

This Report will be made public on 28 November 2023

Report Number **AuG/23/19**

To: Audit and Governance Committee
Date: 6 December 2023
Status: Non key
Responsible Officer: Amandeep Khroud, Assistant Director of Governance and Law

SUBJECT: UPDATE ON CHANGE OF GOVERNANCE ARRANGEMENTS

SUMMARY: This report provides the Committee with a brief update on the progress of the work of the Constitution Working Group in relation the Council's decision on 21 June 2023 to change its governance arrangements from a Leader and Cabinet executive form of governance to committee system as of the Annual Meeting of Council to be held in May 2024.

REASONS FOR RECOMMENDATIONS:

The Council's current Constitution requires that any constitution review is to be considered by the Audit and Governance Committee before it is formally approved and adopted by Full Council. This report seeks to provide an update to the Committee on the progress of the Constitution Working Group.

RECOMMENDATIONS:

- 1) **That the Committee note:**
 - (a) **the progress of the Constitution Working Group; and**
 - (b) **a Member Briefing Session to outline objectives and structure is due to take place on 11 December 2023.**

1. BACKGROUND

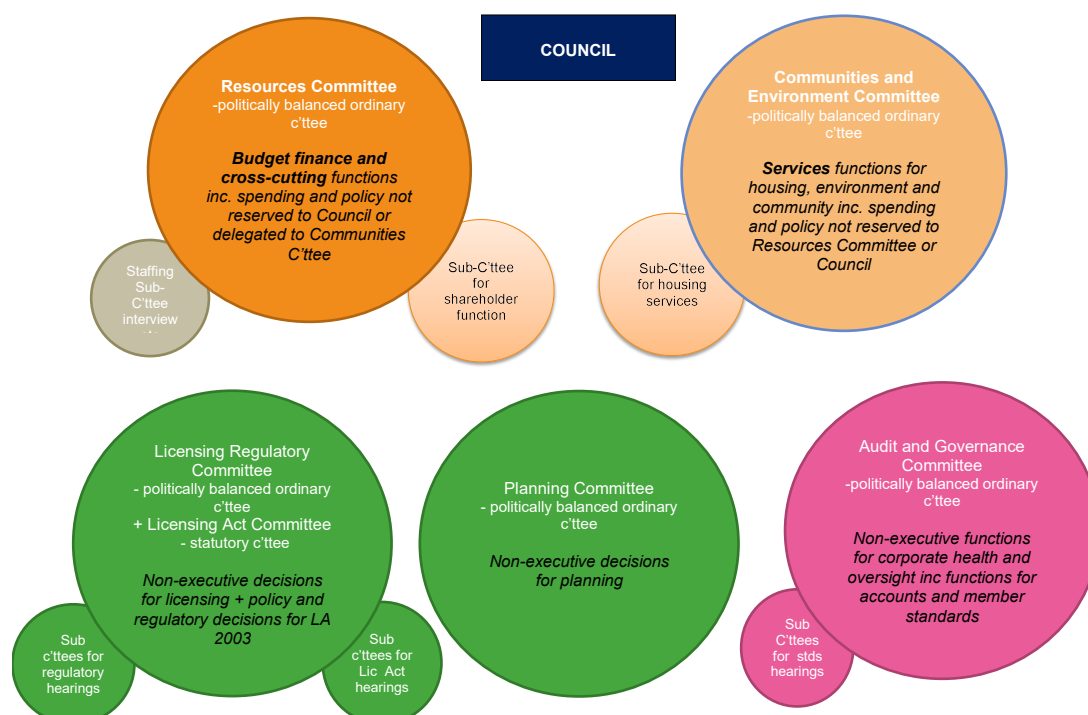
- 1.1 At the meeting of full Council on 21 June 2023 it was resolved (among other things) that a Constitution Working Group be convened, comprising of the Leader of each constituted group (or their nominee) plus one Independent. The Working Group was instructed to consider and make recommendations to full Council on the composition and terms of reference of committees by January 2024.
- 1.2 The Constitution Working Group agreed its terms of reference which can be accessed at the following address:
<https://folkestone-hythe.moderngov.co.uk/documents/s44767/app%20A%20to%20changes%20to%20gov%20arrangements%20TOR.pdf>
- 1.3 This report is intended to provide the Audit and Governance Committee with an update on the progress of the Constitution Working Group.

2. PROGRESS TO DATE

2.1 The Constitution Working Group has met on the following occasions:

- 12 July 2023;
- 26 September 2023;
- 24 October 2023; and
- 15 November 2023.

2.2 Good progress has been made on the outline structure and composition of committees, and the group has agreed the following headline structure:



- 2.3 In addition, the following headline principles have been agreed:
- (a) Two policy committees of 12 members each (with sub-committees);
 - (b) Separate Planning Committee;
 - (c) Licensing Regulatory Committee (ordinary committee) and Licensing Act Committee (statutory committee) with same members;
 - (d) Retention of use of Key Decisions and Forward Plan;
 - (e) No adoption of Overview and Scrutiny functions (this is optional under a committee form of governance), however the arrangements will include:
 - (i) a process by which Key Decisions to be taken by an Officer can be referred to a policy Committee; and
 - (ii) a process for rescission of a decision taken by one of the policy committees or sub-committees, or of a Key Decision taken by an officer acting under delegated authority from a Committee, is re-considered by another Committee or Council;
 - (f) Scheme of delegation by exception – decisions are to be taken by Officers unless reserved to a Committee;
 - (g) Chairs and Vice Chairs of Committees are to act as “spokespersons” for the areas covered by their respective committees;
 - (h) Virements up to £25k can be made by Chief Officers; virements between £25k and £100k to be agreed by relevant Director and s.151 Officer in consultation with the relevant Committee Chair, with virements over £100k to Committee.

3. NEXT STEPS

- 3.1 An all Member Briefing session is scheduled to take place at 6pm on Monday 11 December 2023. This will be delivered by the external legal specialists who have been assisting the Council to date. The session will be principles based, will give an outline of the work undertaken by the Constitution Working Group, and an overview of the structure.
- 3.2 The Constitution Working Group is next meeting on 18 December 2023, where it is anticipated that any outstanding matters will be agreed, and following which substantive work will begin on the draft constitution in light of the agreed principles.

4. RISK MANAGEMENT ISSUES

- 4.1 A change in the form of arrangements will represent a key integral element of the overall organisational vision of the Council and also how it interacts with the District’s residents and other stakeholders. That process of change

will raise a number of associated risks to be identified and managed as part of the development process and implementation.

- 4.2 The timeframe in which the Council is seeking to implement the change to a committee system is challenging. It will therefore be important to ensure that pace is maintained, but that this does not impact upon full and proper consideration of issues being undertaken.

5. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

5.1 Legal Comments

- 5.1.1 In producing a new Constitution for 2024/25 the Council must, in reviewing constitutional arrangements, concern itself with the differing requirements of operating a committee system form of governance, as permitted under section 9B of the Local Government Act 2000 (as amended) (LGA 2000), arising in particular from:

- those matters referred to under section 9P of the LGA 2000 and associated Direction (which sets out some 82 matters that the Constitution is to inform the public of);
- the Secretary of State's Guidance in such matters issued under s9Q of the LGA 2000;
- the requirements of the Local Authorities (Committee System) (England) Regulations 2012;
- the varying mandatory standing orders made in respect of a committee system under the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended); and
- section 9GA of the LGA 2000 and the Openness of Local Government Bodies Regulations 2014.

- 5.1.2 As per the resolution of full Council on 21 June 2023, the Council is required to change to the committee system of governance with effect from the Annual Meeting of Council to be held in May 2024.

5.2 Finance Comments

- 5.2.1 The Council has agreed to make available a budget of up to a maximum of £100k from general reserves in order to fund the change of governance. Costs incurred to date are within budget.

5.3 Diversities and Equalities Implications

- 5.3.1 There are no direct implications of this report.

6. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting:

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The following background documents have been relied upon in the preparation of this report:

- Report to Audit and Governance Committee of 13 September 2023
- Minutes of the Constitution Working Groups of:
 - 12 July 2023;
 - 26 September 2023;
 - 24 October 2023; and
 - 15 November 2023.