of £4,635 per committee and a decrease would result in a saving to the Members' Allowance Scheme of a similar amount.
- 8.3 Although not a direct financial cost, a significant increase in the number of committees would have an impact on officer resources.

## 9. **Appendices**

- Appendix 1 – Committee Functions (with potential constitutional changes on committee numbers)
- Appendix 2 - A comparison with Kent and CIPFA Nearest Neighbour authorities
- Appendix 3 – Constitutional Amendments Required for a Potential Single Scrutiny Committee
- Appendix 4 – Terms of Reference for the Scrutiny (Policy and Performance) Committee and the Scrutiny (Community and Regeneration) Committee
- Appendix 5 – Potential Constitutional amendments in respect of informal executive posts and scrutiny committees
- Appendix 6 – Potential Constitutional amendments in respect of the electing of the Chairman and Vice-Chairman of scrutiny committees by secret ballot
- Appendix 7 - Recommendations of the Governance Committee (27 June 2019)

## 10. **Background Papers**

Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities (May 2019)

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