

GOVERNANCE ARRANGEMENTS

Governance Committee – 18 September 2014

Report of Chief Officer Legal and Governance

Status: For Consideration

Key Decision: No

Executive Summary: Following a recommendation of Council on 1 April 2014, the Governance Committee is tasked with continuing to investigate future Governance arrangements in general to allow the newly elected administration in 2015 to consider future governance.

Portfolio Holder Cllr. Fleming

Contact Officer(s) Christine Nuttall Ext. 7245

Recommendation to Governance Committee: that following Council's recommendation on 1 April 2014, that the Governance Committee continue to investigate future Governance arrangements in general to allow the newly elected administration in 2015 to consider future governance, this committee considers the information and research taken place to date as set out in this report.

Reason for recommendation: The Governance Committee is tasked with continuing to investigate future Governance arrangements in general to allow the newly elected administration in 2015 to consider future governance.

Introduction and Background

- 1 Prior to 2000, decisions in all English local authorities were taken through council committees. These committees were governed by the Local Government Act 1972 and had power delegated to them directly from Full Council and also had power to arrange the discharge of their functions through sub-committees or officers. They were required to be politically proportionate, meaning that seats on committees had to be allocated to each political group in the same proportion to the number of seats held by each of those groups on the Council.
- 2 The Local Government Act 2000 gave effect to the Government's plans to change the way that local authorities made decisions. The central feature of the new system was a division between executive elected members, who would make decisions and non-executive elected members who would scrutinise those decisions. The aim of separating the roles of executive and non-executive elected members was to improve efficiency, transparency and accountability. The Government gave local authorities three main alternative decision-making models:

- a directly elected mayor and cabinet;
- a leader and cabinet; or
- a directly elected mayor and council manager

Sevenoaks District Council adopted the leader and cabinet model.

3 The Localism Act 2011 (“the 2011 Act”) gives Councils greater freedoms over their governance arrangements allowing them to choose which governance system they operate from the following options:

- Leader and Cabinet Executive;
- Mayor and Cabinet Executive;
- a Committee System;
- other arrangements approved by the Secretary of State.

2 The Secretary of State has power to approve alternative forms of governance arrangements on request from local authorities, provided that they demonstrate that the proposed arrangements would be an improvement on the current arrangements, they would ensure efficient, transparent and accountable decision making and that they would be appropriate for all local authorities, or a particular type of local authority. In September of last year the Monitoring Officer spoke to the Department for Communities and Local Government (“DCLG”) who informed her that no Councils in England had put forward proposals to the Secretary of State to consider any alternative form of governance arrangements. Even if proposals passed the initial requirements test set by the Secretary of State there would still need to be House of Commons approval and House of Lords approval to any alternative form of governance arrangements.

3 The Act is clear that a local authority with committee based governance arrangements may appoint one or more committees as the authority’s overview and scrutiny committee or committees and so any desire to return to the Committee system of governance could include the elements of an authority’s current scrutiny system.

4 A decision as to whether or not to return to a committee system is a decision for Full Council. In considering the arrangements the following factors have been identified by other authorities considering change:

Advantages and Disadvantages of the Committee System and the Leader and Cabinet System

The Committee System

Advantages

- All councillors have a broader role as members of several committees and are directly involved in taking decisions provided wider representation of local interests.
- Themed committees enable more Members to become specialists in subject/service areas.
- Style of Leadership is consensual and all committees have cross-party membership.

Disadvantages

- Resources – the ongoing costs to support a committee system have been estimated to be higher by those authorities that have already looked into changing. There would also be a need for considerable officer and member time to be spent in preparing for and implementing a new committee system.
- If the Council agrees to move to a committee system and passes a resolution to this effect the change would take effect from the next Annual Council meeting that follows the resolution and then the local authority may not pass another resolution changing back to the Cabinet system until the end of the period of 5 years beginning with the date the original resolution was passed. As a result the present administration would be committing a new administration to a different form of governance upon which they would not have been given the opportunity to choose.
- Operating under a committee system will mean that the Independent Remuneration Panel (IRP) would need to review the new arrangements and make proposals for changes to Members Allowances.
- Operating under a committee system is a very different model of decision making as compared with executive arrangements. As a result the authority would need to review how it engages with and supports Members. New arrangements will need to be implemented which adequately support Members to operate effectively under the committee system.
- The speed of decision making can be slower.
- Committees are subject area based which could create silos with less strategic overview and involvement from other parts of the council.
- Potential increase in Member and Officer workload to reintroduce and support the committee system

Leader and Cabinet System

Advantages

- The system is more aligned to the Cabinet and Select Committee system of governance operated by central government which could make it more easily understandable to members of the public.

- A Cabinet can look at issues in the round and prevent decisions being taken in 'silo'
- Decision making is allocated to a relatively small group of councillors. This allows clarity of accountability and speed of decision-making. It also tends to mean that individual decisions are often subject to greater Member consideration by portfolio holders and collectively by the Cabinet informally than in a committee system.

Disadvantages

- Decision making powers are allocated to a relatively small group of councillors and it excludes other councillors from any real decision making except in regulatory functions and where major decisions have to be taken in Full Council.
- There is a perception that it is less democratic as not all councillors have the opportunity to be involved in decision making.
- There is also a perception that it is less consultative with scrutiny unable to successfully influence Cabinet decision making.

Other Councils

- 5 The leader cabinet system is seen in most English authorities and is the standard approach which the majority of councils currently operate.
- 6 All Councils in Kent are working under some form of cabinet governance model. Only Tandridge District Council over the border in Surrey is working under the Leader and Committee System as a result of their population falling under the threshold for the previous requirement to change to the Cabinet system of governance. However, Canterbury City Council passed a resolution on the 24th July 2014 to return to the Committee system at the next Annual Council meeting 2015.
- 7 A number of Councils in Kent including Sevenoaks District Council (SDC) have adopted a hybrid model which overcomes some of the disadvantages associated with the cabinet model. This is still a leader cabinet model and so does not require Secretary of State approval.
- 8 The system in SDC was implemented following concerns with the previous structure. These concerns were as follows:
 - Perception of remoteness/inaccessibility of portfolios; feeling of disengagement from the influence and decision-making; lack of training and development (succession planning for future Cabinet members); and the need to streamline the system to match the resource available.
- 9 As a result a Hybrid model based on Cabinet Advisory Committees was adopted. The new system under went a year long review following its introduction in May 2013. The review comprised extensive Member consultation and resulted in some changes being approved by Full Council in April 2014 with implementation at Annual Council in May 2014.

- 10 The present system broadly comprises 5 Cabinet Advisory Committees with 12 members including the relevant Cabinet and Deputy Cabinet members on each of the Cabinet Advisory Committees. The Deputy Cabinet members do not have Cabinet decision making powers. Members can sit on more than 1 Cabinet Advisory Committee and the Advisory Committees are able to choose their own chair.
- 11 The Scrutiny Committee has a fixed membership of 9 members plus a Chairman and Vice Chairman with all members of the Committee being independent of the Cabinet Advisory Committees.
- 12 It was also resolved by Full Council in April 2014 that the Governance Committee would continue to investigate future Governance arrangements in general to allow the newly elected administration in 2015 to consider future governance.
- 13 The Local Government Association has produced guidance entitled “Rethinking governance” which gives practical steps for councils considering changes to their governance arrangements. The guidance is attached as an Appendix to this report.
- 14 The guidance illustrates those Councils who moved to a Committee system in May 2013/2012 and those which adopted hybrid arrangement in 2012 or 2013. The guidance also sets out Councils who considered changing governance arrangements to move to a committee system but decided not to.

Key Implications

Financial

It is likely that there will be additional net cost implications if a change of governance to the committee system were to take place. At this point in time no quantification of such costs has been made and there would be additional costs of preparing detailed proposals for which financial provision would need to be allocated.

Legal Implications and Risk Assessment Statement.

These are incorporated in the body of the report.

Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	No adverse impact can be identified to any protected groups in making a change in governance arrangements
b. Does the decision being made or recommended through this paper have the potential to promote equality of	No	Not at this stage

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
opportunity?		
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		N/A

Conclusions

The Governance Committee through its working group has undertaken work to look at the practicalities and appropriateness of moving to the Committee System or a Hybrid model. The Hybrid model over the Committee System was chosen as the most appropriate system to overcome the concerns that had been previously expressed by Members (Please refer paragraph 8 of the report).

Once the Hybrid model had been adopted at Annual Council in May 2013 a year long review took place which involved lengthy Member consultation which resulted in changes being made to the Hybrid model at Annual Council in May 2014.

Annual Council in May 2014 also resolved that the Governance Committee continue to investigate future Governance arrangements in general to allow the newly elected administration in 2015 to consider future governance which this report aims to explore.

Appendices

Appendix - Local Government Association Guidance entitled "Rethinking governance"

Background Papers:

Localism Act 2011

Review of New Governance Arrangements –
Governance Committee – 13 March 2014

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