

Constitution Committee

Supplementary Agenda

Date: Thursday, 21st November, 2019
Time: 2.00 pm
Venue: Committee Suite 1, 2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

10. **Formal Resolution to Move to a Committee System Form of Governance** (Pages 3 - 16)

To consider a report on the formal resolution to move to a committee system form of governance.

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Working for a brighter future together

Constitution Committee

Date of Meeting: 21 November 2019

Report Title: Governance Working Group – Governance Review
Formal Resolution to Move to a Committee System Form of Governance

Senior Officer: Jan Bakewell - Director of Governance and Compliance

1 Report Summary

- 1.1 Council at its annual meeting held on 22 May 2019, agreed that the following Notice of Motion be referred to the Constitution Committee:

‘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 The Constitution Committee subsequently set up a cross-party Governance Working Group to progress the Notice of Motion. The work undertaken so far and the findings of the Working Group are now presented in this report.

2 Recommendations

- 2.1 That the Constitution Committee is invited:

2.1.1 To approve the findings and recommendations of the Governance Working Group to date, as set out in this report, in relation to the proposed committee structure; and

2.1.2 To recommend to full Council that:

- a. the Council resolves to cease operating the existing Leader and Cabinet model of governance and commence operating a committee system model

of governance, to take effect from the Annual Council meeting in May 2020;and

- b. the Constitution Committee accordingly oversees the drafting of a revised constitution and any necessary associated documents to be submitted for approval to Council at its meeting scheduled to take place on 20 February 2020, or at an appropriately convened special meeting.

3 Reasons for Recommendations

- 3.1 The Working Group considers that the proposed committee structure best fits the needs of the Council and suitably addresses the agreed design principles set out in Appendix A.
- 3.2 The recommendations, if adopted, set in train further work to be undertaken to allow for the change of governance within the desired timeframe in the agreed Notice of Motion from May 2019. A decision of Council at its December meeting allows for an appropriate period for the development of a revised constitution and any necessary amendments in order for the change of governance arrangements to be implemented from the Annual Council meeting in May 2020. This also provides an appropriate lead-in period before the new decision-making arrangements take effect, enabling comprehensive training and briefing for members and officers, thereby facilitating a seamless transition to the new arrangements, if they are agreed.

5 Background

- 5.1 The Working Group has met on four separate occasions to date to consider proposals for a committee system form of governance. As part of its work so far, the Working Group has given consideration to:
 - Design Principles
 - Consultation/Engagement options
 - Timeline
 - Committee and Council functions
 - Committee Procedure Rules
 - Calendar of meetings for 2020/21
 - Portfolio Holder decisions and levels of decision making
 - Urgent Decisions
 - Role of Leader and term of office
- 5.2 The Working Group has also considered a desktop evaluation of the governance arrangements of other authorities, and visits to two authorities that have moved to a committee system. Learning from these visits formed part of the Working Group's findings and recommendations.
- 5.3 Three Members' Engagement workshops were held across the borough on 1st, 7th and 12th November 2019. Feedback from these engagement sessions has been considered by the Working Group.

6 Design Principles

6.1 The Working Group acknowledged that it is important to ensure a new form of governance model meets the aspirations of the agreed Notice of Motion. Therefore, the following set of design principles to guide the development of the new Committee system model were agreed:

- Openness
- Quick and effective decision-making
- Legal Requirements
- A modern Committee system

A copy of the agreed Design Principles is attached at Appendix A.

6.2 It is important to emphasise the need for a new governance model to reflect modern best practice. It is proposed that the Council's new working arrangements maximise the use of information technology to ensure streamlined, efficient and quick decision-making can continue. It is not intended to replicate a traditional committee system that used to operate prior to 2000, but to provide a modern committee system that meets the contemporary needs of the Council. It is essential that the Council's day-to-day business can continue to deliver the priorities and vision of the Council in a timely manner.

6.3 It is proposed to retain desirable elements of the Council's existing arrangements such as public speaking arrangements and a form of the forward plan and petition scheme (although this is no longer a legal requirement).

6.4 The Design Principles can be referred to in the future and used to assess whether or not the desired outcomes have been achieved or whether any necessary further amendments to the arrangements and the constitution might be required.

7 Committee Structure

7.1 Early into its work, the Working Group agreed that it would concentrate on those executive decision-making bodies, which would be directly affected by a change in governance arrangements. All other regulatory committees and sub committees would largely remain unchanged, apart from any necessary and consequential amendments. The exception to this is the Constitution Committee, the business of which is proposed to be transferred to the proposed Policy and Resources Committee.

7.2 Following detailed consideration of the options for a new committee structure, the Working Group agreed in principle to recommend there should be six service committees:

- Children and Families
- Corporate

- Economy, Communities and Environment
- Finance
- Health and Adults
- Transport and Highways

7.3 The Working Group also agreed in principle to recommend:

- A dedicated scrutiny committee to deal only with the statutory scrutiny functions of crime and disorder, flood risk management and health [*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)*]; and;
- An Urgency Committee to deal with decisions which cannot be accommodated within the scheduled committee meetings timetable.
- That the Corporate Committee also act as an ‘overarching’ committee to ensure cross cutting issues are considered in an appropriate manner.

7.4 A proposed committee structure chart and their functions are attached at Appendix B. Detailed terms of reference will need to be drafted in due course as part of a revised constitution.

8 Full Council

8.1 In an executive system, the responsibility for decision-making is divided between full council and the Cabinet (executive). Non-executive decisions are made either by Council, or by committees appointed by it for that purpose (e.g. planning and licensing). Many powers are exercised by the Leader and Cabinet (either collectively or by portfolio holder decision) in the current system.

8.2 Under the committee system, full Council and committees make all the decisions. Committees and officers have authority to make decisions only to the extent that full Council permits, through the schemes of delegation under the constitution, or through specific authorisations.

8.3 There are some functions, which are reserved to full Council by law. In summary, these include:

- Approval or adoption of key strategies, including development plans, crime and disorder reduction strategies, sustainable community strategy, and youth justice plan
- Approval or adoption of council budgets
- Approval of a scheme of allowances for elected councillors
- Applications for changes in arrangements for elections

8.4 Full details of the functions of full Council and how “local choice” functions (certain functions in respect of which local authorities are permitted to

determine the decision-making route i.e. Council or committee) would be dealt with under a committee system, will be considered as part of the re-drafting of the constitution.

- 8.5 If the recommendations are agreed to move to a committee system, a draft revised Constitution and associated documents will be developed and submitted to the Constitution Committee for recommendation to a meeting of Council in 2020.

9 Next Steps

- 9.1 The legislation provides that, as soon as practicable after the Council has passed a resolution to change the form of its governance arrangements, it must:-

- a. secure that copies of the document setting out the provisions that are to have effect following the resolution are available at its principal office for inspection by members of the public.
- b. publish in one or more newspaper circulating in its area, a notice which:-
 - states that the authority has resolved to make a change in its governance arrangements;
 - states the date on which the change is to have effect;
 - describes the main features of the change;
 - states that copies of a document setting out the provisions of the arrangements that are to have effect following the resolution are available at the authority's principal office for inspection by members of the public; and
 - specifies the address of the authority's principal office.
- c. The legislation provides that the earliest date by which a change in governance form may be implemented is from the following Annual Council Meeting (in this case for the municipal year beginning in May 2020 as envisaged by the agreed Notice of Motion) or a later Annual Council Meeting specified in the resolution.

10 Implications of the Recommendations

10.1 Legal Implications

- 10.1.1 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 2000 Act states that a "resolution of a local authority" (a simple majority) is required in order for the council to make a change in its governance arrangements.

10.1.2 It should be noted, however, that a local authority may not then pass another resolution that makes a change from one to another of the permissible forms of governance arrangements 'before the end of the period of 5 years' beginning with the date the first resolution is passed, unless that change is approved by way of referendum.

10.1.3 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:

a. the first annual meeting of the local authority to be held after the resolution to make the change in governance arrangements is passed; (as envisaged by the agreed Notice of Motion) or

b. a later annual meeting of the local authority specified in that resolution.

11 Finance Implications

11.1 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 costs for the training of members and officers.

11.2 The Council's current Scheme of Members' Allowances would need to be reviewed by the Independent Remuneration Panel in due course to reflect the proposed new committee structure. The Panel's recommendations would need to be considered by Council prior to the new arrangements being implemented following the Annual Council meeting in May 2020.

11.3 It is acknowledged that once implemented, one form of governance need not cost more than another.

11.4 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.

12 Alternative Options

12.1 Whilst the agreed Notice of Motion specifically refers to a move to a committee system, alternative options are open to the Council for consideration. The Members' Engagement Workshops considered these options, which are:

- i. variations of a Leader & Cabinet model, including for example a more inclusive and open version of executive arrangements;
- ii. a hybrid between a Leader and Cabinet model and a Committee system whereby Cabinet ratifies decisions made by a number of Cabinet Committees or advisory committees.

13 Policy Implications

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

14 Equality Implications

- 14.1 The Council's governance arrangements must enable all groups to engage in the decision making process. There are no equality impact implications directly associated with the recommendations.

15 Human Resources Implications

- 15.1 Any staffing issues as a result of moving to a committee system will need to be considered in due course.

16 Risk Management Implications

- 16.1 A change in governance arrangements is a major decision for any Council. It will introduce a system of decision-making that is new to Members, officers and partners. A comprehensive training programme for members and relevant officers will be required to ensure that the transition is smooth and to mitigate the risk of delay in decision making.

17 Rural Communities Implications

- 17.1 There are no direct implications for rural communities.

18 Implications for Children & Young People/Cared for Children

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

19 Public Health Implications

- 19.1 There are no direct implications for public health.

20 Climate Change Implications

- 20.1 There are no direct climate change implications.

21 Ward Members Affected

- 21.1 All wards are equally affected.

22 Consultation & Engagement

22.1 Members' Engagement Workshops have taken place to consider the work undertaken by the Working Group so far and for members to have an input into the proposed design of the new arrangements.

22.2 There is no legal requirement to consult the public on a proposed change to governance arrangements. An article was published in 'The Voice' in November 2019 to provide an update to the public on the proposal to change the Council's governance arrangements

Appendix A: Design Principles

Appendix B: Proposed Committee Structure Chart

22 Access to Information

The reports to the Constitution Committee provide the background to the governance Review which are available on the Council's website.

23 Contact Information

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

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.

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

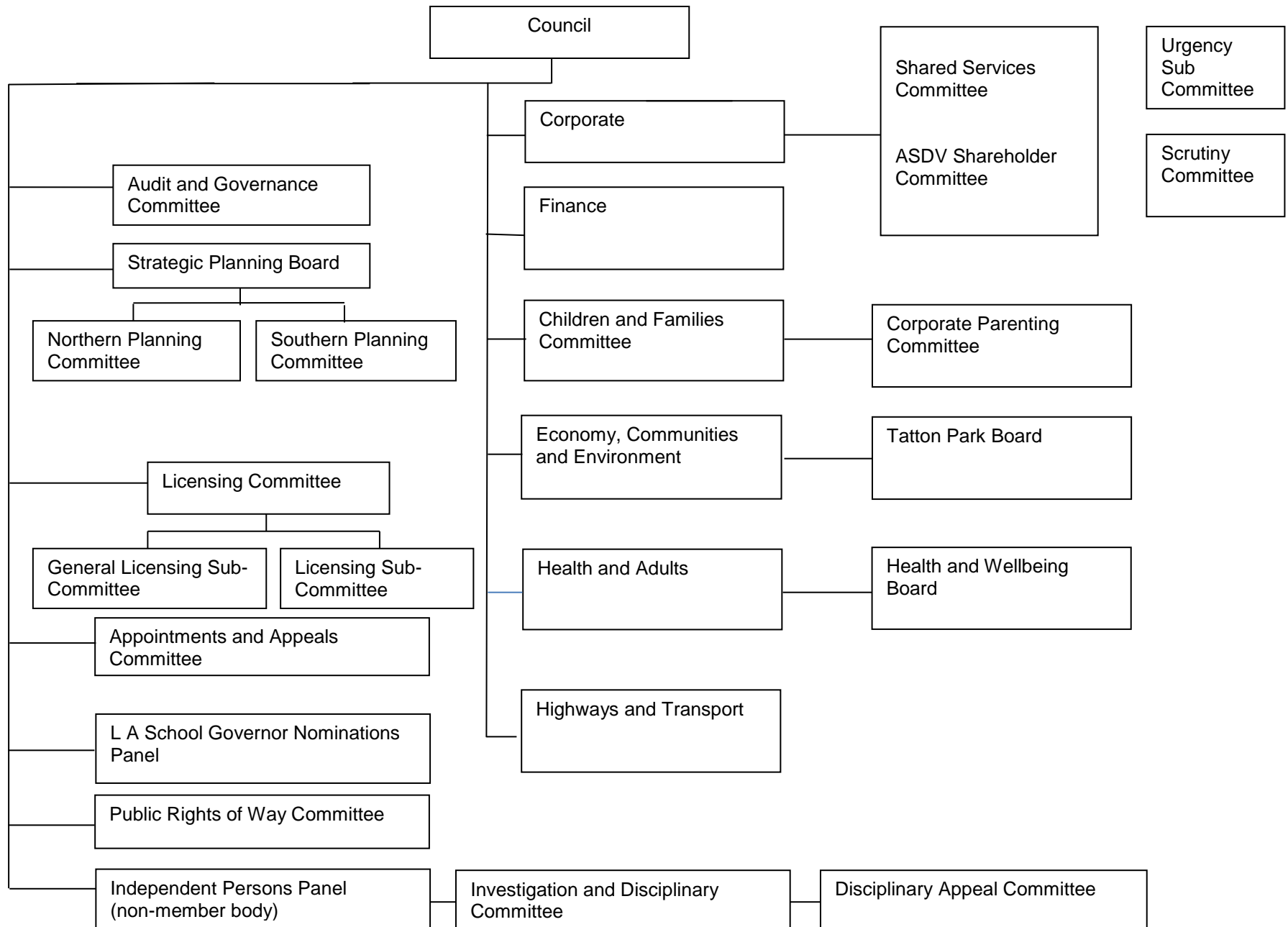
A Modern Committee System

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.

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Potential Committee Structure

Appendix B



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Committee	Function
Finance	This Committee is responsible for: <ul style="list-style-type: none"> • Overall budget and resources • Finance and Procurement • Grants
Corporate	<ul style="list-style-type: none"> • Democratic Services and Governance • Compliance • Customer services • Legal • Transformation • Business change • Human resources • ICT • Strategic Partnerships • Shared services • Governance of ASDVs • Overarching committee for cross cutting issues
Economy, Communities and Environment	This Committee is responsible for: <ul style="list-style-type: none"> • Housing • Regeneration • Economic development • Rural and cultural economy • Estates • Land and Assets Development management • Strategic planning • Environmental services(waste, recycling and bereavement) • Leisure • Libraries • Regulatory Services • Contaminated land • Air quality
Highways and Transport	This Committee is responsible for: <ul style="list-style-type: none"> • Strategic transport • Car parking • Highways • Infrastructure • HS2
Children and Families	This Committee is responsible for: <ul style="list-style-type: none"> • Children's mental health • Corporate Parenting Lead. • Prevention Services • Special needs and disabilities • Development and Partnerships • Education • Cared for children • Care leavers • Children in need • Child protection • safeguarding • Children's Trust and Board

Health and Adults	<p>This Committee is responsible for:</p> <ul style="list-style-type: none">• Public Health• Health Improvement and intelligence• Community strategy• Adult safeguarding• Mental health• Learning difficulties• Adult social care operations• Care4CE• Domestic Violence• Commissioning
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