

Governance Review

For Full Council on Wednesday 28 February 2024



Summary

Report date: 15 January 2024

Lead Member: Cllr Ben Chapelard, Leader of the Council

Lead Director: Lee Colyer, Director of Finance, Policy and Development

Head of Service: Andy Sturtivant, Head of Governance and Democratic Services

Report author: Andy Sturtivant, Head of Governance and Democratic Services

Classification: Public document (non-exempt)

Wards affected: All

Approval timetable	Date
Governance Review Committee	Thursday 18 January 2024
Management Board	Monday 22 January 2024
Finance and Governance CAB	Tuesday 23 January 2024
Overview and Scrutiny Committee	Monday 29 January 2024
Cabinet	Thursday 8 February 2024
Full Council	Wednesday 28 February 2024

Recommendations

Officer/Committee recommendations as supported by the Cabinet member:

1. That Council note the results of the research activities carried out.
2. That Council note the results of the Councillor Survey.
3. That Council agrees the recommendations, committee structure, and number of seats set out at section 4 of this report.
4. That Council note that any consequential changes to the Constitution and/or Terms of Reference for any Committee or Board, because of the new arrangements, will be brought to Full Council at its meeting on Wednesday 3 April 2024.

5. That Council agrees that a review of the new arrangements be undertaken by the Head of Governance and Democratic Services after 12 months.

1. Introduction and background

- 1.1 Following the review and [final recommendations of the Local Government Boundary Commission for England](#) (LGBCE), in May 2024 the number of councillors on Tunbridge Wells Borough Council (hereinafter referred to as 'the Council') will reduce from 48 to 39 (a 19% reduction), and the number of wards from 20 to 14.
- 1.2 In response to this, a new committee was formed in June 2023 called the Governance Review Committee (hereinafter referred to as 'the GRC'). The GRC was tasked with identifying options for a new committee structure and bringing forward a set of final recommendations. This report sets out those final recommendations.
- 1.3 Members of the GRC are:
 - Cllr Ben Chapelard
 - Cllr Tom Dawlings
 - Cllr Hugo Pound
 - Cllr Nicolas Pope
- 1.4 The aim of the GRC, as set out in its Terms of Reference, is to oversee the development of a proposed set of committee structures that are appropriate to achieve the Council's objectives in terms of:
 - Its statutory functions (Planning, Licensing etc.).
 - Enabling backbench engagement in, and oversight of, day-to-day decision-making.
- 1.5 The GRC set out to achieve its aim by producing a set of final recommendations outlining the committees the Council needs and include details of their:
 - Responsibilities
 - Membership
 - Modus operandi
- 1.6 [The Tunbridge Wells \(Electoral Changes\) Order 2024](#) was 'Made' on 4 January 2024. The Article within the Order relating to the reduction in councillor numbers comes into force on the ordinary day of election of councillors in England in 2024, that day being Thursday 2 May 2024.

2. Research activities

2.1 The Terms of Reference for the GRC set out several research activities to be undertaken to help inform its final recommendations. These activities included:

- Carry out a review of the ‘as is’ of committee structures and the decision-making process.
- Engagement activities with councillors and officers to gather their feedback on the ‘as is’ of committee structures and decision-making process.
- Survey councillors to obtain accurate information about workload, availability, and the value they attribute to committees alongside any suggestions they may have as to how they operate.
- Research examples of best practice at other local authorities who have reviewed and changed their committee structures, and review their lessons learned.

2.2 Research activities were undertaken between July and December 2023 and the results were reviewed regularly at meetings of the GRC.

Identifying the ‘as is’ situation

2.3 The Council’s current governance arrangements were approved following a report to Full Council on 25 April 2012. They came into effect from May 2012.

2.4 The Council has 11 committees and boards. All but the three Cabinet Advisory Boards (hereinafter referred to as ‘CABs’) are decision making. The three CABs are advisory. Details of the current committees and boards are set out in the following table.

Committee / board name	Seats	Quorum
Overview and Scrutiny Committee	12	4
Appeals Committee	5	3
Audit and Governance Committee	8	3
General Purposes Committee	8	3
Investigating and Disciplinary Committee	5	3
Licensing Committee	15	4
Planning Committee	14	5
Joint Transportation Board	6	4
Communities and Economic Development CAB	11	3
Finance and Governance CAB	11	3
Planning and Transportation CAB	11	3

- 2.5 In addition to its committees and boards, the Council also has 10 working groups and panels. Details of these are set out in the following table.

Working group / panel name	Seats
Climate Emergency Advisory Panel	4
Code of Conduct Hearing Panel	5
Community Grants Advisory Panel	5
Constitution Review Working Party	4
Deep Think*	8
Housing Advisory Panel	6
Investment Advisory Panel	5
Planning Policy Working Group	8
Property Asset Oversight Panel	6
Top Teams*	8

*For information, the Terms of Reference for Deep Think and Top Teams are set out at **Appendix A** of this report.

- 2.6 A visual representation of the Council's current governance arrangements is set out at **Appendix B** of this report.

Officer workshops

- 2.7 To gather feedback from officers, several workshop sessions and meetings were held with officers from:
- Planning
 - Licensing
 - Finance
- 2.8 The feedback gathered from the officer workshops has been used to inform the final recommendations set out in this report. The officer feedback included:
- The frequency of some meetings could possibly decrease.
 - Working groups provide a good opportunity for discussion prior to CABs.
 - Online meetings via Microsoft Teams for non-decision-making meetings work well and help with attendance for officers, particularly in the evening.
 - The introduction of substitute committee members could help fill seats when members of a committee aren't available to attend.

Councillor Survey

- 2.9 As part of its research work, the GRC commissioned a Councillor Survey to obtain accurate information about workload, availability, and the value councillors attribute to committees alongside any suggestions they may have as to how they operate.
- 2.10 The Councillor Survey opened on Friday 4 August 2023 and closed at 6pm on Friday 1 September 2023 (four weeks).
- 2.11 A copy of the survey questions can be found at **Appendix C** of this report. Eleven of the twelve questions were mandatory and required a response to complete the survey.
- 2.12 All councillors were invited to complete the survey, with an initial invite sent on Friday 4 August 2023. Reminders were sent on 15 August 2023 and 29 August 2023. Information about the survey was also included in the member newsletter sent on Thursday 3 August 2023.
- 2.13 In total, 22 councillors completed the survey, which is just under 46% of all current councillors.
- 2.14 All responses to the Councillor Survey have been reviewed, and where possible, grouped under a single category or heading. A summary of the responses to each question in the survey can be found at **Appendix D** of this report.
- 2.15 Suggestions for improvement to the current governance arrangements received via the Councillor Survey included:
- Consider if the Chair or Vice-Chair of CABs should be cabinet members, and if cabinet members should sit on CABs at all.
 - Reduce the number but increase the ability of CABs to genuinely influence decisions and outcomes.
 - Try to avoid too many committees under the new structure.

Local authority research

- 2.16 Research has been undertaken looking at the governance arrangements of other local authorities with similar setups to the Council post May 2024. In compiling the list of local authorities there were four pre-requisites, the local authority must:
- Have 39 seats.
 - Come from a two-tier county.
 - Operate an Executive (leader and cabinet) model.
 - Have a population figure no more or less than 25% of the TWBC population.

- 2.17 **Appendix E** of this report gives an overview of the 12 local authorities whose governance arrangements were looked at, along with more in-depth information about the governance arrangements at each.
- 2.18 The research with other local authorities revealed a very mixed picture. The number of committees varied, and each was structured very differently. The feedback from those authorities contacted was that their structure works for them and has been tweaked over time to find something that delivers what they need.

3. Options considered and preferred option

- 3.1 The GRC considered three options when deciding how best to address the challenges set out in section 1 of this report. The options considered were:
- **Option 1** (do nothing)
 - a. Retain the current number of seats on each committee, as set out at 2.4 above.
 - b. Retain the current committee structure, set out in **Appendix B**.
 - **Option 2**
 - a. Reduce the number of seats on some (or all) committees to match the 19% reduction in the number of councillors from May 2024.
 - b. Retain the current committee structure, set out in **Appendix B**.
 - **Option 3**
 - a. Reduce the number of seats on some (or all) committees.
 - b. Review the current committee structure, taking into consideration the results of the research activities set out within section 2 of this report.
- 3.2 The GRC immediately dismissed Option 1, as trying to fill the current number of committee seats with fewer councillors would be very difficult.
- 3.3 It was felt that Option 2 would address the issue of fewer councillors to fill committee seats but would be a missed opportunity by leaving the committee structure as is.
- 3.4 The GRC therefore selected **Option 3** as its preferred option and used the results of the research activities to create some initial recommendations for discussion.

4. Final recommendations

- 4.1 Using the results of the research activities set out in section 2 of this report, the GRC developed a set of initial recommendations for changes to the Council's committee structure and seats on committees.
- 4.2 The initial recommendations of the GRC were presented to Cabinet at a Deep Think meeting on Wednesday 6 December 2023. They were also shared via group leaders for comment and feedback from councillors.
- 4.3 Feedback on the initial recommendations was discussed by the GRC at its meeting on Wednesday 3 January 2024. Following this, a set of final recommendations for changes to the Council's committee structure and seats on committees were agreed.
- 4.4 The final recommendations of the GRC for changes to the committee structure and seats on committees are set out below. A visual representation of the final recommendations is set out at **Appendix F** of this report.

Changes to Cabinet

- 4.5 The Council's Constitution should be amended to change the number of councillors who can be appointed to Cabinet. The Constitution should be amended to say:

Cabinet will consist of the Leader of the Council together with at least 3 and up to 7 other councillors (appointed by the Leader).

- 4.6 The Council's Constitution should be amended to include the Cabinet quorum. The Constitution should be amended to say:

The Cabinet quorum is 3, which must be the Leader or Deputy Leader + 2.

Rationale for changes to Cabinet

- 4.7 The Council's Constitution currently states that Cabinet will consist of the Leader of the Council together with at least 2 and up to 9 councillors.
- 4.8 By applying the same percentage reduction as has been applied to other committees, the result is a new maximum of the Leader and up to 7 councillors.

General Purposes Committee

- 4.9 General Purposes Committee should be disbanded, and its functions passed to another committee.
- 4.10 Audit and Governance Committee should take on the functions of General Purposes Committee. However, the Monitoring Officer should fully explore all functions to determine if there is a committee other than Audit and Governance that may be more suitable to take on some (or all) of these.
- 4.11 The implementation of this recommendation is subject to the Monitoring Officer being able to identify alternative committees to take on all functions of General Purposes Committee.

Rationale for disbanding General Purposes Committee

- 4.12 Of the last ten scheduled meetings of the General Purposes Committee, eight have been cancelled as there were no agenda items. At the two meetings that did take place, the committee reviewed a total of three reports.
- 4.13 If the functions of General Purposes Committee can be accommodated elsewhere, given the number of cancelled meetings and low number of reports taken to it, it seems reasonable to disband it.

Cabinet Advisory Boards (CABs)

- 4.14 The number of Cabinet Advisory Boards should reduce from three to two.
- 4.15 The subject areas associated with each CAB should be determined after the Cabinet Portfolios have been agreed and, to facilitate this, the Constitution should be amended to require the Leader to present the makeup of Cabinet and Portfolios to Council (for information not approval). This will enable Management Board to work with the Leader to determine a suitable and equitable makeup of the two CABs.
- 4.16 The name of both CABs should be determined following the actions outlined above at 4.15. For the purposes of this report, the CABs will be referred to as Cabinet Advisory Board A and Cabinet Advisory Board B.
- 4.17 Membership of both CABs should remain at 11 with an increase in the quorum from three to four.
- 4.18 Meetings of both CABs should continue to take place monthly.

- 4.19 Meetings of both CABs should be chaired by a non-Cabinet member.
- 4.20 Where there is an agenda item which falls within a Cabinet member's portfolio area, they can attend and participate in the debate, but not vote at the meeting.

Rationale for changes to Cabinet Advisory Boards (CABs)

- 4.21 Reducing the number of CABs from three to two reduces the overall number of committee seats to be filled by the reduced number of councillors from May 2024.
- 4.22 Of the current CABs, one regularly has a full agenda (Finance and Governance), and the other two less so. Feedback from officers indicates that combining two of the CABs would be achievable in terms of agenda items.
- 4.23 The current chairing of CABs by the Portfolio Holder is something that received a lot of feedback in the Councillor Survey and has been a subject of discussion for some time. Having CABs chaired by a non-Cabinet member is in direct response to the feedback received from councillors.

Use of 'substitutes'

- 4.24 Substitute members should be appointed to the following committees:
- Licensing
 - Overview and Scrutiny
 - Planning
- 4.25 Substitute members will be expected to undertake appropriate training to enable them to carry out their role as and when required.
- 4.26 The use of substitutes will be set out in a Policy developed by the Monitoring Officer.

Rationale for the use of substitutes

- 4.27 Appointing substitute members to a committee ensures that, at a basic level, it can achieve a functioning quorum of members to transact its business.
- 4.28 Positive feedback was received about the use of substitutes from officers who have worked at other local authorities where they are used.
- 4.29 Consideration was given to the use of substitutes for Cabinet Advisory Boards. The decision of the GRC was against this given the need for continuity, for example, quarterly reports that come through CABs.

Planning Committee

- 4.30 The requirement to have equal numbers of councillors from the East and West of the Borough should be removed.
- 4.31 Wording in the Constitution should be updated to say that Group Leaders must, where possible, ensure representation from the urban and rural areas when making appointments to Planning Committee.

Rationale for the change to Planning Committee

- 4.32 The requirement to have equal numbers of councillors from East and West came about following the move from separate planning committees for each.
- 4.33 Feedback from officers and councillors is that this requirement is no longer needed, so long as the update to the Constitution detailed at 4.31 is made.

Committee seats and quorums

- 4.34 The changes to the seats and/or quorum for the committees listed in the following table should be made.

Committee / board name	Current seats	New seats	Current quorum	New quorum	Difference
Audit and Governance Committee	8	7	3	3	- 1 seat
Cabinet Advisory Board A	11	11	3	4	+ 1 quorum
Cabinet Advisory Board B	11	11	3	4	+ 1 quorum
Licensing Committee	15	12	4	4	- 3 seats
Overview and Scrutiny Committee	12	10	4	4	- 2 seats
Planning Committee	14	12	5	4	- 2 seats

- 4.35 The reduction in seat numbers shown above, together with disbanding General Purposes Committee and removal of one CAB, reduces the total number of committee seats from 106 to 79, a 29% reduction.
- 4.36 Adding in new substitute seats (assuming three substitute seats were allocated to the three committees at 4.24) would bring the total number of committee seats to

88. This is a 19% reduction on the current 106 seats, matching the 19% reduction in councillor numbers from May 2024.

Rationale for changes to seat numbers and quorums

- 4.37 The reduction in seat numbers applied to the committees above reflects the percentage reduction in the number of councillors available to fill seats from May 2024.
- 4.38 Average attendance by councillors at some committee meetings is considered to be low. The following table sets out the average attendance by committee for the period 1 January 2023 to 31 December 2023.

Committee/board name	Seats	Meetings held	Average attendance
Appeals Committee	5	0	N/A
Audit and Governance Committee	8	4	97%
Communities and Economic Development (CAB)	11	7	83%
Finance and Governance (CAB)	11	8	83%
General Purposes Committee	8	2	75%
Investigating and Disciplinary Committee	5	0	N/A
Joint Transportation Board	6	4	79%
Licensing Committee	15	3	73%
Overview and Scrutiny	12	6	79%
Planning and Transportation (CAB)	11	4	73%
Planning Committee**	14	12	73%

**Where there was a vacant seat(s) on Planning Committee at a meeting, this has been treated as a non-attendance for the purpose of the average attendance figure.

- 4.39 With a reduction in councillor numbers from May 2024, it is difficult to foresee an improvement in the average attendance figures shown above, should the current number of committee seats (106) be retained.
- 4.40 The increase in quorum numbers for the CABs brings them in line with all other committees, where a quorum is one third or 3, whichever is highest. When applying this to the 11 seats on the CABs, one third is 3.66. You must have at least this number, so you round up to 4.

Online Cabinet Advisory Board (CAB) meetings

- 4.41 Meetings of Cabinet Advisory Boards (CABs) may be held online subject to the following:
- 4.41.1 The decision to hold a CAB meeting online will be made:
- On a meeting-by-meeting basis.
 - By the Chair of the CAB following advice from officers.
- 4.42 The first meeting of a CAB in each municipal year will be held in person.
- 4.43 Where members of the public or guest speakers are present at an online CAB meeting, procedures will be in place for audio to be muted, or those attendees to be removed from the meeting, where confidential or exempt information is to be discussed.
- 4.44 There will be no option for 'hybrid' CAB meetings, they will be held wholly online or in person.

Rationale for allowing online Cabinet Advisory Board (CAB) meetings

- 4.45 Feedback from officers and councillors indicated there is a desire to move more meetings online and remove the need to attend in person.
- 4.46 Council meetings were held online when restrictions were in place due to the COVID-19 pandemic. The Council has the experience and technology in place to hold meetings online, so there is no investment required to bring forward this recommendation.

Recommendation from Cabinet Advisory Board

- 4.47 The Finance and Governance Cabinet Advisory Board were consulted on Tuesday 23 January 2024 and agreed the following:
- That the recommendations set out in the report be supported.

5. Implementation

- 5.1 Once approved by Full Council, the new committee structure and seats on committees recommended within this report will take effect after the May 2024 elections.
- 5.2 To implement the changes, there are some other tasks that need to be completed before May 2024, these are:
- The Monitoring Officer will identify and make any consequential changes required to the Council's Constitution. These changes will be taken to Full Council at its meeting on Wednesday 23 April 2024.
 - The Monitoring Officer will draft a Policy on the use of substitutes for the Licensing, Overview and Scrutiny, and Planning committees.
 - The Democratic Services team will make any changes required to the Council's Committee Management System.
 - The Democratic Services team will draft a calendar of meetings for the new municipal year from May 2024, based on the new committees.

6. Appendices and background documents

Appendices

- Appendix A - Top Teams and Deep Think - Terms of Reference
- Appendix B - Current committee structure and seats
- Appendix C - Councillor Survey – Questions
- Appendix D - Councillor Survey - Summary of responses
- Appendix E - Local authority research
- Appendix F - Recommended committee structure and seats

Exempt appendices

- None

Background papers

- None

7. Cross cutting issues

A. Legal (including the Human Rights Act)

There are no legal implications save that the Council's Constitution must be amended to give effect to any changes outlined in this report. The Local Government Act 2000 (as amended by the Localism Act 2011) sets out the various forms of governance that a council can adopt. In this case, there are no changes to the Council operating a Leader and Cabinet form of executive.

Claudette Valmond, Head of Legal Partnership, 15 January 2024

B. Finance and Other Resources

The proposed changes to the governance arrangements can be delivered within the approved budget and resources.

Lee Colyer, Director of Finance, Policy and Development, 15 January 2024

C. Staffing

No implications.

Andy Sturtivant, Head of Governance and Democratic Services, 15 January 2024

D. Risk Management

No implications.

Andy Sturtivant, Head of Governance and Democratic Services, 15 January 2024

E. Environment (inc. Biodiversity) and Sustainability

No implications.

Andy Sturtivant, Head of Governance and Democratic Services, 15 January 2024

F. Community Safety

No implications.

Andy Sturtivant, Head of Governance and Democratic Services, 15 January 2024

G. Equalities

No implications.

Andy Sturtivant, Head of Governance and Democratic Services, 15 January 2024

H. Data Protection

No implications.

Andy Sturtivant, Data Protection Officer, 15 January 2024

I. Health and Safety

No implications.

Andy Sturtivant, Head of Governance and Democratic Services, 15 January 2024

J. Health and Wellbeing

No implications.

Andy Sturtivant, Head of Governance and Democratic Services, 15 January 2024