



# Agenda

Meeting: **Constitution Working Group**  
Date: **31 August 2023**  
Time: **11.00 am**  
Place: **Remote meeting (Teams)**

To: Councillors Mrs Jennifer Hollingsbee, Jim Martin, Connor McConville,  
Tim Prater and Paul Thomas

1. **Apologies for absence**

2. **Declarations of interest**

3. **Minutes**

To agree as a true record the minutes of the meeting held on 12 July 2023.

4. **Meeting arrangements (public access)**

To consider the governance arrangements of the Constitution Working Group and whether meetings should be open to the public.

5. **Responses to the design questions**

To discuss the responses provided by Group Leaders, and agree the parameters for the new structure.

**Queries about the agenda? Need a different format?**

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# Minutes

## Constitution Working Group

Held at:	Middelburg Room - Civic Centre Folkestone
Date	Wednesday, 12 July 2023
Present	Councillors Mrs Jennifer Hollingsbee, *Jim Martin, Connor McConville, Tim Prater and Paul Thomas
Apologies for Absence	None.
Officers Present:	Ellen Joyce (Democratic Services Trainee), Amandeep Khroud (Assistant Director) and Susan Priest (Chief Executive)
Others Present:	Philip McCourt (Bevan Brittan LLP)  (* for part of the meeting)

### 1. **Welcome and Introduction - Chief Executive**

The Chief Executive welcomed those present and introduced Philip McCourt of Bevan Brittan LLP.

### 2. **Terms of reference**

The Assistant Director – Governance and Law circulated the draft terms of reference (appended to these minutes) for approval. Members were invited to give feedback via email prior to the next meeting of the Working Group.

### 3. **Verbal update by Monitoring Officer on the work done by the previous Governance WG during the last administration**

The Assistant Director – Governance and Law outlined the work carried out by the previous Governance working group, and advised that the minutes were available to view on the council's [website](#).

### 4. **Presentation from Bevan Brittan - Change of form of governance: principal issues, questions and project planning**

Philip McCourt gave a presentation setting out the main considerations when changing governance arrangements.

The presentation set out suggested objectives for the change in governance arrangements, which were:

- **Inclusivity** – all elements of the Council should be involved in decision making, able to make their argument and exercise their vote;
- **Transparency** – the decision making process should be more open and transparent to Members and to the public;
- **Dynamism** – decision making should be both quick and effective and, when necessary, allow for urgent decision making;
- **Streamlined** – responsibilities and accountability should be clear, both within the Council and to the public
- **Accountability** – governance should assist good decision making, involving proper and early scrutiny; and
- **Cost effectiveness** – arrangements should seek to be agile and neither over burdensome nor costly.

Members indicated that they were broadly in agreement with these objectives.

Members commented on various aspects of the presentation and made points including the following:

- It was useful to draw on examples of other authorities who had adopted committee governance arrangements, such as Swale.
- It was important to ensure that the committee structure was the right fit for Folkestone and Hythe.
- Would a new constitution include decision making arrangements of wholly owned companies?
- There was no desire to retain a Scrutiny function within the committee system, but each committee should retain the ability to create task and finish groups, enabling 'deep dives' on specific topics.
- It was important to ensure the number of committees aligned with the number of members, to ensure there were enough members on each committee.
- Decision making within a committee model would not prevent decisions going in the favour of any majority group.
- Would officers be serving multiple committees?
- In terms of the arguments for and against a committee system, the negatives were negatable.
- It was desirable to avoid any double handling where reports needed to be considered by two separate committees.
- Would the £100k budget cover everything needed to change the governance arrangements of the council, including convening the Independent remuneration panel?
- Members supported the principle of committee chair's acting as 'spokespersons'.

Philip McCourt responded to the issues raised and made points including the following:

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- The terms of reference, and how the council exercised decision making as a share holder in terms of wholly owned companies was publicly available information and would be included within the constitution.
- It was important to ensure that decisions were not pre-determined and were made based on the evidence presented to that committee.
- Resources were a key consideration in the change in governance arrangements. Officer training was also vital, not just in terms of the committee model, but also for officers who had not previously presented at committee meetings.
- A cap on the number of Sub-Committees was recommended.
- More officer delegations were encouraged in a committee model, enabling quick decision making on some of the smaller decisions.

Members indicated that they supported the suggested model of four separate committees, with the policy and resources committee, and services and communities committees being made up of 12 members.

Philip McCourt advised on a list of Design and Practical questions set out within the presentation. It was agreed that these questions be circulated to Members of the Working Group seeking feedback, which would be put forward for discussion at the next meeting of the Working Group.

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Member	1. Outcomes	2. Overall structure	3. Delegations	4. Officer delegations	5. Retain OSC?	6. Dedicated Employment, Audit, General Purposes, Constitutional or Standards Cttee	7. Sub-Cttees and Working groups	8. Cttee sizes	9. Meeting cycle
Cllr Mrs Hollingsbee		Will there be consultation with the public – how long will this take? How will the response be analysed	Depends how often full Council Meetings are held. What will be the point of setting up committees if all 'controversial' decisions are taken by full Council? I think each committee should seek to have the same decision-making capability collectively that portfolio holders have today - otherwise things will grind to a halt and the committees will have no real power to push things forward.	Why is this? Members losing power?	Probably, but depends on number of committees and commitment of members to each, Will there be sufficient members?	Probably needs to be discussed, having policy as part of the Statutory Planning & Licensing could be positive	Need to consider numbers – we only have 30 Members	Although in the first instance the committee system seems to include all members, the likely outcome is that the ruling group will have final say – much as what happens in full Council at the moment!	Again, this depends on number of committees and their responsibilities. P&R, if main committee should meet more frequently than other committees. Activity at committee level is not the same as member involvement in policy making!
Cllr J Martin		I think we can only determine a new committee system through ongoing discuss and debate based on expert advice.	I think that the Council should reserve all powers of delegation and grant these powers on an annual basis or whenever considered necessary.	All authority lies with the Council but enhanced officer delegation will be granted as events dictate.	Overview and Scrutiny should remain.	Should be based on Strategic Principles, these can be regularly reviews by the Council.	To be agreed as the Council see fit.	To be agreed, but political balance is important	As frequent as events dictate
Cllr McConville	Largely agree with the wording and reasoning (set out by Philip)	Agree to a 2-committee system. Policy and resources and Community and Environment (or similar) These would be decision making bodies that would replace cabinet.	The scheme of delegation would not need to change in a large way, P&R would largely make many of the same key decisions as cabinet currently.  P&L and A&G would remain as currently.	where decisions were previously made by individual cabinet members, there is scope for those to be made by officers with the agreement of a group of members, committee chairs, group leaders etc. reporting on decisions made must be robust and a call-in function must be available for decisions made outside of committee or full council.	Happy with point 5, however the specific use of task and finish groups within the new committees to undertake some of the work previously undertaken by OSC should be included.	Agree, P&L should remain as is and all policy should come through committee as it would currently through cabinet.	sub committees are fine. Personnel and Housing for P&R  and community engagement and possibly the parks and pleasure grounds could be part of the other committee	committees of 12 give a solid representation of the council as a whole and offer an undistorted view of political balance.  3 committees of 12 plus A&G of 5 gives 41 places we currently have 42 committee spaces including cabinet	P&R should meet monthly as cabinet currently do; the other committee should have 8 meetings a year. planning and Audit should remain as current.
Cllr Prater	We strongly endorse and welcome the draft		Council may expand on the number of policies required to come to it and, unlike the cabinet system, the committees may	This may be balanced by greater definition of decisions by an officer requiring a published decision notice and	5.1 The legislation in respect of overview and scrutiny committee(s) should	Do you wish to retain the split between planning and regulatory decision making and policy or pass over policy making to combined with the	Audit, Governance and Standards can be run as one committee. The size of the task in	There should be no more than two ad hoc sub-committees able to be created by each	9.1 The starting point is recommended to be 9

	<p>responses from Philip as the basis for a future committee system.</p>		<p>choose to refer a matter to council if they think the matter warrants it.</p> <p>This is key: it should be explicit that decisions can simply be moved to Full Council for consideration by majority vote of that committee.</p>	<p>consideration of whether or not to retain a definition of 'key decisions' as a means of providing prior notice and reports in officer decision making and whether or not to adopt a form of referral by members (call in) of key decisions to committee.</p> <p>There needs to be trust on both sides here. Delegated decisions should be made "in consultation with" a Committee Chair or "Portfolio Spokes", and should be reported at the time of decision and then too the appropriate committee. There should be, at least in the first instance, a relatively simple mechanism to move decisions from delegated to committee, following discussion: we will learn as we proceed and may choose to "undelegate" some decisions (preferably without waiting for year end). With those protections in place, a scheme by exception seems reasonable.</p> <p>We would endorse the concept of "Portfolio Spokes" as leads on functional areas, consulted with by officers as required on key decisions and able to lead on them at committee, but without the decision</p>	<p>not be adopted by the council</p> <p>5.2 The approach of overview and scrutiny, however, in pre-decision engagement, policy development and post decision performance monitoring and review should be retained wherever possible.</p> <p>We support the concept of detailed policy review and scrutiny within committees. Defined well, there should be no need for a separate scrutiny committee.</p>	<p>regulatory committee(s)? [Separate statutory Licensing Act Committee required]</p> <p>We support Planning Policy being retained by the Policy committee, and Planning decisions being taken by the separate regulatory committee.</p>	<p>terms of ongoing review of the constitution, and the addition of parish matters, means that the splitting of the area into two committees (Audit and Governance &amp; Standards) should be considered further. Numbers are also a factor, noted below.</p> <p>We would support it being one committee.</p>	<p>committee and no more than two working (task and finish) groups running at any one time. This will reduce the cost and workload and keep the committee arrangements streamlined.</p> <p>We would support the limit being set at 2 (rather than 1).</p>	<p>members for any substantive policy committee, based on research as to effective board sizes and meeting dynamics. This allows for movement down to 6 (as a minimum) and up to 12 or more to include greater political representation. It also allows for a sub-committee of 5 to be more easily formed, again as a starting point.</p> <p>We would support the two policy committees being 12 people, to include the broadest possible political representation.</p>
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				making powers of Cabinet members.					
Cllr Thomas		<p>I agree that we should have Four Committees along with a number of Sub-Committees and Working Groups, to deliver the Council Business</p> <p>The Committee Structure should be based on Functional Areas, supported by specific Sub-Committees and Working Groups, except where a Statutory Functional Panel has to be convened.</p>	<p>This should be laid out in a specific schedule of the Constitution and any decision should be published within a given period (3-5 days).</p> <p>I would like the next meeting to discuss the functional allocations to each Committee and to produce a Cabinet to Committee Map.</p>	<p>I agree that a specific schedule of delegation should be defined and those to be taken by a Committee, Sub-Committee or Full Council should also be defined.</p>	<p>I would prefer to retain an Overview and Scrutiny arrangement, depending on how we decide to conduct urgent decisions and those that may need to be called in to full Council.</p>		<p><b>Policy and Resources Committee –</b> agree with the outline Terms of Reference but I believe that we should have a separate Planning Policy Working Group. Sub-Committees should be limited to:          Appointments:          Investigation and Disciplinary:          Disciplinary Appeals.          All of the Sub-Committee members to attend training on Employment Law and Conduct of Investigations.</p> <p>Working Group should be limited to:          Planning Policy</p> <p>There should also be an Independent Panel to report on Members Allowances.</p> <p><b>Services and Communities Committee.</b></p> <p>Sub-Committee should include:          Opportunitas?</p> <p>Where will Otterpool sit??</p> <p><b>Regulatory Committee.</b></p>	<p>I believe that these Committees should comprise 12 Councillors, based on political balance. Sub-Committees and Working Groups should have 5 or 6 members, drawn from the main committee, with membership based on political balance. All Committee members must attend the relevant Councillor training. Substitutes for Committee, Sub-Committee and Working Group membership should be pre-authorised and agreed at Full Council.</p>	<p>Committee meetings should be every 6 weeks, with the exception of Development Control and Licensing, which should meet every 4 weeks. Sub-Committees and Working Groups should meet as required but at least four times per year.</p>

							<p>(Development Control and Licensing) Licensing Committee.</p> <p>Sub-Committees should include: Licensing Act Sub-Committee.</p> <p><b>Audit, Standards and Governance Committee.</b></p> <p>No specific Sub-Committee.</p>		
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