

Constitution Committee

Date of Meeting: 15 July 2019

Report Title: The Council's Governance Arrangements

Senior Officer: Brian Reed - Head of Democratic Services and Governance

1. Report Summary

- 1.1. On 22 May 2019, the following notice of motion was submitted to Full Council in relation to the Council's governance arrangements:

'This Council is committed to implementing a change in decision-making governance arrangements, comprising the cessation of the current Leader and Cabinet model of governance, and the implementation of a full Committee model of governance; this to be developed during 2019/20 with a view to the new arrangements taking effect from the beginning of the 2020/21 Municipal Year, subject to a legally and constitutionally robust process, led by the Council's Constitution Committee, and agreed by Council'.

- 1.2 Councillor J Nicholas proposed the notice of motion, which was seconded by Councillor J Bratherton, this was agreed by Council.
- 1.3 This report provides an overview of the key issues, and asks the Committee to establish a working group to develop the proposals, as envisaged in the notice of motion.

2. Recommendation

- 2.1 That the Constitution Committee establish a working group of 8 Members, on a politically proportionate basis (3:2:2:1), to develop detailed proposals as envisaged in the notice of motion, with those terms of reference as set out in paragraph 3.9 of this report.
- 2.2 That the working group produce recommendations for the Constitution Committee to consider.
- 2.3 That the working group be known as the 'Governance Working Group'.

3. Background

- 3.1 The Local Government Act 2000 fundamentally changed the way local authorities made decisions by introducing a number of options as to how they could operate. The aim of this was to improve accountability, transparency and efficiency. Prior to that, all decisions were taken through Council Committees, which had powers delegated to them from Council. Committees were able to establish sub-committees and were required to be politically proportionate.
- 3.2 The Localism Act 2011 inserted amendments into the Local Government Act 2000 setting out a clear process for local authorities in England to change their governance arrangements. Under current legislation, the following types of decision-making structures are available:
- Leader and Cabinet – this is the system operated by most local authorities, and this Council. The Leader appoints a Cabinet of at least 2 and up to 9 Councillors. These Councils must have Overview and Scrutiny arrangements.
 - Directly Elected Mayor and Cabinet – this system allows a directly elected executive mayor with wide decision-making powers. The Mayor appoints a Cabinet made up of other Councillors, who may have decision making powers. These Councils must have Overview and Scrutiny arrangements.
 - Committee system – in this arrangement, most decision are made in committees, which are made up of a mix of Councillors from across all political groups. Council appoints Members to the committees on a politically proportionate basis, and sets their terms of reference. These arrangements may also include overview and scrutiny, but there is no requirement for this. If the local authority determined not to have overview and scrutiny committees, it would still need to make appropriate arrangements for the scrutiny of health, crime and disorder and flood risk management, either by full Council or one of its Committees [*under S244 of the National Health, Service Act 2006; under S19 of the Police & Justice Act 2006; and under Section,9FH of the Local Government Act 2000 (as amended by Schedule 2 of the Localism Act 2011)*]. Under the committee system, a local authority is able to decide how its functions are delivered. It is possible for full Council to make all decisions; or to delegate decisions to a committee, sub-committee or officers. However, some functions must still be delivered by full Council (e.g. the Budget and Policy Framework).
 - Alternative forms of governance – The Secretary of State has the power to approve governance arrangements which do not fall within the three categories highlighted above. Any such alternative forms of governance would be proposed for approval by the local authority in

question who must demonstrate that the proposed arrangements would be an improvement on the current arrangements; that 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. Officers are not aware of any Authority which has made such a request.

The Process for Change

- 3.3 In order for a local authority to change its governance arrangements, it must first pass a resolution of full Council confirming the details of the new governance arrangements, and the date upon which they will be introduced.
- 3.4 Moving to a new system can only take place at an Annual Meeting of Council in any particular year; the earliest date that change in governance arrangements could take effect would be from 13 May 2020. A considerable amount of detailed and careful work would have to be undertaken prior to this.
- 3.5 As soon as practicable after Council passes the resolution, the Council must publish in one or more newspapers circulating in the area a notice which advertises the decision to change its governance arrangements and the date upon which the change will take effect, this will be from Annual Council on 13 May 2020.
- 3.6 There is no requirement for specific consultation under the Localism Act 2011 or to consider any responses that are received in response to the public notice given.
- 3.7 Following a change in governance arrangements, no further change would be permitted within five years. It is important, therefore, that any change is very carefully considered and planned.
- 3.8 It is proposed that a working group be established to develop detailed proposals as envisaged in the notice of motion, which would be submitted to the Constitution Committee for consideration. The final recommendations of the Constitution Committee would then be considered by Council.
- 3.9 The working group would be required to:
 - Undertake all work necessary to respond to the notice of motion.
 - Consider and learn from other Councils who have implemented a committee system.

- Establish a detailed timeline to ensure the Council is in a position to make a final determination upon those matters approved by full Council in the recent notice of motion.
- Develop a proposed form of governance for consideration by the Constitution Committee , giving consideration to:
 - any financial and constitutional changes that would be required;
 - the implications, for the timeliness of decision-making, of available alternative models of governance, and associated proposals.
- Report back to the Constitution Committee at key stages, as and when required. This may involve arranging additional meetings of the Constitution Committee.

The Committee System

- 3.10 This is an option available under the Local Government Act 2000, as amended by the Localism Act 2011 and is what the notice of motion agreed by Council on 22 May 2019 envisages. Examples of authorities that have changed governance arrangements are attached at appendix A
- 3.11 In this arrangement, most decisions are made in committees, which are made up of a mix of Councillors from all political parties. Council appoints members to the committees on a politically proportionate basis, and sets their terms of reference and can either reserve the decision making to itself, which would require recommendations from the Committee to Council or can delegate decision making to the Committee but not individual Chairman.
- 3.12 Councils operating a committee system may also have limited overview and scrutiny arrangements, but are not required to. If the Council determines not to have Overview and Scrutiny Committees, it would still need to make arrangements for the scrutiny of health and flood risk management, either by full Council or one of its Committees.

Constitution

- 3.13 The outline principles for a new system would have to be considered and agreed and, alongside that process, a new constitution would need to be developed. An appropriate timeline would need to be established for developing a new constitution considering the adoption of the new governance arrangements.

- 3.14 The constitution would need to set out the format of the new arrangements and, if moving to a committee system, appropriate delegations and the terms of reference of committees drawn up, together with other necessary changes for recommendation to Council. The actions set out above in terms of statutory process would also need to be undertaken.

Staffing

- 3.15 A return to the committee system may require more support from management and service-area officers, as there could be more decision-making committees, a larger number of Members making those decisions, and an increase in member briefings and pre-meetings.
- 3.16 The proposals put forward would need to include a review of staffing resources to ensure any new form of governance and political administration was appropriately resourced in order to ensure proper support for potential additional meetings, briefings and pre-meetings. An increase in member briefings and pre-meetings could also have an impact on the services in question.

Member allowances

- 3.17 Operating under a different form of governance and decision making system would necessitate a review by the Independent Remuneration Panel (IRP) of the proposed new arrangements together with the roles of the Chairs and Vice Chairs. Decision making would be undertaken by the Committee as a corporate entity. The IRP would therefore be required to make recommendations regarding members' allowances and this would need to be factored into the overall project plan to ensure that it enabled the implementation of the new arrangements by May 2020.

4. Implications of the Recommendations

4.1. Legal Implications

- 4.1.1 The statutory background which applies to a proposal to change a local authority's governance arrangements is set out within the body of the report.
- 4.1.2 A change in governance arrangements would have significant legal implications. The constitution would need to set out the format of the new arrangements and, if moving to a committee system, appropriate delegations and the terms of reference of committees drawn up, together with other necessary changes for recommendation to Council.

4.1.3 The full legal implications will be explored as part of the proposed working group's activities.

4.2. Finance Implications

4.2.1 There are no identified financial implications from setting up a working group. The financial implications of any recommendations or requirements of the group will be analysed as necessary and included in any further reporting.

4.3. Equality Implications

4.3.1. The Council's governance arrangements must enable all groups to engage in the decision making process. No equality implications are identified at this stage.

4.4. Human Resources Implications

4.4.1. There are no quantified human resource implications at this stage. The proposed working group would require a higher degree of officer support, given the nature and scale of a project. The impact arising from the implementation of any proposals for change would have to be properly assessed by the working group.

4.5. Risk Management Implications

4.5.1. There are no risk management implications at this stage, beyond ensuring that any working group is properly resourced to ensure any proposals arrived at are comprehensive and sound.

4.6. Rural Communities Implications

4.6.1. There are no direct implications for rural communities.

4.7. Implications for Children, Young People and Cared for Children

4.7.1. There are no direct implications for children, young people and cared for children.

4.8. Public Health Implications

4.8.1. There are no direct implications for public health arising from this particular report.

4.9 Climate Change Implications

4.9.1. None

5. Ward Members Affected

5.1. All wards are affected.

6. Access to Information

6.1 CfPS – Rethinking Government

<https://www.cfps.org.uk/wp-content/uploads/Rethinking-Governance.pdf>

CfPS – Musical Chairs

<http://www.cfps.org.uk/wp-content/uploads/Musical-Chairs.pdf>

LGiU – changing to a Committee system in a new era

<https://www.lgiu.org.uk/wp-content/uploads/2014/12/Changing-to-a-committee-system-in-a-new-era.pdf>

Localism Act 2011

http://www.legislation.gov.uk/ukpga/2011/20/pdfs/ukpga_20110020_en.pdf

7. Contact Information

7.1. Any questions relating to this report should be directed to the following officer:

Name: Brian Reed

Job Title: Head of Democratic Services and Governance

Email: brian.reed@cheshireeast.gov.uk