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## **Corporate Policy Committee**

**6 February 2025**

### **Council Decision-Making and Governance**

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**Report of: Acting Governance, Compliance, and Monitoring Officer**

**Report Reference No: CPC/43/24-25**

**All Cheshire East Council Wards are affected  
For Decision**

#### **Purpose of Report**

- 1 This report has been produced in response to the recommendations of the Local Government Association Peer Challenge Report, and to a Notice of Motion from Council, to present to the Committee options in respect of the Council's decision-making and governance arrangements, after May 2026. It also makes proposals to improve existing arrangements pending any changes.

#### **Executive Summary**

- 2 This report analyses and provides background information upon recommendations of the LGA Peer Challenge Report, and also the Notice of Motion which was referred to the Committee by Council on 16 October 2024.
- 3 The report addresses the Council's decision-making governance arrangements, and presents to Members options to consider, including a proposal for a full review, changes which could be made to improve existing arrangements, as well as more significant changes which could be made, should the Council be minded to do so.

## RECOMMENDATIONS

The Corporate Policy Committee is recommended to:

1. Determine whether the existing Constitution Working Group, together with key officers, should drive-forward the Council's review of its decision-making and governance arrangements or, alternatively that a new politically proportionate working group should be appointed to do so.
2. Approve the terms of reference for a Decision-Making and Governance Working Group as set out in Appendix 9 to this report.
3. Agree the Scope of the review, as set out in Appendix 8 to this report.
4. Agree adapted Design Principles as set out in part 2 of Appx 3 to this report.
5. Note the progress made so far to improve existing arrangements, including changes to scrutiny work programming, scrutiny training and officer reporting, and call for officers to identify and report to the Working Group upon further immediate improvements which might be made, where these can be identified (paragraphs 3.17 onwards refer).
6. Note the indicative review process, as set out in Appendix 5 to this report.
7. Agree that reports will be brought back to the Committee upon such improvements as are referred-to in Recommendation 5, as well as upon the progress of the review.

## Background

### LGA Corporate Peer Challenge report

- 4 In March 2024 the Local Government Association (LGA) undertook a peer review of the Council and its subsequent report included recommendations which called for Council decision-making to be streamlined, the consideration of governance structures and improvements to scrutiny:
- 5 "Recommendation Eight: Urgently review the Council's decision-making framework:
- 6 The Council needs to streamline current decision-making arrangements to avoid siloed working across committees, ensure that Committees are working through effective work programmes, and reduce confusion and lost capacity caused by the current system. This should include consideration of governance structures, schemes of delegation, and report approval arrangements ahead of committee meetings.
- 7 "Recommendation 10: Give more time and emphasis to Scrutiny across the Council: The Council would benefit from increased Scrutiny of decisions through their existing governance structures. This should include more

consistent approaches to Scrutiny at Committee, and improved forward planning and agenda setting to maximise member input into the decision-making process.

- 8 See the full report: [LGA Corporate Peer Challenge Final Report 2021](#)

### **Notice of Motion to Council on 16 October 2024**

- 9 On 16 October 2024, Council, received a Notice of Motion, which was fully debated. Council in summary, resolved that a report be presented to the Corporate Policy Committee by 6 February 2025, which would include:

- information about the experience of Members of the committee system,
- details of how a change in the Council's governance arrangements might be made,
- the implications of and timescale for doing so, and
- details of any other pertinent matters.

- 10 The full detail of the Notice of Motion is set out in Appendix 1.

- 11 The resolution of Council, amongst other things, called for detailed information to be provided about how a change in the Council's governance arrangements might be made, and the implications of and timescale for making such a change. This report, therefore, presents proposals as to next steps for consideration should the Council wish to resolve to do so.

### **Models of Local Government**

- 12 There are a number of models of decision-making which are available to local authorities under the Local Government Act 2000:

- Executive arrangements: directly elected Mayor
- Executive arrangements: Leader and Cabinet
- Committee system
- Other options/variations

More details are provided at Appendix 2.

### **Pros and cons: executive arrangements or non-executive arrangements**

- 13 There is no "right" or "wrong" system of decision making for local authorities. Ultimately, it is for each Council to determine how well they feel their own system is working and whether there might be benefits in exploring the alternatives.
- 14 Most Councils operate a Leader and Cabinet system of decision-making. The following are considerations:

- Opposition and backbench councillors can sometimes feel excluded from the decision-making process under the Cabinet and other executive systems.
  - A committee system does, inherently, give a louder voice to opposition members, since each committee is made up of members from all groups, on a politically proportionate basis.
  - Councils operating executive forms of governance must have at least one overview and scrutiny committee to hold the executive to account. This is seen by some to provide a beneficial element of challenge to decision-making. Under a committee system, there is no requirement to have any bespoke overview and scrutiny committee; this work is the responsibility of service committees themselves, as it was prior to the enactment of the Local Government Act 2000.
  - Views have been expressed that the Council's service committees do not undertake scrutiny effectively and need more support in doing so. This was highlighted in the LGA Peer Review (Action 10: Give more time and emphasis to scrutiny across the Council).
  - Some believe that committee systems of governance do not provide for rapid and responsive decision-making, and that bespoke service committees lead to siloed decisions. The recent Corporate Peer Review, whilst not suggesting that the committee system is not the right model of governance for the Council, did state (Action 8) that an urgent review of the Council's decision-making framework should be undertaken, noting that the Council needed to streamline its decision-making arrangements to avoid siloed working across committees. It further noted that the current arrangements created "confusion and lost capacity".
- 15 The question of speed of decision-making was considered in 2019 during the period prior to the Council's resolution to change its form of governance from a Leader and Cabinet system to a committee system. Some concerns were expressed about how quick decision-making would be under a committee system. These were countered by the view that specially arranged committee meetings could be convened when urgent decisions needed to be made. In practice, this is difficult to do given the diary commitments of Members, and the availability of accommodation, which can lead to the need for decisions to be made under urgency powers.
- 16 Views were also expressed in 2019 that executive decision-making ensured "joined-up" decisions, whilst others expressed concerns that it lacked transparency.

## **General issues**

- 17 Councils that do not opt for the committee system must establish overview and scrutiny arrangements through which non-executive councillors can

scrutinise executive decisions. This is also seen as a way of making sure that executive members can get involved in policy development.

- 18 Over recent years, like Cheshire East Council, several councils have chosen to adopt a committee system. These include Wirral, Barnet, Brighton, Nottinghamshire, Isle of Wight, Bristol, Hartlepool, Kingston-upon-Thames and Reading. Sheffield moved to a committee system following a referendum.
- 19 The Local Government Association encourages local authorities that are considering changing governance arrangements to think about how their council should operate:

- **“Planning:** What is the purpose of the work? What is the scope of the work? How will your review encapsulate the views of all interested parties? How can you meet democratic expectations of local residents?
- **“Assessment:** How do we involve all members in policy development and integrate the public voice? What decisions are delegated to officers? How can we improve forward planning?
- **“Design:** Based on the strengths and weaknesses that you identify in the assessment, develop some principles for what an improved system might look like – eg member/officer relationships, how information is shared and used, role for councillors in performance/financial management.
- **“Consider how you will get there:** What changes to the way you work might be necessary in terms of both culture and structure? What structural options are available?
- **“Weigh up a formal change:** Is there a clear rationale for a formal governance change?”

## Design principles

- 20 Prior to deciding to adopt a committee system of decision-making, Cheshire East Council produced “design principles” (Appendix 3).
- 21 These sought to emphasise the need for a new governance model which would reflect modern best practice, maximise the use of information technology, and ensure streamlined, efficient and quick decision-making.
- 22 They did not seek to replicate every element of historical committee system arrangements, which operated before the enactment of the Local Government Act 2000, but sought to facilitate the provision of a modern committee system which would meet the contemporary needs of the Council.
- 23 On 19 November 2020, when Council made its decision to cease operating a Leader and Cabinet model of governance and to implement a committee

system, the report it considered noted: “The Design Principles will be referred to in the future and will be used to assess whether desired outcomes have been achieved, or whether any necessary further amendments to the arrangements might be required”. It is suggested, therefore, that one of the first considerations which may be taken into account, is whether the desired outcomes of the Design Principles have been achieved.

- 24 It would seem that these Design Principles are still largely relevant and appropriate and should be retained as a reference point to assess whether the Council’s objectives have been achieved. However, they were drafted to reflect a change from a Cabinet system of governance to a Committee System. They should therefore be adapted to recognise that the Council’s existing decision-making arrangements might be improved, but retained, as well as creating flexibility for change to fundamentally different arrangements, should the Council wish to take this course of action. The original Design Principles (Part 1 of Appendix 3) have therefore been reproduced in amended form (Part 2 of Appendix 3) to create this flexibility, but also to reflect the recommendations of the LGA Corporate Peer Challenge.

## **Potential Changes to current arrangements**

### Introduction

- 25 Guidance suggests that, before any detailed consideration is given to changing governance arrangements, the first consideration should be whether any perceived issues with the current arrangements might be resolved by other means.

### Issues and Solutions

- 26 Issues of which we are aware, together with some initial thoughts upon solutions, are set out below, and can be further considered by the working group which this report recommends to be appointed:
- 27 Speed of decision-making and siloed working: reduce the number of service committees, with these potentially meeting more frequently. Give further powers to the Corporate Policy Committee to make decisions which would otherwise fall to one or more service committee, where speed is of the essence.
- 28 Consideration may be given to the responsibilities of the Finance Sub-Committee becoming responsibilities of the Corporate Policy Committee thereby removing the need for the Sub-Committee, and that there should be just one Place committee.
- 29 The Council’s scrutiny function: improvements could be achieved by the creation of scrutiny working groups to advise service committees, potentially drawing upon the skills and experience of members who are not members of

the committees in question. At the time of writing this report, arrangements had been finalised for the provision of bespoke scrutiny training for Members, this to take place in January and February 2025. Service Committee work programmes and agendas have been improved to prompt officer and Member thinking so that consideration is proactively given to overview and scrutiny matters.

- 30 Duration of meetings: some take the view that the service committee memberships are too big. This can lead to overly long meetings, with many members speaking on each item of business. For example, if an agenda has eight items of business, 13 members speaking for their allotted three minutes, each item would last a minimum of 40 minutes, plus additional time for officers to present the item, to be dealt with. The whole meeting could last for over seven hours. Committee memberships could be reduced to nine, and “guillotine” arrangements could be adopted to curtail business after a set period of time.
- 31 A further matter for consideration may be to increase the frequency of committee meetings.
- 32 In response to Recommendation 8 of the LGA Peer Challenge Report, detailed work is taking place to improve the officer experience of the committee reporting process, and to provide improved training and guidance for officers. The Monitoring Officer has established an officer working group, with a membership of officers from different Council disciplines: Legal and Democratic Services, Communications, Organisational Development and Human Resources, Project Management, People and Place report authors etc.

### **Process for any Change from a committee system of decision making**

- 33 The Centre for Public Scrutiny and the Local Government Association have produced a guidance document which sets out some considerations for councils that are considering changes to their governance arrangements:

[Rethinking-Governance.pdf \(cfgs.org.uk\)](https://cfgs.org.uk/Rethinking-Governance.pdf)

- 34 Appendix 4 to this paper sets out the considerations which the Centre for Public Scrutiny and the Local Government Association encourage councils to take into account when considering change.

### Timescale and process for change

- 35 Once a local authority has changed its governance arrangements, unless there is a referendum which calls for a further change to these arrangements, it cannot change its governance arrangements for at least five years.

- 36 Formal changes to governance arrangements must take place at an Annual General Meeting, following a formal resolution by Council to do so. There must be sufficient time between the formal resolution and the Annual General Meeting for the Council to publish the resolution and to consult upon the proposal, if required.
- 37 In the case of the Council, this would mean that May 2026 would be the earliest date upon which a change from the existing committee system could be implemented, should it be the Council's wish to do so. As was the case when the Council changed its governance arrangements from a Leader and Cabinet system to a committee system, there was a period of 6 months between the formal Council resolution to do so in November 2020, and the Council's Annual General Meeting in May 2021, at which the new arrangements were implemented.
- 38 When the Council was considering a change from its previous Leader and Cabinet arrangements, it established a "Governance Working Group" to help steer the process. This Group subsequently became the Constitution Working Group, which has provided ongoing advice upon general issues of constitutional change. The Constitution Working Group, or a different working group comprising other Members, could perform this role should a change of governance need further consideration.
- 39 (See Appendix 5 for more details of the process for any change, and Appendix 6 for a recommended approach to this review). Appendix 7 to this report details some of the constitutional documents which would need to be adopted should a fundamental change to the Council's decision-making governance arrangements be required.

## **Financial considerations**

- 40 The Council's current financial position is clear. Changing existing decision-making arrangements presents an opportunity to rationalise the committee structure. Alternatively, a fundamental change of governance arrangements would be an opportunity to create a new and effective form of executive arrangements. Both options should be seen as opportunities to make savings.

## **Conclusions**

- 41 As was noted in the report to Council on 19 November 2020, "a change of decision-making arrangements by any local authority is a profound step to take". Having made the decision to do so, changing decision-making arrangements back to an executive system would, at least, be an equally profound step.
- 42 Other changes could be made to the Council's decision-making arrangements which would not involve changing its governance system. This can be



particularly seen in respect of the LGA Peer Challenge recommendations where immediate gains can be made.

- 43 Before determining the way forward, careful consideration should be given to the Design Principles which were agreed by Council in 2019 (as proposed to be adapted in this report), to establish whether they are still considered to be relevant; and whether they have been achieved. If the view is taken that they are still relevant and have not been achieved, consideration should be given to what might be done to address this.
- 44 This report proposes the establishment of a working group, the responsibilities of which include the above.

## **Consultation and Engagement**

- 45 Consultation upon more fundamental changes to the Council's decision-making governance arrangements may be required or desirable. The proposed Working Group will give further consideration to the question of consultation as part of its work.

## **Reasons for Recommendations**

- 46 To respond to the LGA Peer Challenge report recommendations and to the Notice of Motion which was referred to the Committee by Council.

## **Other Options Considered**

- 47 It is proposed that all available options to improve existing arrangements, and to change decision-making arrangements will be considered in full by the proposed Working Group.

<b>Option</b>	<b>Impact</b>	<b>Risk</b>
Do nothing	This would be in conflict with the LGA Peer Challenge report recommendations and the wishes of Council.	That no improvements would be made to the Council's decision-making governance arrangements.

## **Implications and Comments**

### *Monitoring Officer/Legal*

- 48 The legal implications of this report are contained within the main body of the report.

### *Section 151 Officer/Finance*

- 49 At this stage, the recommendations of this report seek agreement upon the appointment of a Member Working Group which will be asked to make recommendations to the Committee upon immediate changes to the Council's existing decision-making arrangements, as well as to consider whether more fundamental changes which might be made to the Council's decision-making governance.
- 50 When recommendations are brought forward and presented to the Committee, their financial implications will be considered and advice will be provided to the Committee upon them.

### *Policy*

- 51 The following policy considerations apply, with reference to the Cheshire East Plan 2024-25:

#### **An open and enabling organisation**

The Plan commits the Council to being an "open and enabling organisation" with "transparency in all aspects of Council decision-making". Whilst this is naturally focussed upon the committee system, and whilst one potential outcome of this proposed review might lead to other arrangements, it is most important to note that the committee system might be endorsed as the right decision-making system for the Council. This report seeks to secure improvements to decision-making, irrespective of what system of decision-making will apply in the future.

### *Equality, Diversity and Inclusion*

- 52 Equality, diversity and inclusion will be most important issues for the proposed Working Group to consider as part of the proposed review.

### *Human Resources*

- 53 The proposed establishment of a Working Group does not create human resources implications. As and when such implications arise, these will be taken into account.

### *Risk Management*

- 54 The establishment of a Working Group does not create any apparent risks; rather, the proposals contained in this report seek to ensure that

risks are minimised. The Working Group will take into account any issues which create risks, as part of their work.

### *Rural Communities*

55 There are no direct implications for rural communities.

### *Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)*

56 There are no such direct implications.

### *Public Health*

57 There are no such direct implications.

### *Climate Change*

58 There are no such direct implications.

<b>Access to Information</b>	
Contact Officer:	Brian Reed <a href="mailto:Brian.reed@cheshireeast.gov.uk">Brian.reed@cheshireeast.gov.uk</a>
Appendices:	Appendix 1: Notice of Motion to Council Appendix 2: Different governance structures Appendix 3: Design Principles (existing and adapted) Appendix 4: How to go about it-the “thinking toolkit” Appendix 5: Timescale for any change Appendix 6: Proposed approach to the review Appendix 7: Constitutional documents required to facilitate a change to a different model of governance Appendix 8: Scope of review of Council decision-making and governance Appendix 9: Responsibilities of proposed Decision-Making and Governance Working Group
Background Papers:	All background documents are referred-to within the main body of this report.

**Notice of Motion to Council: 16 October 2024**

**The Council's Governance Arrangements**

At the Council's Annual General Meeting on 22 May 2019, Council resolved to express its commitment to implementing a change of its decision-making governance arrangements, comprising the cessation of the Leader and Cabinet model of governance, and the implementation of a full committee model of governance.

Following much preparatory work, on 19 November 2020, Council resolved amongst other things, to cease operating the Leader and Cabinet model of governance, and to implement a committee system model of governance, this to take effect from the Annual Council Meeting on 12 May 2021. Since then, the Council has operated committee system arrangements.

The committee system has now been in operation for over three years, and it is appropriate and timely for members to consider the benefits or otherwise of this system of governance.

Between 24-28 March 2024, the Local Government Association undertook a Corporate Peer Challenge of the Council, which concentrated upon a number of issues, including the Council's governance arrangements.

The LGA's report included observations and comments upon the Council's governance arrangements, together with a recommendation, which are set out in the Appendix to this Notice of Motion.

**Notice of Motion**

Council calls for a full report to be prepared and presented to the Corporate Policy Committee on or before 6 February 2025, which will:

- Include information from Members of their experience of the current committee system.
- Set out details of how any change in the Council's governance arrangements might be made, the implications of such a change, and the timescale within which such a change might be implemented.
- Provide details upon any other pertinent matters, such as financial implications and the potential impact of such a change upon the speed and effectiveness of decision-making.

[LGA Corporate Peer Challenge Final Report 2021 \(cheshireeast.gov.uk\)](https://cheshireeast.gov.uk)

### **Different governance structures**

#### Executive arrangements:

“Executive arrangements” is a term often used to describe formal decision-making arrangements which enable individuals or non-politically balanced groups of senior Members to formally make decisions.

The Executive is responsible for proposing the policy framework and budget to full Council and for implementing the local authority's policy framework. Decisions implementing the Council's policy framework and budget can be taken collectively by the Executive or delegated to individual members of the Executive, officers, committees of the Executive or devolved structures.

The different types of Executive arrangements are explored below.

#### Directly elected Mayor

A mayoral system functions under a Mayor, who is directly elected by electors in the local authority area. The Mayor has a wide range of decision-making powers similar to those of a Cabinet in a Leader and Cabinet model local authority.

The Mayor appoints their Cabinet of Councillors, who may also have their own decision-making powers. This system must have at least one overview and scrutiny committee which is responsible for holding the Mayor and Cabinet to account.

In Councils with a directly elected Mayor, the budget and policy framework are proposed by the Mayor and can only be amended or overturned by the Council with a two-thirds majority. This form of governance is the least common with only 13 local authorities having this arrangement.

#### Leader and Cabinet

Most councils operate a Leader and Cabinet model.

This system, introduced by the Local Government Act 2000, is the most common form of governance. In some councils, individual members of the Cabinet have a specified “portfolio” of responsibilities, as well as individual decision-making powers. In others, decisions must be made by the whole Cabinet. There also can be arrangements whereby certain categories of decision must be made collectively by Cabinet, whilst other decisions can be made by individual Cabinet members.

Cabinet is led by a Leader, who is elected by full Council for a term determined by the Council itself or on a four yearly basis. Councils which conduct business under this model are required to have at least one overview and scrutiny committee to hold the Leader and Cabinet to account.

## Non-executive arrangements:

### Committee system

This was the only model of decision-making governance which was available to local authorities prior to the enactment of the Local Government Act 2000. Now, only a small number of Councils opt for a committee system.

Under this system, Councils have politically balanced committees that make decisions. As such, these Councils are not required to have an overview and scrutiny committee, though some do have one or more.

This model does allow for variations in the number of committees which make decisions, and their remits.

### Other options/variations

There are variations for each of these models that can lead Councils to adopt hybrid approaches, including a Mayoral/Cabinet model; most common is a hybrid between Leader/Cabinet and the committee system (with such an approach usually seen legally as being a modified version of the Leader/Cabinet system, and therefore not requiring a formal change under the legislation). Such an option would make greater use of Cabinet committees with powers to make decisions, or advisory committees /working groups which would advise Cabinet or individual Cabinet members, before decisions are made.

Councils also have the option of suggesting an approach of their own to the Secretary of State. No detailed criteria have been set out for how the Secretary of State would come to a decision about whether or not to approve any option suggested under this part of the legislation.

### 1. Original Design Principles

#### Openness

The new form of governance (committee system) will be easy to understand and will include arrangements that enable people to easily find out about how decisions are made. Committee meetings will be held in public by cross party (politically proportionate) committees. However, as is the case in all local government decision-making there will be rare occasions upon which a particular report is private or confidential. In these instances the decision will need to be made in private and members of the public will not be able to be present during the meeting. There will be the opportunity for Councillors and Members of the public to ask questions at committee meetings and it will be clear how complaints can be made about services and Members behaviour.

#### Quick Decision Making

The new arrangements will ensure that decisions are made quickly, to meet the needs of the council and local community. The number of committees and number of meetings will be kept to a minimum, and technology will be used to provide instant access to information and avoid unnecessary paperwork. Paper copies will be provided upon request by members. There will be a process to deal with urgent decisions, which will be clear and, in most cases, open to the public. The need to make urgent decisions is, however, rare.

#### Affordability

Through the use of technology and a quick, streamlined decision making process, the cost of a committee system will be kept to a minimum.

#### Legal Requirements

The council must comply with all legal requirements and relevant legislation. Where required, legal advice will be available to all meetings, to make sure that legal requirements are met. The council will also follow best practice.

#### A Modern Committee System

The Committee system will be modern, open and transparent. Public participation will be encouraged. There will be the opportunity for public speaking and petitions. There will also be a work programme outlining what decisions will be made and by which Committee. There will be a separate Scrutiny Committee to look at health partners, crime and disorder and flood risk management. The Scrutiny Committee will be able to look at future proposed decisions in these areas, and seek to influence them.

## **2. Design Principles: adapted for the purposes of the review**

### Openness

The Council's decision-making and governance arrangements will be easy to understand and will include arrangements that enable people to easily find out about how decisions are made. Meetings will be held in public in accordance with legislation. However, as is the case in all local government decision-making, there will be rare occasions upon which a particular report is private or confidential. In these instances, the decision will need to be made in private and members of the public will not be able to be present during the meeting. There will be the opportunity for Councillors and Members of the public to ask questions at public decision-making meetings and it will be clear how complaints can be made about services and behaviour of Members.

### Quick Decision Making

The Council's arrangements will ensure that decision-making is streamlined and that decisions are made quickly, to meet the needs of the Council and local community. The number of decision-making bodies and the number of meetings will be kept to a minimum, and technology will be used to provide instant access to information and avoid unnecessary paperwork. Paper copies will, exceptionally, be provided upon request by Members. There will be a process to deal with urgent decisions, which will be clear and, in most cases, open to the public. The need to make urgent decisions is, however, rare.

Decision-making will be driven through the use of effective work-programming

### Affordability

Through the use of technology and a quick, streamlined decision-making process, the cost of the Council's arrangements will be kept to a minimum.

### Legal Requirements

The Council must comply with all legal requirements and relevant legislation. Where required, legal advice will be available to all meetings, to make sure that legal requirements are met. The Council will also follow best practice.

### A Modern Decision-Making System

The Council's arrangements will be modern, open and transparent and will not be siloed. Public participation will be encouraged. There will be the opportunity for public speaking and petitions. There will also be a work programme outlining what decisions will be made and by which decision-making body.



Clarity and efficiency: the Council's decision-making arrangements will reduce confusion and lost capacity. Officers seeking formal decisions will be clear in respect of reporting arrangements and of how to obtain decisions, with appropriate delegation of decision-making powers to officers.

Overview and scrutiny:

There will be appropriate Scrutiny arrangements which will comply with legislation, and which will make provision for future proposed decisions to be scrutinised and influenced.

The importance of scrutiny will be championed by officers and Members.

Forward-planning and agenda-setting will be improved and prioritised so as to maximise Member input into the decision-making process.

### **LGA/Centre for Governance and Scrutiny: How to go about it-the “thinking toolkit”**

- Step 1 Plan your approach and assess your current position
- Step 2 Consider some design principles
- Step 3 Think of ways to meet these objectives and put a plan in place
- Step 4 Make the change
- Step 5 Return to the issue after a year and review how things have gone

This process assumes that you only start looking at the design of new structures at step three. It is not about looking at the pros and cons of different structures, or considering structural options and developing a post hoc justification for them. Most important is obtaining a real understanding of the underlying political and cultural issues which, between them, may be driving the apparent need to change the way the council does business. However, we recognise that councils might be entering this process from a variety of situations, arising from political or strategic necessity. We hope that the questions at each stage will prove useful regardless of where you enter the process.

#### **Step 1: plan your approach and assess your current position**

CfPS has developed a framework called ‘Accountability Works for You’ which can be used to evaluate your current position.

The first thing to do will be to establish the purpose of the work: why do you want and need to change your governance arrangements? A variety of people in your council may have different views of what this purpose is; this is why it is important to set down what those (potentially differing) views are at the outset. This will give you a baseline on which to build, and judge, the rest of your work. As you need to operate within the framework of the Act you should seek advice from your monitoring officer, who has a statutory responsibility for making sure council’s comply with the law.

The next step is to establish a scope for the work – where you want it to lead and how you will get there – which will be based on the work’s purpose. This is a scope for the review of governance itself, not for the change in governance.

The scope might consider the following issues:

- How will the authority ensure that this work – from the consideration of options, to the implementation and review of new arrangements – will be led by elected members?
- How will we make sure that this review of governance gets the views of all interested parties?

- How wide should we look? Is this a review just of internal council decision-making, or are there knock-on impacts on partners, who may need to be involved?
- How can we ensure that the broad democratic expectations of local residents are built in to this study?
- Who will lead the review?

The tools of appreciative inquiry can provide a good way to approach this issue. Having this general discussion at the outset will set some broad parameters for the work, and it will also help to manage expectations of what can, and cannot, be achieved through governance change.

### Assessment

Assessing how you currently make decisions is not just about drawing a map of your systems or processes, or looking at individual bits of your governance arrangements separately. It is about taking an approach to the way you make decisions which recognises that the systems you adopt for member decision-making have an impact on everything you do. It is also about considering how you engage a wide range of stakeholders in that decision-making process.

If you are considering a significant change such as a formal shift in your governance arrangements, which could lock you in to a new decision-making structure for five years, you need to have carried out this fundamental exercise beforehand. It is potentially intensive, but will have benefits that reflect that good governance is not just about democratic services or even the internal workings of the council; it is also about the relationship between your authority, its elected members, partners and the public.

Some of the things that you might want to consider will include:

- How do we involve all members – not just in the way that decisions are made, but in the way that policy is developed?
- How is the public voice integrated in the way decisions are made – at neighbourhood and authority-wide level?
- What decisions are currently delegated to officers, and what decisions (under leader/cabinet and mayor/cabinet) are currently delegated to individual cabinet members?
- How are members involved in the evaluation and review of decisions once they are made (in particular, in-year performance management and budget monitoring)?
- How can we improve our forward planning arrangements to open out decision-making, and policy development? Are there ways in which we can make things like background papers more easily accessible?

**Step 2:** consider some design principles If you have undertaken an initial assessment you will have identified some strengths (practice and ways of working that you want to keep) and some weaknesses (ways of working that you want to stop or change substantially). These strengths and weaknesses might reflect the attitudes and behaviours of council decision-makers (both members and officers), partners, the public and others, as well as reflecting structural issues. Some examples include:

- Strengths and weaknesses in the member/officer relationship. This might look like, for example, a commitment to involve all members in the policy development and decision making process, through scrutiny, area committees, partnership boards and cabinet decision-making as appropriate, or conversely an officer-led process where only cabinet members are seen to have any stake in decision-making and non-executives are relegated to the position of passive spectators.
- Strengths and weaknesses in the way that forward planning/work programming occurs. This might look like, for example, clarity and consistency in the way that officers approach policy development and decision-making, with plans being kept to and important, strategic decisions identified, or conversely a muddled plan composed of a mixture of operational and strategic decisions which reveals little about the priorities of decisionmakers, or the way in which they formulate decisions.
- Strengths and weaknesses in the way that information about decisions (including background papers) are published and used. This might look like, for example, proactive efforts to publish background papers as they are produced, and attempts made to respond positively when the assumptions in those background papers are challenged by others, or conversely an opaque system whereby attempts are not made to justify decisions and engagement is tightly controlled through consultation processes that are wholly divorced from the formal decision-making cycle.
- Strengths and weaknesses in the way that the council involves the public in major decisions. This might look like, for example, a commitment on major policy changes to engage those most affected by those changes, or conversely a more defensive attitude that sees members or senior officers exerting control over the agenda for fear that the public will derail necessary decisions.

These strengths and weaknesses, and others like them, are not strengths and weaknesses in the various governance options per se. They are strengths and weaknesses in the way that your existing governance arrangements work in your council. You can use this to develop some design principles. These should not be vague, general aspirations such as making the council operate more democratically or enhancing transparency. They should be tangible aims that you can return to in future to help you to come to a judgment on whether your new systems are working or not. For example, you could state that any new governance system should:

- involve all councillors in the development of key policies
- identify key evidence sources for major decisions and demonstrate how they are being used to inform the substance of that decision This is likely to become of

increased importance, especially as a “duty to consult” may be introduced as part of the Deregulation Bill. 8 Rethinking governance

- focus member involvement on strategic decision-making; design officer delegations to focus on operational decisions – design the budget and policy framework to reflect this fundamental principle
- provide a key role for councillors in performance management and in-year financial monitoring that takes account of their unique perspective as elected politicians.

These are just examples to demonstrate the clarity you need in your objectives; there may well be others that are particularly important for your council.

**Step 3:** think of ways to establish a system that meets the requirements of these principles and put a plan in place

How will you get there? What changes to the way you work might be necessary in terms of both culture and structure?

Some issues to think about that relate to culture and attitudes include:

- How to establish clearer, more consistent and less arbitrary rules to define what does and does not go on the forward plan as a key decision.
- How to ensure that the procedure for dealing with key decisions contains provision for involving all members and members of the public.
- Whether such provision can be made under your existing arrangements (assuming that you operate the leader/cabinet model). This would involve consideration of whether moving to a new governance option (for example, the committee system) would provide members with the assurance that they will be involved in making decisions on strategic issues.
- How to tighten up (in terms of methodology) and open out (in terms of transparency) performance management systems – including the potential for more member involvement. Greater transparency for the public is a useful by-product of such an approach.

Different design principles, and different approaches to meeting the requirements of those principles, will require different structural solutions, for example:

- minor changes to the constitution to strengthen the existing forward plan
- more major changes to schemes of delegations, financial procedures, performance management systems and/or systems used to engage with the public, within your existing governance option
- formal changes to member decision-making structures that stop short of a formal governance change – for example, the adoption of a hybrid system

- an all-out change from one governance option to another under the Local Government Act 2000.

You may find that your objectives and design principles can be met without a formal change in governance. You may, for example, be able to meet them by bolstering the role that councillors play through the overview and scrutiny process. As part of this process, you may find it useful to consider the risks in taking either formal or informal action to change governance arrangements, and to establish how you will seek to mitigate those risks.

### Consider the different structural options available

In the CfPS publication 'Musical chairs' we suggested that there was a spectrum of different governance options available to councils.

If your exercise leads you to consider that structural change may be appropriate, you will need to decide which of these options will make it easiest for you to achieve your design principles. This is not an exhaustive list of options, nor is intended to set out the pros and cons of any one approach. The pros and cons will vary for every council based on the political and organisational context, and councils must take their own independent legal advice on the implications of any proposed option.

- A leader-cabinet system with individual cabinet member decision-making (as seen in most English authorities) is the standard approach which the majority of councils currently operate.
- A mayor, with various different approaches to cabinet autonomy (as seen in Hackney, Bristol, and Hartlepool before 2013); different mayors take different approaches to the appointment of their cabinets, and the amount of powers those cabinets have.
- A traditional committee system (as seen in Nottinghamshire) which will have a relatively large number of service committees which will often align fairly closely with council departments. There may or may not be a coordinating policy and resources committee to knit together work programmes. This approach will usually require frequent meetings to deal with cross-cutting issues and, hence, careful planning by officers.
- A streamlined committee system (as seen in Brighton and Hove) will consist of two or three service committees, which may be supplemented by one or more overview and scrutiny committees. This was the common approach taken in what were formerly known as fourth option councils, those shire district councils who opted to retain the committee system between 2000 and 2012.
- A hybrid system (as seen in Kent) whereby a cabinet ratifies decisions made by a number of cabinet committees. This requires a political assurance by the leadership that such ratification will happen.

- A leader-cabinet system with collective cabinet decision-making (as seen in Sutton before 2012) has collective decision-making at cabinet, with a leader who chooses to act accordingly. Under this model the cabinet does not delegate power to individual cabinet members to make decisions, although delegated decision-making by senior officers will still happen in consultation with lead members.

### Weighing up a formal change

This part of the exercise will be the point at which members actually decide whether formal governance change is necessary. Having a clear rationale for this is critical. It is therefore not a decision you should attempt to make at the beginning of the process. However, a situation might occur where this decision has been taken at an earlier point in the process and you will need to think about how the ideas outlined in earlier steps can be brought into the implementation of a new system.

Your rationale should identify how and why a change will help you to strengthen governance in a way that would not be possible through other means. For example:

- It may be a means of embedding a new culture of decision-making, where the protection afforded by the law and the constitution are seen as a backstop.
- It may be seen as a necessary component in a wider approach to improving the way decisions are made; for example, more effective partnership decision making or the devolution of decision-making responsibilities to a ward or divisional level.
- It may provide a means of signaling within the authority, and to those outside it, of a break with past practice and a commitment to do things better; however it will not achieve these improvements on its own.

The fundamental judgement – why make this change? – is something that will be different for every authority. The political and organisational context within which your council sits will affect the changes you make. For example some changes that, in another council, might be seen as requiring formally moving from one governance option to another to be fully embedded, in your instance may not be seen as demanding such a change.

It is important to be self-critical at this point in the process. This is the final stage before you start to undertake work to implement the change itself and an opportunity to challenge assumptions and to set out the fundamental reasoning behind your decision.

#### **Step 4: making the change**

The following are the various different council processes and systems that may need to be looked at when you are amending your decision-making arrangements, and any relevant legal issues should also be considered. You will need to think about the way you design these changes, and the way that members make decisions on their implementation (which will usually be at full council):

- financial procedures, including the operation of audit
- access to, and publication of, performance scorecards and quarterly financial monitoring information
- the forward plan and corporate work programme • changes to committee structures (which can happen at a time other than at Council AGM)
- formal changes in governance, which incorporates all of the above changes.

It is important that the way in which these changes are made itself reflects the design principles which you have established for your new governance system. You might also want to consider a risk plan so that you can be aware of issues or situations that could negatively affect your proposed arrangements.

The formal move from one governance option to another will take effect following the council's AGM, with a resolution of full council having to have been made beforehand. This earlier resolution needs to be made in good time, to allow for the council to undertake any necessary consultation with notice requirements set out in the Act.

#### **Step 5: return to the issue and review how things have gone**

It is important to evaluate how things have gone after a year or so, in order to see whether the resources you have expended in making the change in governance have made the difference you hoped.

This need not be a complicated bureaucratic exercise – just a short assessment of the position, informed by insight from councillors and any other interested parties. Doing this at the time of council AGM gives you the opportunity to make any necessary tweaks to the constitution.

If the changes have not resulted in the outcome you were trying to achieve, there are ways and means of addressing that. The detailed work carried out the previous year to plan and deliver the new governance arrangements will help with this. It may have been that your plan was too ambitious, or there may have been factors – internal or external – that were not taken into account, or that were difficult to predict (political issues, for example). If you developed a risk plan it will be much easier to identify and act on any failings.

You can review the likely reasons for the failure and take action to address them.



### Process for any change

Any fundamental change in the Council's governance arrangements cannot (in these circumstances) take place until the Council's Annual General Meeting in May 2026, just over 16 months away.

Before that, a recommendation to do so would need to be made by the Corporate Policy Committee to Council, and Council would need to resolve to make the change. Guidance indicates that, following the Council resolution, and before implementing the change, consultation should take place. In advance of the change to the committee system in May 2021, Council had resolved to do so in November 2020. If a similar approach was adopted, a full report would need to be considered by the Corporate Policy Committee in under 12 months' time from the date of preparation of this paper, or 9 months ahead of the consideration of the Notice of Motion by the Committee. However, the progress of the proposed review might enable an earlier report to the Committee and Council.

Here is an indicative summary of the process of change:

Activity	Information
Notice of Motion considered by Corporate Policy Committee and resolution to establish Working Group.	6 February 2025
Meetings of working group to consider options for changed arrangements.	
All-Member briefings and feedback.	
Working Group to consider Member feedback.	
Recommendation to change governance arrangements and approval of relevant documentation.	Corporate Policy Committee
Council resolution to move to any new governance arrangements.	October 2025, or sooner
Publication of proposed new governance arrangements.	October 2025
Consultation and consideration of consultation responses	October 2025-December 2025
Implement any new governance arrangements	May 2026

### Proposed approach

The following analysis is based, for illustrative purposes, upon any proposed changes to the Council's current system of governance, whether such changes relate to the type of decision-making system, or otherwise. Nevertheless, the matters referred-to below would, in some way, need to be addressed in whichever form of executive arrangements the Council might choose to adopt.

Drawing upon the matters referred-to in the Motion which Council resolved to support in October 2024, the following work areas arise:

1. Establish an officer and Member working group to steer the work required in order for the Committee to determine whether any changes/improvements should be made to the existing arrangements, or whether more fundamental changes should be made. One option would be for the Constitution Working Group (CWG) to take-on this role, with officers put forward by the Monitoring Officer, with relevant specialisms, to contribute to the work of the working group as appropriate. If it was the wish of Members that an entirely new working group should be established to undertake this role, Members would need to consider its composition. Such a working group could comprise nine members of Council (4 Con: 3: Lab: 2 Ind) in line with the Council's political proportionality, with a standing invite to a representative of the Liberal Democrat Group to attend on a non-voting basis, and officers as suggested above.
2. Consideration should be given to whether the existing committee system arrangements have fulfilled the Design Principles which were agreed by Council in 2019 as the basis upon which the committee system would be founded. If not, work should be undertaken to establish whether there are measures which might be put in place to address this or whether, in fact, the Council's priorities for its decision-making arrangements have changed. The above working group should consider the design principles and associated matters as one of its first tasks.
3. Appendix 4 sets out the LGA and Centre for Public Scrutiny detailed thinking upon potential changes to governance arrangements. The working group could consider using this "toolkit" to plan its approach, designing any new arrangements, and changing to such arrangements.
4. In the months before Council resolved to make the last governance change, member workshops took place. It would appear to be appropriate for the working group to consider arrangements for member workshops which could be used to hear the views and suggestions of members both in respect of their experience of the existing arrangements, as well as any views etc upon any different arrangements.

5. The proposed working group should make early informal recommendations to the Corporate Policy Committee upon any suggested changes to the Council's existing decision-making arrangements as well as upon the question of whether or not a different model of governance should be pursued. This would then provide a firm basis for the working group's ongoing work.
6. All members of the Council should have a part in shaping the Council's governance arrangements, whether by approving changes to the existing arrangements which need to be included in the Constitution, or by being given the opportunity to make their views known. Briefings and workshops might provide an opportunity for this and would secure member views prior to the working group considering any proposed change to the Council's model of governance, as well as further engagement upon the development of proposals, if changes were recommended.
7. Consultation issues should be carefully considered.
8. As was the case when the Council changed its arrangements to a committee-system, if a further change was felt to be in need of close examination, it would be appropriate for other best-practice models of executive arrangements to be considered.
9. In order to illustrate what would need to be achieved, should a change to a different model of decision-making governance be pursued, Appendix 7 lists a number of documents which would need to be drafted and formally agreed by Council in order to facilitate a move to a Leader and Cabinet system of decision-making. The working group would need to receive reports from officers upon these documents and then consider them before making an informal recommendation to the Constitution Committee.
10. Work programming: work would need to be carried out, well in advance of any change of decision-making arrangements, to ensure that existing programmed work could be dovetailed into a new calendar of meetings, and that expected work for the new municipal year could be accommodated.

**Constitutional documents required to facilitate a change to a different model of governance**

1. Constitutional changes arising from functions to be decided by the executive, executive members, local-choice functions etc
2. Political composition of the executive
3. Executive Procedure Rules
4. Calendar of Meetings: executive and executive members (where executive members have decision-making responsibilities)
5. Executive member "portfolios and decision-making powers (delegations)
6. Changes to officer decision-making powers to facilitate the above
7. General and consequential changes to the Constitution arising from the above
8. Urgent decision-making powers eg Chief Executive in consultation with Leader and Deputy or executive members
9. Scrutiny Committee: composition and chair
10. Scrutiny Procedure Rules
11. Changes to Members' Scheme of allowances
12. Executive advisory panels or committees, should they be needed
13. Style of reports to the executive or executive members

### **Scope of review of Council decision-making and governance**

#### Scope of work:

The review will comprise a full analysis of the Council's decision-making and governance arrangements, as they currently are, in order to establish how these might be changed/improved so as to respond appropriately to the Notice of Motion, submitted to Council on 16 October 2024 (Appendix 1), and the LGA Corporate Peer Challenge recommendations 8&10 (section 3 of the report to Corporate Policy Committee-6 February 2025); or alternatively whether and, if so, what and how, new decision-making and governance arrangements should be introduced.

The review will involve all Members of the Council, as well as key Council officers, but will be driven-forward by a politically proportionate informal working group of the Corporate Policy Committee, responsible for making recommendations to the Committee.

#### Review deliverables:

The review will deliver recommendations to the Committee, which will make recommendations to Council upon the changes/improvements referred to above.

Council will consider these recommendations and will determine whether and what changes should take place.

Review milestones: as detailed in Appendix 5 to the report.

**Responsibilities of proposed Decision-Making and Governance Working Group**

The Working Group will:

1. Not be a decision-making body of the Council.
2. Make recommendations to the Corporate Policy Committee.
3. With reference to the original Design Principles agreed by Council, and to the adapted Design Principles which are recommended for adoption, consider and analyse the Council's existing decision-making and governance arrangements and make recommendations to the Committee upon the following matters:
  - a. How these might be changed and improved to respond to the Notice of Motion at Appendix 1 of the report to the Committee on 6 February 2025 and to the Corporate Peer Challenge recommendations 8&10 or alternatively,  
  
(Noting that any agreed changes which can be made to improve the Council's existing decision-making arrangements should be the subject of immediate recommendations to the Committee).
  - b. whether and, if so, what and how new decision-making and governance arrangements should be introduced.
4. Determine how the review should be conducted and which stakeholders should be involved (subject to all Members being given the opportunity to contribute to the review, and to statutory and other key officers being given the opportunity to advise) and then to drive-forward the review.
5. Use, as the basis for the review, the resources identified in the report to the Committee on 6 February 2025, together with such other resources which it considers to be helpful to the review, including:
  - a. The LGA Peer Challenge Final Report
  - b. The adapted Design Principles (part 2, Appendix 3)
  - c. The "Rethinking Governance" toolkit (Appendix 4)