

Constitution Committee

Date of Meeting: 5 October 2020

Report Title: Committee System Form of Governance - Update

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

1. Report Summary

- 1.1. At its meeting held on 19 March 2020, the Constitution Committee resolved to recommend to Council to cease operating the existing Leader and Cabinet model of governance and implement a committee system model of governance, to take effect from the Annual Council meeting in May 2021.
- 1.2. The Constitution Committee also recommended to Council that the design principles; structure of committees; role of Leader and Deputy Leader; urgency provisions and roles and powers of committee and sub-committee chairs be approved.
- 1.3. Additionally, the Governance Working Group was requested to give further consideration to a decision review process and scrutiny functions. The Minute extract of the meeting held on 19 March 2020 is attached at Appendix A.
- 1.4. The Governance Working Group has also considered how Public Rights of Way and Licensing matters would be dealt with under a committee system model of governance.

2. Recommendations

- 2.1 That full Council be recommended to resolve that:
- 2.2 The Public Rights of Way Committee be a standalone committee.
- 2.3 The General Licensing Sub-Committee and Licensing Act 2003 Sub-Committee be retained to ensure that the Council complies with legislative provisions.

- 2.4 There be a single scrutiny committee, empowered to discharge the statutory scrutiny functions.
- 2.5 The Referral to Council Process at Appendix B be approved.

3.0 Background

- 3.1 At the Governance Working Group held on 6 July 2020, Members considered:

3.2 Public Rights of Way Committee

- 3.2.1 At its meeting on 19 March 2020, the Constitution Committee agreed that a Public Rights of Way Committee would sit as a sub committee of the Highways and Transport Committee, in the new committee system. However, it has since been suggested that this should remain a standalone committee for the following reasons:

- 3.2.2 The majority of matters which are considered by the Public Rights of Way Committee (Public Path Orders – mainly diversions and Definitive Map Modification Orders – ‘claims’ for paths) are not transport or access-related, but are decisions on changes to the rural path network. Most of the Committee decisions relate to the Wildlife and Countryside Act 1981 or Town and Country Planning Act 1990.

- 3.2.3 Members of the Public Rights of Way Committee are specifically trained in complex legislative requirements, in order to deal with the legal orders presented to them, and it is important that such quasi-judicial decisions are taken on an informed basis.

- 3.2.4 The Working Group therefore agreed to recommend to the Constitution Committee that the Public Rights of Way Committee should remain as a standalone committee.

3.3 Licensing Act Sub-Committee Structure

- 3.3.1 The Working Group considered whether or not the various sub-committees of the Licensing Committee should be consolidated when the committee system is introduced.

- 3.3.2 The option of reducing the number of sub-committees from two to one had been considered. However, given the specific nature of the sub-committees it is not possible to comply with two different and conflicting sets of legislation, procedures by consolidating arrangements.

- 3.3.3 Consideration has also been given to the impact of removing the General Licensing Sub-Committee and dividing its powers between officers and the Licensing Committee. However, this option would result in a committee of fifteen Members dealing with matters that are currently dealt with by a sub-committee of five Members. This is not the best use of resources and is not as

efficient as the current model. Furthermore, any additional powers delegated to officers would remove Members from an important decision-making process and applicants may see this change as an erosion of their right to have their application scrutinised by a quasi-judicial body.

- 3.3.4 The Working Group agreed that the Constitution Committee be recommended to retain both the General Licensing Sub-Committee and Licensing Act 2003 Sub-Committee, to ensure that the council complies with legislative provisions.

3.4 Scrutiny Function in a Committee System

- 3.4.1 The Working Group considered the following options for the Council's scrutiny function in a committee system:

- a) to have no bespoke overview and scrutiny committee (thereby meaning that the statutory scrutiny functions would be fulfilled by the service committees);
- b) to have a bespoke overview and scrutiny committee that fulfilled only the three main statutory scrutiny functions; or
- c) to have a specifically prescribed scrutiny function with responsibility for more than just the statutory scrutiny functions.

- 3.4.2 The nature of the scrutiny function is fundamentally different under a committee system form of governance, to that which applies under executive arrangements. Prior to the year 2000, there was no obligation upon local authorities to have an overview and scrutiny function at all. Now, scrutiny must only take place in respect of health, crime and disorder and flood risk management. This can be done either by full Council, or one of its committees. Under the current proposals considered by the Constitution Committee on 19 March 2020, these functions were to be performed by a single scrutiny committee, but could equally be performed by the appropriate service committees.

- 3.4.3 Previously, under a committee system, the committees themselves were responsible for the performance of the service areas within their remit, and it is currently proposed that the six service committees would be responsible for performance monitoring. The committees would also have the power to set up working groups to look at service issues, policy matters, or to undertake specific pieces of work.

- 3.4.5 Working Group Members clarified that, were the Council to establish an overview and scrutiny committee within its committee system structure, it would be included within the formal calendar of meetings and not set up to meet only on an ad hoc basis.

- 3.4.5 The Working Group agreed that the Constitution Committee be recommended to include one overview and scrutiny committee within its proposed committee system structure, which would fulfil the council's statutory scrutiny requirements.

3.5 Referral to Council Process

- 3.5.1 At the meeting of the Governance Working Group on 6 March 2020, it was agreed to recommend to Constitution Committee the creation of a Decision Review Committee, in order to filter any referrals of decisions taken by service committees. It was proposed that the Decision Review Committee would consider referral requests, make recommendations to the service committees where it chose to do so or, exceptionally, refer the matter to full Council for review. This was intended to be a quick process which would avoid all referral requests having to be referred directly to full Council for consideration and would reduce the risk of undue delay to the implementation of decisions.
- 3.5.2 The Constitution Committee on 19 March 2020 decided not to recommend the proposals for a Decision Review Committee to full Council, as it was considered to be an unnecessary addition to the process. Instead, the Committee agreed that referrals should be made direct to full Council and asked the Monitoring Officer to review the process.
- 3.5.3 The Monitoring Officer has since taken the opportunity to review the process. Attached to this report at Appendix B are revised proposals, which were considered by the Governance Working Group on 6 July 2020 and agreed on 17 September 2020.
- 3.5.4 Unless specifically resolved by Council to the contrary, the remaining committees not affected by the change from a Leader and Cabinet model will continue under the proposed new committee system arrangements. A revised Committee structure chart, including all of the proposals outlined above is attached at Appendix C.

2 Implications of the Recommendations

4.1 Legal Implications

- 4.1.2 The ability for the Council to change from one of the permissible forms of governance arrangements of a local authority to another is provided for by Chapter 4 of the Local Government Act 2000 (as amended by the Localism Act 2011). Section 9KC of the Act straightforwardly states that a “resolution of a local authority” (a simple majority) is required in order for the council to make such a change in governance arrangements.
- 4.1.3 The proposed change in governance arrangements would be implemented in May 2021, and any future change in such arrangements, unless by way of a referendum, could not be implemented until May 2026.
- 4.1.4 A resolution passed by the Authority to change from one of the permissible forms of governance arrangements to another will then be implemented only during-

- the first annual meeting of the local authority to be held after the resolution to make the change in governance arrangements is passed, or
- a later annual meeting of the local authority specified in that resolution.

4.2 Finance Implications

- 4.2.1 There are direct costs associated with making the change from one form of governance to another. These costs are associated with redrafting the constitution. There will also be associated costs with the training of members and officers.
- 4.2.2. Member allowances will require further consideration and a separate report with recommendations from the Independent Remuneration Panel will be considered in due course.
- 4.2.3 It is acknowledged that once implemented, one form of governance need not cost more than another.
- 4.2.4 By using every available opportunity to streamline decision-making; use available technology and optimise the officer support arrangements it is intended where possible to contain the cost of running the new system to a minimum with no net increase in resources.

4.3 Policy Implications

- 4.3.1 Any relevant policies will need to be amended to reflect a committee system form of governance.

4.4. Equality Implications

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

4.5 Human Resources Implications

- 4.5.1 There are significant human resource implications in relation to training and development. Any staffing issues as a result of moving to a committee system will continue to be considered as the proposals are developed further.

4.6 Risk Management Implications

- 4.6.1 A change to a committee system will introduce a system of decision making that is new to members, officers and partners. Training and briefing will be required to ensure that the transition is smooth and that there is not a delay in decision making.

4.7 Rural Communities Implications

- 4.7.1 There are no direct implications for rural communities.

4.8 Implications for Children & Young People/Cared for Children

4.8.1 There are no direct implications for children and young people/cared for children.

4.9 Public Health Implications

4.9.1 There are no direct implications for public health.

4.10 Climate Change Implications

4.10.1 There are no direct climate change implications.

4.11 Ward Members Affected

4.11.1 All wards are equally affected.

4.12 Consultation & Engagement

4.12.1 There is no legal requirement to consult the public on a proposed change to the Council's governance model. Notwithstanding this, the Governance Working Group considered a report at its meeting on 14 October 2019 in relation to consultation and engagement options. The Working Group agreed they did not wish to consult on the proposals. Due to the fact that the Notice of Motion had already been agreed by Council, they did not consider there was any benefit in undertaking public consultation at that stage. Members were keen to ensure that residents and staff were kept updated about the proposals. To this end, an article was published in the November edition of 'The Voice' along with various updates on the intranet for staff.

4.12.2 Three Member Engagement Workshops have taken place to inform the development of these proposals. The feedback from these sessions has been considered by the Working Group.

4.12.3 As soon as practicable after full Council has passed a resolution to change its form of governance arrangements, a public notice of the Council's resolution must appear in one or more newspapers, as detailed in paragraph 10.1.

5.0 Access to Information

5.1 Previous reports to the Constitution Committee provide the background to the governance review which are available on the Council's website.

6.0 Appendices

Appendix A – Extract of the Constitution Committee minutes – 19 March 2020

Appendix B – Revised Decision Review Process

Appendix C – Proposed Committee Structure Chart

7.0 Contact Information

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

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