



AGENDA

COUNCIL MEETING

Date: Wednesday, 6 October 2021

Time: 7.00 pm

Venue: Sheerness East Working Men's Club, 47 Queenborough Road, Minster, Sheerness, Kent ME12 3BZ

RECORDING NOTICE

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Quorum = 16

Pages

Information for the Public

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Link to meeting: TO BE ADDED

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1. Emergency Evacuation Procedure

The Mayor will advise the meeting of the evacuation procedures to follow in the event of an emergency. This is particularly important for visitors and members of the public who will be unfamiliar with the building and procedures. The Mayor will inform the meeting that: there is no scheduled test of the fire alarm during this meeting. If the alarm does sound, please leave the building quickly without collecting any of your possessions, using the doors signed as fire escapes, and assemble outside where directed. Await instructions before re-entering the building. Should anyone require assistance in evacuating the building, please make the Swale Borough Council Democratic Services Officers aware of any special needs so that suitable arrangements may be made in the event of an emergency.

2. Apologies for Absence

3. Minutes

To approve the [Minutes](#) of the Meeting held on 23 June 2021 (Minute Nos.109 - 117) as a correct record.

4. Declarations of Interest

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

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

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

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

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

meeting while that item is considered.

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

5. Mayor's Announcements

6. Leader's Statement

7. Questions submitted by the Public

To consider any questions submitted by the public. (The deadline for questions is 4.30 pm on the Wednesday before the meeting – please contact Democratic Services by e-mailing democraticservices@swale.gov.uk or call 01795 417330).

8. Questions submitted by Members

To consider any questions submitted by Members. (The deadline for questions is 4.30 pm on the Monday the week before the meeting – please contact Democratic Services by e-mailing democraticservices@swale.gov.uk or call 01795 417330).

9. Motion for free Saturday parking in town centres

To help town centre traders, this Council would support the piloting of a scheme to allow free parking on Saturdays. Council therefore requests the Cabinet member to undertake the necessary work to determine whether such a pilot is feasible and to bring a report to a future Council meeting for a decision.

Proposed: Councillor Oliver Eakin
Seconded: Councillor Mike Whiting

10. Motion - Southern Water

This Council notes that

- This summer Southern Water (SW) was fined a record £90m for deliberately dumping between 16 billion and 21 billion litres of raw sewage into the seas off North Kent and Hampshire over a 7 year period.
- The judge in the case stated that these offences show a shocking and wholesale disregard for the environment for precious and delicate ecosystems and coastlines, for human health and for fisheries and other legitimate businesses that operate. He also stated that the company had a history of criminal activity because of its previous and persistent pollution of the environment.

- The dumping afforded the company considerable financial advantages at a time when infrastructure in the 17 wastewater treatment works (including 4 in Swale) investigated was crumbling and SW did not maintain, repair or replace vital machinery.
- This criminal activity has put the health of residents and visitors to Swale at risk through the contamination of the seas of the North Kent coast and the contamination of local sea food, damaged the reputation of local beaches and the local environment and harmed local businesses involved with the harvesting of sea food.
- The water industry has accumulated debts of £48billion since 1989 which cost £1.3billion in annual interest. In that time the industry has paid £57billion in shareholder dividends, while customer bills have increased by 40% above inflation.

It further notes that

- A number of incidents have taken place during the summer along the North Kent coast involving the release of raw sewage which emphasise the need for urgent investment in the area's wastewater treatment facilities.
- A series of heavy storms during the summer led to a number of flash flooding incidents in Swale towns during which sewage escaped onto local streets posing a potential health risk to local residents and illustrating the need to upgrade the waste water infrastructure servicing our local communities
- SW has approved an additional investment programme of £230m and declared an ambition to cause no serious pollution incidents affecting local rivers, streams and beaches by 2025.
- That the Council Leader is writing to the Chief Executive and Director of the Environment at SW insisting that they meet with the Council to account for the impact of SW's criminal behaviour on local communities, to give a clear picture of the current inadequacies of the waste water infrastructure servicing in Swale and to lay out their plans for how they will remedy the situation.

The Council resolves to:

- Support the administration in demanding that Southern Water make the investment needed to:
 - ensure that local water treatment works are functioning legally and safely and that our rivers, streams and shoreline are not affected by serious pollution incidents in the future
 - improve the capacity and effectiveness of the local waste water infrastructure so that sewage is not discharged into local streets during periods of heavy rain.

- Write to local MP's and the Department of the Environment asking that
 - Fine income be used to support improvements in the regulatory arrangements for water companies and to provide compensation to local authorities and local businesses that have suffered from the criminal activities of SW.
 - the current management arrangements for the water industry are revised so that private companies like SW cannot secretly pursue criminal activities over many years in order to avoid financial penalties and the cost of upgrading infrastructure.

Proposed: Councillor Julian Saunders
 Seconded: Councillor Tim Valentine

11.	Updated Cabinet Portfolio Responsibilities	7 - 12
12.	Governance Model Change	13 - 20
13.	Statement of Principles Under the Gambling Act 2005 - Report to Follow	
14.	Local Area Profile under the Gambling Act 2005 - Report to Follow	
15.	Recommendations for Approval	21 - 22

Council is asked to note the recommendations from the following meetings:

Licensing Act 2003 Committee (09.09.21)

16.	Independent Person extension of contract	23 - 26
17.	Exclusion of Press and Public	

To decide whether to pass the resolution set out below in respect of the following item:

That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting from the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1 and 2.

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual

18.	Exempt Appendix - Independent Person extension of contract	27 - 28
19.	Waiver of the six-month Councillor attendance rule - report to follow	29 - 32

Issued on Tuesday 28 September 2021

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

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

Council	
Meeting Date	28 July 2021
Report Title	Updated cabinet portfolio responsibilities
Cabinet Member	Cllr Roger Truelove – Council Leader
SMT Lead	David Clifford – Head of Policy, Communications and Customer Services (Monitoring Officer)
Head of Service	
Lead Officer	
Key Decision	No
Classification	Open
Recommendations	<p>Council is asked to:</p> <ol style="list-style-type: none"> 1. Note the updated cabinet portfolio responsibilities set out at Appendix I. 2. Note that the scheme of delegations set out in Part 3 of the constitution remains otherwise unchanged.

1 Purpose of Report and Executive Summary

- 1.1 This report provides council with an updated list of cabinet portfolio responsibilities following a recent change.

2 Background

- 2.1 Under s11 of the Local Government Act 2000, councils operating a leader-and-cabinet executive model must appoint a cabinet consisting of the leader and between two and nine further members of the council. The membership and responsibilities of the cabinet are within the gift of the leader, but the custom at Swale is for council to be notified of these.

3 Proposals

- 3.1 Council is now **recommended** to note the updated cabinet portfolio responsibilities set out at Appendix I, and to note that the scheme of delegations set out in Part 3 of the council's constitution remains otherwise unchanged.

4 Alternative Options

4.1 As the proposals in the report are for noting only, there are no alternative options.

5 Consultation Undertaken or Proposed

5.1 This is a matter for the leader to determine, and consultation has therefore been restricted to cabinet members.

6 Implications

Issue	Implications
Corporate Plan	The cabinet has primary responsibility for delivery of all the objectives in the corporate plan.
Financial, Resource and Property	The arrangements in Appendix I include cabinet portfolios with responsibility for finance and property matters.
Legal, Statutory and Procurement	Relevant legal considerations are outlined in the body of the report.
Crime and Disorder	The arrangements in Appendix I include a cabinet portfolio with responsibility for crime and disorder matters.
Environment and Climate/Ecological Emergency	The arrangements in Appendix I include a cabinet portfolio with responsibility for the environment and the climate and ecological emergency.
Health and Wellbeing	The arrangements in Appendix I include a cabinet portfolio with responsibility for health and wellbeing matters.
Risk Management and Health and Safety	No specific implications identified at this stage.
Equality and Diversity	No specific implications identified at this stage.
Privacy and Data Protection	No specific implications identified at this stage.

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Cabinet portfolio responsibilities

8 Background Papers

8.1 There are no background papers.

CABINET PORTFOLIOS (February 2021)**Leader and Finance (Cllr Roger Truelove; Deputy for Finance: Cllr Derek Carnell)**

- Cross-party and cross-portfolio issues, including code of conduct
- Regional and national issues including relationships with central government, Kent County Council and other Kent districts
- Strategic business planning and organisational reform, including business improvement, digitisation and shared services
- Medium-term financial strategy, budget setting, budget management and VfM
- Overall risk management, including management of financial and health/safety risks
- Customer services and complaints
- Communications, including website
- Commissioning and procurement, including negotiating on new contracts
- Revenues and benefits, council tax collection and council tax support
- Human resources, including employee relations and welfare
- Support services including Internal Audit, Legal and ICT
- Members' and officers' learning and development
- Performance management
- Council-related health and safety
- Emergency planning and business continuity

Deputy Leader and Planning (Cllr Mike Baldock) (Deputy: Cllr Alastair Gould)

- Deputy to the Leader
- Constitutional reform
- Building and development control, including planning enforcement
- Local plan and associated policy framework, Gypsy and Traveller area assessment, neighbourhood planning
- Heritage, conservation and closed churchyards
- Section 106 and Community Infrastructure Levy
- Land charges
- Highways and transportation matters

Climate and Ecological Emergency (Cllr Tim Valentine) (Deputy: Cllr Ben A. Martin)

- Climate and ecological emergency
- Air quality management
- Electric vehicle strategy
- Championing active travel
- Strategic green and blue policy, including Green Grid

Community (Cllr Richard Palmer) (Deputy: Cllr Elliott Jayes)

- Crime, disorder and antisocial behaviour issues, including CCTV and the Community Safety Partnership
- Relationships with the voluntary and community sector and parish and town councils
- Schools liaison, the Youth Forum and other relevant partnerships
- Licensing matters
- On and off-street parking facilities and enforcement including Joint Transportation Board processes
- Armed Forces Covenant and War Memorial management
- Promotion of special projects

Economy and Property (Cllr Monique Bonney) (Deputy: Cllr Sarah Stephen)

- Economic development, including inward investment, business engagement and the Swale Economy and Regeneration Partnership
- Tourism, concessions and beach huts
- Council and community asset management
- Regeneration projects, including relationship with Homes England
- Town centre management and markets
- Learning and skills, including further education, apprenticeships and adult and community learning
- Sea fronts, coastal resorts, harbours and quays
- External funding (including any grants received)

Environment (Cllr Julian Saunders) (Deputy: Cllr Eddie Thomas)

- Climate and ecological emergency
- Major contracts: street cleansing, refuse collection, recycling and public conveniences
- Flooding, sea defences and coastal protection
- Greenspaces development and operations including grounds maintenance, cemeteries, woodlands, urban and country parks
- Environmental response, including fly-tipping, contaminated land, animal welfare, pollution control (including noise and pests), illegal encampments and littering FPNs

Health and Wellbeing (Cllr Angela Harrison) (Deputy: Cllr Hannah Perkin)

- Health and social care matters, including health inequalities, public health, relationships with CCGs and liaison with adult social care
- Children and young people, including liaison with children's social care
- Child and vulnerable adult safeguarding
- Promoting social inclusion
- Environmental health enforcement issues including food hygiene and public-focused health and safety
- Leisure and sport, including management of current contracts and relationships with relevant trusts
- Play area and outdoor fitness equipment - development and maintenance
- Relevant partnerships including Health and Wellbeing Board, Local Children's Partnership Group, Early Years District Advisory Board and the Mental Health Action Group
- Equality and diversity

Housing (Cllr Ben J Martin) (Deputy: Cllr Ghlin Whelan)

- Housing advice, homelessness prevention, housing register and all housing-related services and strategies
- Affordable and social housing, including liaison with registered providers and developers
- Disabled facilities grants, home improvement and Staying Put
- Empty dwellings, and bringing them back into use
- Private sector housing support and enforcement, and landlord accreditation scheme

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Council	
Meeting Date	6 October 2021
Report Title	Formal change to the council’s governance model
Cabinet Member	Cllr Mike Baldock – Deputy Leader
SMT Lead	Larissa Reed – Chief Executive
Head of Service	
Lead Officer	
Key Decision	Not applicable
Classification	Open
Recommendations	<p>Council is invited to:</p> <ol style="list-style-type: none"> 1. Agree that the council’s current leader-and-cabinet governance arrangements will be replaced with a committee system, to come into effect at the annual council meeting in May 2022. 2. Request the cross-party constitution review working group to continue to develop proposals with respect to the detailed working of the new system, including the number and remit of committees, for endorsement by council between now and May 2022.

1 Purpose of Report and Executive Summary

- 1.1 This report summarises the work which has been undertaken to date by the cross-party member working group on constitutional review, and invites council to resolve to move to the committee system from May 2022.
- 1.2 The key drivers for this proposal can be found in the council’s fourth corporate plan priority, aimed at renewing local democracy and making the council fit for the future. The cross-party working group is of the view that the committee system could increase all members’ opportunities to participate in council decision-making without any undue adverse effects on the speed or quality of that decision-making.

2 Background

Introduction

- 2.1 Objective 4.1 of the council’s corporate plan sets out members’ ambitions to review the constitution to diffuse decision-making power more widely among councillors and improve the transparency, responsiveness and public accountability of that decision-making.

- 2.2 To date, this commitment has resulted in the establishment of the four area committees, which are developing into a key mechanism for enabling two-way engagement with the public and parish councils, and for empowering ward councillors to take action on matters of concern to their residents. More recently, Swale Borough Council has seen the establishment of cabinet advisory committees, intended to provide a further opportunity for backbench members to play a more active role in influencing the policy decisions taken by cabinet.
- 2.3 While both of these initiatives have required changes to the council's constitution, neither of them has involved a fundamental change to Swale's leader-and-cabinet form of governance. This report invites members to take what is arguably the next logical step along this road and make the more fundamental change to a committee system of governance.
- 2.4 One of the key drivers for this proposal is to create greater inclusivity in decision-making, providing all members with more influence over decisions which are currently taken by the cabinet. It is also clear that members want effective, evidenced-based decisions, but do not want slow or drawn-out decision-making.
- 2.5 In view of the legal implications, this is a more significant decision than has been necessary to implement the previous steps. These implications are set out in subsequent sections of this report.

Outline of the committee system

- 2.6 Under Swale's current leader-and-cabinet model, council is responsible for some decisions and the executive (the collective term for the leader, the cabinet and cabinet members) is responsible for others. While the executive is accountable to council, it does not act under delegated authority from it, and it is not the case that council could choose to take the decisions itself which are in practice taken by the executive.
- 2.7 In a committee system, there is no executive. There is still a leader, elected by council in the same way as in the leader-and-cabinet model, but s/he does not have executive powers. There is no cabinet and no cabinet members, and thus little or no decision-making by individual councillors.
- 2.8 Instead, all decisions are in principle taken by council, but in practice the decisions which in Swale's current model are taken by the executive are in a committee system taken by politically-balanced service committees operating under delegated authority from council. These service committees are generally thematically based, with each committee being responsible for a range of issues and/or a range of council services.
- 2.9 In most models there is one committee, often known as the policy and resources committee, whose membership usually includes senior councillors from each party and often the financial lead councillors for each party. This committee differs from a cabinet primarily in that it is politically balanced, but also in that it is only

the 'first among equals' in relation to the other committees, which typically retain broad decision-making autonomy.

- 2.10 It is important to bear in mind that the changes being considered only affect the way that decisions currently taken by cabinet or cabinet members are made. Regulatory committees such as planning, licensing, audit and standards, which are all committees of the council rather than of the executive, would be unaffected. However under these changes, we are proposing to amalgamate the two licencing committees currently operating. The area committees would continue as currently, as would the joint transportation board.
- 2.11 The role of full council would in practice also remain unchanged. Council is currently responsible for agreeing the overarching policy and budget frameworks which the executive proposes to it and within which the executive then has to operate, and this would be the same under a committee system. The framework would be proposed to council by one or more service committees, and once it was adopted, all service committees would take their decisions in accordance with it.
- 2.12 The scrutiny committee is an essential component of the leader-and-cabinet model, intended to provide council at large with a mechanism for holding the executive to account for its decision-making. Whilst a stand-alone scrutiny committee is a feature of our current system, the scrutiny of decisions made by service committees can operate in a committee system in broadly three ways:
- Scrutiny is usually embedded into the work of individual committees, with each committee responsible for monitoring budgets and performance relating to its functions. In addition, members of the committee could highlight areas of concern and request reports on issues relating to their functions.
 - A stand-alone scrutiny committee could have the responsibility for examining the work of other committees and undertaking the council's statutory scrutiny requirements. This is unusual as committee decisions are made by a politically balanced group.
 - Scrutiny could be conducted by full council whereby a council-wide debate on an aspect of the work or report of a particular committee could take place. (This option could present legal issues in terms of council making decisions on issues without the necessary information, and is therefore probably not suitable as a primary scrutiny mechanism.)
- 2.13 Most councils that have adopted a committee system since 2012 have chosen to embed scrutiny within the work of each committee. District councils have just one statutory scrutiny requirement under a committee system, which is to scrutinise crime and disorder issues at least once each year. This could be carried out either by a service committee or by the audit committee. The latter committee could also take on part of the current scrutiny committee's role in scrutinising council performance.

- 2.14 A further function of the current scrutiny committee which would need to be re-imagined in a committee system is that of the review of controversial decisions, currently achieved through the call-in mechanism. As with scrutiny in general, different mechanisms are used by councils operating under the committee system, with decision review by one particular service committee (generally policy and resources) or by a dedicated decision review committee being the most common.
- 2.15 As with the call-in mechanism, the council would need to develop criteria for decisions to be eligible for review, in order to ensure the system was not used unreasonably to delay the implementation of decisions taken fairly and lawfully by service committees.
- 2.16 Any governance system requires a distinction to be made between strategic and operational decision-making, and needs to ensure that members make the strategic decisions and set policies within which officers can undertake the day-to-day operational work. The scheme of delegation to officers would need to be reviewed in the event of a change to the fundamental governance model, but the principles would remain the same. As with Swale's current model, any committee system the council adopted would need to include provisions for making decisions as a matter of urgency when committees were unable to meet.

Legal background

- 2.17 Prior to the Localism Act 2011, the leader-and-cabinet model was essentially the only permissible type of governance for district councils with populations above 85,000. This requirement had been brought in by the Local Government Act 2000 in an attempt to streamline local authority decision-making by separating executive from non-executive functions and introducing scrutiny as a mechanism for holding the executive to account.
- 2.18 The 2011 Act enabled councils of any size to return to the committee system, but this possibility was not initially popular with more than a handful of councils. More recently – perhaps as a result of what seems to be greater instability and contestability in council election results – more councils have made the move to the committee system, including a small number of county councils.
- 2.19 In most cases the move to a committee system is triggered by a resolution setting out the main features of the proposed arrangements, which needs to be carried by a simple majority at full council. This resolution is contained in the recommendations in this report. The change to the committee system then occurs at either the next annual council meeting or a subsequent annual council meeting specified in the resolution.
- 2.20 Once the resolution to change the fundamental governance model has been carried, the council would be unable to make a resolution to return to the previous system for a period of five years, unless a local referendum was held confirming a public will to do so sooner. However, as with Swale's recent experience of constitutional change within the leader-and-cabinet model (e.g. area committees

and cabinet advisory committees), constitutional changes are also possible within the committee system. These could include, for example, amendments to the number and remits of service committees.

Constitution working group

- 2.21 The proposals in this report have been developed by a cross-party constitution working group, which has been meeting regularly with the chief executive and monitoring officer since the summer. The group's members are Cllrs Baldock, Bonney, Darby, Ingleton, Martin, Simmons, Truelove and Valentine.
- 2.22 The working group has given in-depth consideration to the possible benefits and the likely issues with moving to a committee system, and has had the advantage of being able to hear the experiences of member colleagues in Brighton (where a committee system is working well) and Canterbury (where members are now looking to move back from a committee system to a leader-and-cabinet model).
- 2.23 By way of guiding the proposals, the working group agreed the following three criteria according to which a potential move to the committee system should be evaluated:
- ***Efficiency:*** Any change to the democratic process cannot slow down the business of the council or decision-making.
 - ***Effectiveness:*** Any change to the governance system must improve the effectiveness of the council and of decision making.
 - ***Engagement:*** Any change must enhance the opportunity for councillors and members of the public to engage in the council's democratic processes in appropriate ways.
- 2.24 The proposals outlined in the following section have been developed by the working group with these three considerations very much in mind.

3 Proposals

- 3.1 In considering how these three considerations could best be accommodated within a committee system, the constitution working group has debated issues including how many committees will be appropriate, the number of members on each committee, the frequency of meetings, and the mechanism for ensuring that individual committees are accountable to council for their decision-making.
- 3.2 It is not strictly necessary at this stage for all of these points to be definitively decided: it is sufficient for council to make the decision to move to a committee system and to determine the annual council meeting at which that decision should come into effect. Questions of the number, size and remit of committees can then be determined later – and, of course, adjusted through normal constitutional review mechanisms once the system is in place. The only decision which cannot be undone through those normal review mechanisms is the fundamental one to replace the leader-and-cabinet model with the committee system.

- 3.3 Notwithstanding this level of flexibility within the system, it will clearly be helpful for council to have some sense of the likely initial structure of the system in the event that council decides to implement it. The working group has coalesced around an initial arrangement involving four politically-balanced service committees, each with 12 - 15 members, including a 'policy and resources' committee charged inter alia with the coordination of the work of the other committees. It is expected that each committee would meet at intervals of approximately six to twelve weeks.
- 3.4 The working group has considered an analysis of the number of decisions made by cabinet over the last two years, and the portfolios under which they fell. This analysis has informed the working group's thinking on the optimal number of committees and will be used over the coming months to inform the work on the remit of each committee.
- 3.5 Following the decision by council to move to a committee system, there is a legal requirement to ensure that the decision is publicised. In practice, Swale would want to ensure that there is a high level of public consultation on the detailed arrangements. Consultation methods will include an online survey and public meetings, plus the offer of meetings with parish councils and representative bodies such as KALC. It is important that the governance change has a positive effect on residents' ability to engage with and influence the work of the council, and the consultation will be designed to elicit views on how this can best be achieved.
- 3.6 The decision to move to a committee system will require a wholesale re-drafting of the constitution, much of which – and not only the section dealing with responsibility for functions – is written based on assumption of individual decision-making by cabinet members. It is possible that this work could be split to enable the committee system to be introduced in May 2022 and the rest of the constitution to be brought into line with that system over the course of the following year. The council will need to contract with a specialist corporate governance lawyer to undertake this work.
- 3.7 Council is now invited to:
- **Agree** that the council's current leader-and-cabinet governance arrangements will be replaced with a committee system, to come into effect at the annual council meeting on in May 2022.
 - **Request** the cross-party constitution review working group to continue to develop proposals with respect to the detailed working of the new system, including the number and remit of committees, for endorsement by council between now and May 2022.

4 Alternative Options

- 4.1 The council is under no obligation to move to the committee system, and could decide to remain with the leader-and-cabinet model. The failure of a motion to move to a committee system at a council meeting does not legally preclude a further such motion being moved at a future council meeting. If the resolution is carried, then no resolution to move back to a leader-and-cabinet model would be permissible within five years of the decision.
- 4.2 Council could determine that it does wish to move to a committee system, but that the system should not implemented in May 2022. The implementation date has to be that of an annual council meeting, but the resolution can specify a future such meeting. The date of implementation does not affect the five-year period during which a decision to change governance models again cannot be taken: the five-year period for this purpose always begins on the date of the original decision, not its implementation. An alternative could be to agree the change with an adoption date of May 2023.

5 Consultation Undertaken or Proposed

- 5.1 Consultation to date has been largely internal, and has included the cross-party working group as well as an all-member briefing and invitations to the chief executive to attend a number of political group meetings. The external consultation which would need to take place in the event that the resolution is carried at council is described in paragraph 3.5 above.

6 Implications

Issue	Implications
Corporate Plan	A decision to move to a committee system could contribute to the council's fourth corporate plan priority to 'Renew local democracy and make the council fit for the future'.
Financial, Resource and Property	No implications identified at this stage. Financial, resource and property matters would fall under the remit of one or more committees in the committee system in the same way that they currently fall under a number of cabinet portfolios. The policy and resources committee would have the duty to propose a budget to full council in the same way that cabinet currently does, and once adopted this would be the budget within which all service committees would have to operate.
Legal, Statutory and Procurement	The legal implications of the decision are set out within the body of the report. The most significant point for members to be aware of is the stipulation set out in Schedule 2 of the Localism Act 2011 that once a decision to move to the committee system is taken, a decision to move back to the leader-and-cabinet model cannot be taken within five years of the date of the original decision, unless a local referendum demonstrates public support to move back sooner.

Crime and Disorder	No implications identified at this stage. Crime and disorder matters would fall under the remit of one or more committees in the committee system in the same way that they currently fall under a cabinet portfolio.
Environment and Climate/Ecological Emergency	No implications identified at this stage. Environmental, climate and ecological matters would fall under the remit of one or more committees in the committee system in the same way that they currently fall under a number of cabinet portfolios.
Health and Wellbeing	No implications identified at this stage. Health and wellbeing matters would fall under the remit of one or more committees in the committee system in the same way that they currently fall under a cabinet portfolio.
Safeguarding of Children, Young People and Vulnerable Adults	No implications identified at this stage. Safeguarding matters would fall under the remit of one or more committees in the committee system in the same way that they currently fall under a cabinet portfolio.
Risk Management and Health and Safety	No implications identified at this stage.
Equality and Diversity	It is important that the council consults appropriately on this proposal, and this consultation will need to be designed so as to enable all sections of the community to respond.
Privacy and Data Protection	No implications identified at this stage.

7 Appendices

7.1 There are no appendices.

8 Background Papers

8.1 There are no background papers.

Council: 6 October 2021

Recommendations for Approval

Council is asked to note the following recommendations:

Licensing Act 2003 Committee – 9 September 2021

Minute no. 253 – Statement of Principles Under the Gambling Act 2005

Recommended:

- (1) That Council note that there were no responses to the public consultation on the draft Statement of Principles under the Gambling Act 2005.***
- (2) That Council adopt the draft Statement of Principles under the Gambling Act 2005.***

Minute No. 254 – Local Area Profile under the Gambling Act 2005

Recommended:

- (1) That Council adopts the Local Area Profile under the Gambling Act 2005.***

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Council Meeting	
Meeting Date	6 October 2021
Report Title	Independent persons – extension of contracts
Cabinet Member	Cllr Roger Truelove – Council Leader
SMT Lead	David Clifford, as Monitoring Officer
Head of Service	
Lead Officer	Robin Harris – Deputy Monitoring Officer – Team Leader (Contentious) Mid Kent Legal Services
Key Decision	No
Classification	Open with restricted appendix which is not for publication by virtue of paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 as it contains information relating to an individual.
Recommendations	1. That Council extend the period of appointment of Patricia Richards and Christopher Webb as Independent Persons for a further four years to September 2025.

1 Purpose of Report and Executive Summary

- 1.1 In accordance with the provisions of the Localism Act 2011 (the Act), the Council on 16 May 2012 agreed the adoption of a new Code of Conduct for members and co-opted members. In September 2017, Council formally approved the appointment of Patricia Richards and Christopher Webb to the positions of Independent Persons for a four-year period.
- 1.2 The purpose of this report is to seek Council approval to extend the period of appointment of Patricia Richards and Christopher Webb as Independent Persons for a further four years to September 2025.

2 Background

- 2.1 Appendix I provides a summary of Patricia’s and Christopher’s professional and other experience, together with an outline of why they wish to continue in the role.

3 Proposals

- 3.1 The Act requires the Council to have in place arrangements under which, firstly, standards complaints can be investigated and, secondly decisions on complaints can be made. As part of that process, the Act envisaged a new role for an ‘Independent Person’.

- 3.2 The Council is required to appoint at least one Independent Person. Although not members of the Standards Committee, the Independent Persons' views are to be sought and taken into account by the Committee when considering complaints about the conduct of a member or co-opted member of the authority.
- 3.3 Since the current Code of Conduct was adopted there have been eight complaints about members which have reached the stage of formal consideration by the Standards Committee, thereby requiring the Independent Persons' involvement.
- 3.4 The appointment of the Independent Persons was made after the positions had been advertised to the general public and Patricia and Christopher were appointed following submission of expressions of interest and a formal interview process. Moving forward, Patricia Richards and Christopher Webb have indicated their willingness to continue in their roles.
- 3.5 The position carries a Special Responsibility Allowance of £1,000 p.a.
- 3.6 This option would negate the time and expense of re-advertising and interviewing for the position in the circumstances where the Council already has two proven candidates.

4 Alternative Options

- 4.1 The Council could re-advertise and interview for the positions, but this would incur additional time and expense.
- 4.2 The Council could reappoint only one Independent Person to satisfy the requirements of the Localism Act. This is not recommended as previous experience has shown that failure to build in resilience can cause delay in dealing with complaints due to non-availability and can leave the Council vulnerable should the Independent Person choose to step down from the position.

5. Consultation Undertaken or Proposed

Consultation has taken place with the Chairman of the Standards Committee.

6 Implications

Issue	Implications
Corporate Plan	The appointment and extension of the Independent Persons enables the Council to demonstrate good governance and discharge its duty to promote and maintain high standards of conduct.

Financial, Resource and Property	The remuneration for the post is included in the budget for statutory committees
Legal, Statutory and Procurement	Section 28 of The Localism Act 2011 prescribes the procedure that a local authority must follow if it wishes to appoint one or more Independent Persons. There is nothing in the Act which prohibits the extension of appointments of Independent Persons.
Crime and Disorder	None identified at this stage.
Environment and Climate/Ecological Emergency	None identified at this stage.
Health and Wellbeing	None identified at this stage.
Safeguarding of Children, Young People and Vulnerable Adults	None identified at this stage.
Risk Management and Health and Safety	Risks of non-compliance with legal requirements will be mitigated by the actions suggested in the recommendations to the report.
Equality and Diversity	No adverse equality or diversity implications, procedures apply equally to everyone.
Privacy and Data Protection	There are no implications as the personal information contained in the report is in the exempt appendix and is therefore compliant with data protection legislation.

7 Exempt Appendices

- 7.1 Appendix I: **Confidential** – details of individual persons recommended for extension as Independent Persons.

8 Background Papers

- 8.1 None.

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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of the Local Government Act 1972.

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