

**COUNCILLORS' COMMISSION**

**28 APRIL 2021**

**GOVERNANCE REVIEW – PROPOSALS FOR CHANGE**

**1.0 Purpose of Report**

1.1 To consider proposals and options for taking forward new governance arrangements for the Council following the conclusion of the governance review.

**2.0 Background Information**

2.1 At its meeting on 25 February, the Commission considered an update report on progress of the Governance Review. The report identified the common themes and issues that came out of the discussions in the three workshop sessions held for all Members during February. These had been well attended and gave Members an opportunity for a discussion around their role, purpose and responsibilities to help inform the direction of travel in relation to the governance review. The report also captured how Members had been involved in different ways with their communities during the pandemic.

2.2 The Commission agreed that the Chief Executive be requested to report to a further meeting of the Commission, no later than the end of April 2021, with conclusions, options and recommendations for the Council's governance arrangements, having regard to the original Peer Challenge report, learning from the virtual visits, and feedback from the Members' workshops.

**3.0 Context**

**Historic Context**

3.1 The Council moved to a committee style of governance in May 2013. Before this local authorities, (apart from those with a population of less than 85,000), had been required by the Local Government Act 2000 to operate a leader and cabinet model. However, the Localism Act 2011 gave all local authorities the power to decide for themselves which governance model best suited their local circumstances, including the ability to return to a committee style system. On 8 March 2012, the Council resolved to move to a committee style of governance with effect from May 2013. The reason given was simply expressed as being '*in the interests of local democracy*'. The passing of the resolution then gave a year during which the details of the new committee system were formulated.

3.2 The decision was made to move to a 'hybrid' committee system that separated strategic from operational decision making, with Policy and Finance Committee and three operational committees. Policy and Finance Committee was intended to take all the key strategic decisions, largely mirroring the work of the Cabinet, except that under the committee model it was required to reflect political balance. Over subsequent years, the remits of the committees have been amended and adapted to meet the changing circumstances and strategic objectives of the Council, to an extent

that the original split between strategic and operational decision making has become blurred. This is particularly highlighted by the fact that the Council has in recent years established a number of different service delivery models. It has created wholly owned companies and joint ventures, and keeping a good overview and giving strategic direction to these does not necessarily fit well with the committee system designed in 2012/13.

#### 2016 Corporate Peer Challenge

- 3.3 In 2016 the Council underwent a Corporate Peer Challenge conducted by the Local Government Association (LGA). One of the outcomes from this process was a recommendation that the Council, *“Undertake a review of the impact of your governance arrangements and consider how effective the Council’s political decision-making machinery is”*.
- 3.4 It was a reflection of the Peer Challenge Team that: *“The team heard varied views on the effectiveness of the current and past governance arrangements. Some members really value the inclusivity that the committee system appears to provide. Others question the time, costs and resources involved for both officers and members and voiced concerns about how long it takes to make decisions”*

#### 2019 Governance Review

- 3.5 In 2019, a further review was undertaken at the Council’s request, by the LGA. The LGA’s Peer Review Team produced a detailed report highlighting a number of recommendations for the Council which included taking the opportunity to improve governance. The following are comments taken from the report:

*“On the whole the committee approach feels somewhat antiquated compared to other aspects of the Council which have modernised. The management structure of the Council has changed, the Council has moved to modern new offices, and most councillors have adopted a paperless approach: these are all highly positive and the Council should be commended for these improvements. However, the political governance of the Council needs to catch up with these developments, as to an extent the council looks as if it is operating under the pre-Local Government Act 2000 procedures”*.

*“The organisation needs to decide what to do next and we would urge the Council to champion a more radical approach than tweaking the current arrangements – which are neither a fully functional committee arrangements nor a cabinet system, but appear to have more in common with how councils worked before the introduction of the Local Government Act 2000”*.

#### What makes for effective governance?

- 3.6 The LGA, in its report set out the following as the key ingredients for effective governance:-

- Clarity, transparency and speed of decision-making and policy development processes - including opportunities for non-executive members to inform and influence
- Quality of member-officer relationships and clarity of understanding of respective roles/responsibilities
- Arrangements (process and culture) in place to ensure timely scrutiny, challenge and performance management
- Arrangements for reviewing and refreshing the governance essentials (e.g. constitution, scheme of delegation, procurement, code of conduct, and other operating policies/procedures)
- Leadership development – including member development/support to members in key roles and management training and development
- Staff engagement mechanisms and internal communications

#### **4.0 The Case for Change**

##### Factors to be addressed

4.1 Taking into account all of the review work undertaken, there are a number of factors that are apparent with the Council's current governance arrangements that need to be addressed by any proposals for change:

- Inefficient use of resources and duplication of effort - the same items are often being reported to more than one committee, sometimes to three committees in the same cycle;
- Insufficient decision-making to occupy committee agendas, sometimes leading to an over-reliance on information items. This is compounded by committee decisions being regularly 'subject to' the approval of Policy and Finance Committee;
- Lack of clarity and understanding, on the part of members and officers, about which committee is responsible for which function;
- Limited forward planning of committee business creating an overall impression of officers setting the agenda for committees rather than the councillors for those committees;
- Political and managerial oversight of performance and progress is made more complicated being spread over a number of different committees. As a result, the holding to account for performance and policy development is limited and opportunities for integration between functions and actions can be lost by the absence of a 'single conversation';
- The current arrangements provide few opportunities for members to bring forward ideas and innovation and to feed in their local knowledge to inform policy development and performance review;
- Despite the often cited advantage that the Committee system is more inclusive, regular concerns are expressed by members about a lack of awareness of what decisions are being taken and what is happening across the whole Council and in their own patches. For some members, they feel a need to be present at all meetings in order to feel informed;
- The limited scrutiny that takes place of the Council's own activities also applies in respect of partners. As Community Leaders, elected members have much to offer

by way of holding key partners to account, such as the police, NHS, County Council, Local Enterprise Partnership and Environment Agency.

### Improvement Objectives – What are we trying to achieve/create?

- 4.2 A consideration of the above factors has led to the following issues being identified for any new governance arrangements to address:
- Faster political decision-making, with greater clarity and transparency about who is accountable for what;
  - More effective involvement of elected members in policy development and performance review, both in relation to the Councils' activities and that of its partners;
  - More effective political and managerial oversight of how all the various parts of the Council are working together and their impact on the community;
  - More engagement with, and involvement of, key partners in our governance arrangements;
  - More support to enable elected members to maximise their role as community leaders/champions;
  - Less duplication of effort; less wasted resources

## **5.0 Proposals**

- 5.1 It is proposed that a Leader and Cabinet system of governance, properly shaped and designed to the Council's needs and reflective of our local circumstances offers the best solution to address the factors listed in paragraph 3.6, (i.e. the key ingredients for effective governance set out by the LGA). This is particularly so for achieving clarity, transparency and speed of decision making. It also provides a more effective framework to ensure timely scrutiny, challenge and performance management. Currently scrutiny and review sits within the committee remits making it difficult to achieve separation between decision making for services and their review.
- 5.2 The factors that have been identified by the Council as needing to be addressed in any new form of governance, (as listed in paragraph 4.1 above), would also be more readily achieved by a Leader and Cabinet system – which would better deal with the issue of duplication of effort whereby matters currently go to more than one committee for decision, and better facilitate the ability for political and managerial oversight. It is a form of governance that lends itself to speedier and clearer accountability for political decision making, and creates a structure that gives all members a platform to hold decision makers to account.
- 5.3 Many of the objectives for improvement could be addressed with revisions to the existing committee system. However, for the reasons set out above, it is considered that the Leader and Cabinet system is better aligned with the Council's ambition to operate in a modern and streamlined way.
- 5.4 There is a significant amount of work required to formulate and shape the detail of how the Leader and Cabinet model would best work for the Council. Paragraph 4.2 above sets out the factors that need careful consideration when designing the new governance framework to ensure that these are specifically addressed. The size of the

Executive and detailed remits for each portfolio would need to be thought through, to ensure that there is absolute clarity as to responsibility for functions. Consideration needs to be given to whether the remits of the portfolios should be based upon: existing officer directorates; functional areas; or strategic priorities that directly relate to, and are more readily identified by, our communities and residents. In addition, the extent of individual portfolio decision making and when matters are reserved to be decided by Cabinet collectively also needs to be considered.

5.5 As part of the new arrangements the Council will also be required to make provision for oversight of performance and policy review. Arrangements would need to address the issue identified of achieving a separation between decision-making around services and their review, and address the legislative requirements set out later in the report around overview and scrutiny. This committee could also take a wider, more comprehensive role in policy development and performance review. By way of example, the remit of this committee could include: -

- Agreeing an annual programme of policy and performance reviews, linked to the Community Plan;
- Acting as the Council's Crime and Disorder Committee;
- Holding to account Cabinet members for decisions made;
- Agreeing and implement an annual programme of external reviews involving key partners, having regard to concerns and suggestions raised by local members and local residents.

5.6 Through the pandemic, the vital role that local members play in their communities has come to the fore – signposting people to services, linking up local organisations, championing local needs and priorities and holding service providers to account. Under new governance arrangements, this representative role of elected members is something to be enhanced and better supported, for example by linking key officers to geographical areas, providing local information bulletins to update ward councillors on things that are affecting their wards, and providing 'all member' briefings on the progress of major initiatives that are underway or in the pipeline.

5.7 As indicated above, there is a significant amount of detail to be considered in formulating and designing a new form of governance for the Council. It is therefore suggested that a small working party of Members be established to undertake this work and prepare a detailed scheme to be submitted to Council at its meeting in December 2021. This would then allow a further period of almost six months for the necessary work to be undertaken to prepare for the new governance model to be implemented from May 2022. If possible, the Council will seek to 'sense-check' with the Local Government Association as proposals are developed.

5.8 This work would include an extensive rewrite of the constitution, (including reviewing the council procedure rules and other rules and codes), and revisiting the officer scheme of delegation - although there is no reason for the types of decisions delegated to officers to change in a move to a cabinet system. Arrangements in respect of Joint Committees with other authorities would need to be revisited, as well as a decision as to what functions (in addition to those proscribed in regulations) should be reserved

to the full Council. The Council would also need to consider the retention of dedicated Committees for Planning, General Purposes, Audit and Accounts and Standards and the size of those committees. The Council must by law have a Licensing Committee in place to discharge its obligations as the Licensing Authority. Finally, time will need to be allowed to develop a new scheme of remuneration for members and to deliver training on the new arrangements for both Members and officers prior to the implementation date.

- 5.9 Attached to this report, as an appendix, is a document issued by the Centre for Governance and Scrutiny, entitled “Rethinking Council Governance for the ‘20s”. The document has been designed to assist councils when making formal changes to their governance arrangements and provides some useful pointers. It is therefore suggested that any working group established should review this document to assist them when formulating the detail of the new structure.

**6.0 Statutory Provisions/Requirements - Procedure to be followed in order to move to a cabinet style of governance**

- 6.1 The Local Government Act 2000, (as amended by the Localism Act 2011) (The Act), sets out the statutory provisions that local authorities must follow in determining or changing their governance arrangements.

- 6.2 The Act requires that a local authority must make a formal resolution to make a change in its governance from Committee to an Executive (i.e. Leader and Cabinet) form of arrangements. The Council may not pass another resolution changing its governance arrangements, (i.e. back to a committee system), for five years. The five year period runs from the date of the last resolution taken to change governance arrangements. However, the Council would have the power to vary or amend its executive arrangements, (whilst still providing for the same form of Executive decision making), during this period if it considers it appropriate to do so.

- 6.3 It is my view that the Council, at its meeting in May 2021, can simply resolve that it wishes to move to a Leader and Cabinet style of governance and the broad principles of those arrangements, with the finer detail arrangements being agreed and adopted in December to be implemented as from the May 2022 annual meeting. This will give members time to consider and determine the form of the Leader and Cabinet style of governance they wish to implement and the detail that those arrangements will take.

- 6.4 The legislation does not require the Council to carry out any public consultation on the proposed changes but as soon as practicable after passing such a resolution the Council must:-

- a. Ensure 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 and
- b. Publish in one or more newspaper circulating in its area, a notice which:-
  - (i) States that the authority has resolved to make a change in its governance arrangements

- (ii) States the date which the change is to have effect
- (iii) Describes the main features of the change
- (iv) States that copies of the document setting out the provisions of the arrangements which are to have effect following the resolution are available at the Authority's principal office for inspection by members of the public and
- (v) Specifies the address of the authority's principal office.

6.5 The legislation gives the Council considerable discretion on how to shape any new Leader and Cabinet executive arrangements to suit its local requirements. However the Act does set out some parameters that must be observed. The Executive must consist of at least two, but no more than ten Members. The Act also sets out the functions that are the responsibility of the full Council, (such as Council Tax and budget setting, determining the Council's Policy Framework, approving the Members Allowances Scheme etc.), and those that can be discharged by the Executive within a Leader and Cabinet Executive system. It allows for the discharge of functions within the responsibility of the Executive by: individual portfolio holders who make up the Executive; by a 'committee' of the Executive, (i.e. Cabinet collectively); by an area committee(s); or by officers of the Council. The Executive Leader must be elected by the Council.

6.6 Whilst any retained committees would be required to reflect the political balance of the Council, there is no such requirement for Cabinet. Meetings and reports of the Council, Cabinet, and any committees would be open to members of the public just as they are under the Committee system in accordance with the Local Government Access to Information provisions.

6.7 Executive arrangements by a local authority must also include provision for one (or more) committees to exercise the role of overview and scrutiny committee. The membership of this committee(s) must reflect the political balance of the Council. As indicated in paragraph 5.5 of the report, it is proposed that this committee take a wider, more comprehensive role in policy development and performance review. However there are legal requirements under the act which stipulate that the committee must have within its remit the power to:

- review or scrutinise decisions made by portfolio holders/Cabinet and also those functions within the remit of Council or any of its other committees,
- make reports or recommendations to the Council or Cabinet with respect to any of the functions which are the responsibility of the Executive and also those functions within the remit of Council or any of its other committees, and
- make reports or recommendations to the Council or Cabinet on matters which affect the authority's area or the inhabitants of that area.

## **7.0 RECOMMENDATIONS**

**That Members consider the report and recommend to Full Council at its meeting on 4 May 2021 that:**

- a. the Council resolve to adopt a Leader and Cabinet style of governance, with implementation to take effect from May 2022; and**

- b. a small working group of Members, with membership to be determined by Full Council, be established to formulate the detail of how the new governance arrangements should operate, with the aim of reporting back to Full Council on 14 December 2021 for its consideration and approval.**

Background Papers

LGA Peer review reports 2016 and 2019

For further information please contact Karen White on Ext 5240.

John Robinson - Chief Executive