

FUTURE REPORT ON GOVERNANCE ARRANGEMENTS

Governance Committee – 26 February 2015

Report of Chief Officer Legal and Governance

Status: For Consideration

Key Decision: No

Executive Summary: Following a recommendation of Council on 1 April 2014, the Governance Committee is tasked with continuing to investigate future Governance arrangements in general to allow the newly elected administration in 2015 to consider future governance.

This report supports the Key Aim of Effective Use of Council Resources

Portfolio Holder Cllr. Fleming

Contact Officer(s) Mrs Christine Nuttall – Chief Officer Legal and Governance

Recommendation to Governance Committee: that following Council's recommendation on 1 April 2014, that the Governance Committee continue to investigate future Governance arrangements in general to allow the newly elected administration in 2015 to consider future governance, this committee considers the information and research taken place to date as set out in this report which follows on from an earlier report dated 18 September 2014 entitled "Governance Arrangements"

Reason for recommendation: The Governance Committee is tasked with continuing to investigate future Governance arrangements in general to allow the newly elected administration in 2015 to consider future governance.

Introduction and Background

1 This report follows on from an earlier report dated 18 September 2014 entitled "Governance Arrangements" the minutes of which are as follows:

"The Committee had been tasked with continuing to investigate future Governance arrangements in general to allow newly elected Members in 2015 to consider future governance. The Chief Officer Legal & Governance presented a report setting out some research carried out on behalf of the Committee further to the previous meeting, on the advantages and disadvantages of the Committee System and the Leader and Cabinet System.

The Chief Officer Legal & Governance advised that the majority of Councils were still operating under the Cabinet style of governance which included the whole of Kent except that Canterbury City Council had passed a resolution to revert back to

the Committee system which would be actioned at the next Annual Council in 2015. Sevenoaks Council had adopted in 2013 a hybrid model, with five Cabinet Advisory Committees although this was still essentially a Leader and Cabinet Executive governance system. The new hybrid model had been reviewed by the Governance Committee over the following year which involved Member consultations resulting in some changes being made for the municipal year 2014/15. The most notable of these changes was the complete separation of the scrutiny function. The changes had alleviated some of the concerns that Members had voiced as set out in paragraph 8 of the report.

Councillor Walshe reported that he had spoken with the Leader of the London Borough of Sutton, which had changed to a committee system in 2012, who was happy for the Committee to visit and speak with him about the experience and advantages as they saw them. The Leader there had advised that apart from set up costs, it had not been administratively more expensive.

Members noted that if a committee structure was sought it would tie the next Council to the structure for five years. It was thought that the changes made to the present structure at Annual Council had seen an improvement. It was agreed that further correspondence with the London Borough of Sutton was worth pursuing.

Resolved: That

- a) following Council's recommendation on 1 April 2014, that the Governance Committee continue to investigate future Governance arrangements in general to allow the newly elected administration in 2015 to consider future governance;
- b) the information and research taken place to date as set out in this report, be noted; and
- c) further research be undertaken with particular reference to the contact made with London Borough of Sutton and the research results from Cornwall's independent review carried out in 2011/12, for a final recommendation and report to the meeting in February 2015".

London Borough of Sutton

- 2 The London Borough of Sutton adopted a Committee system in May 2012, based on objectives which were in development since 2010. The new system included one scrutiny committee where previously there has been four Scrutiny Committees and five Advisory Groups.
- 3 A copy of the London Borough of Sutton's report that recommended the dissolution of the existing Executive and the introduction of a Committee system of governance together with minutes of that report are set out in the Appendix to this report.

Cornwall's Independent Review

- 4 Cornwall undertook an independent review of governance arrangements over the course of 2011 and 2012. This was a comprehensive exercise, chaired by an independent person, which took evidence from a wide range of sources. It should be seen in the context of Cornwall's creation as a unitary authority in 2009, which gave rise to a need to consider how governance would operate across a very large geographical area.
- 5 A member panel was established to lead the review, assisted by an external panel of experts from outside the council. The panels took evidence from a wide range of stakeholders from within the county, and from experts nationally, which they used to formulate a set of recommendations.
- 6 Transparency of decision-making was seen as a high priority, as was the need to ensure that decision-making was connected to people at local level through structures such as Community Network Panels and parish councils. The role of non-executive members was considered, in the context of their scrutiny role and engagement with the policy development process, as well as their training and development.
- 7 The member panel recommended no formal changes to the council's existing governance arrangements (that is, that the council remain under the leader-cabinet model) but did recommend changes to that model. In particular, changes were recommended around the role of those members in formal "cabinet support" positions, the engagement with the council with community structures and the strengthening of overview and scrutiny. The Panel felt that improvements to decision-making and governance were not necessarily predicated on a formal change to governance models.

Other Councils

- 8 The leader cabinet system is seen in most English authorities and is the standard approach which the majority of councils currently operate.
- 9 All Councils in Kent are working under some form of cabinet governance model. Only Tandridge District Council over the border in Surrey is working under the Leader and Committee System as a result of their population falling under the threshold for the previous requirement to change to the Cabinet system of governance. However, Canterbury City Council passed a resolution on the 24th July 2014 to return to the Committee system at the next Annual Council meeting 2015 and Maidstone Borough Council similarly resolved in December 2014 to return to the Committee system in May 2015.
- 10 A number of Councils in Kent including Sevenoaks District Council (SDC) have adopted a hybrid model which overcomes some of the disadvantages associated with the cabinet model. This is still a leader cabinet model and so does not require Secretary of State approval.
- 11 The system in SDC was implemented following concerns with the previous structure. These concerns were as follows:

- Perception of remoteness/inaccessibility of portfolios; feeling of disengagement from the influence and decision-making; lack of training and development (succession planning for future Cabinet members); and the need to streamline the system to match the resource available.

- 12 As a result a Hybrid model based on Cabinet Advisory Committees was adopted. The new system under went a year long review following its introduction in May 2013. The review comprised extensive Member consultation and resulted in some changes being approved by Full Council in April 2014 with implementation at Annual Council in May 2014.
- 13 The present system broadly comprises 5 Cabinet Advisory Committees with 12 members including the relevant Cabinet and Deputy Cabinet members on each of the Cabinet Advisory Committees. The Deputy Cabinet members do not have Cabinet decision making powers. Members can sit on more than 1 Cabinet Advisory Committee and the Advisory Committees are able to choose their own chair.
- 14 The Scrutiny Committee has a fixed membership of 9 members plus a Chairman and Vice Chairman with all members of the Committee being independent of the Cabinet Advisory Committees.

Key Implications

Financial

It is likely that there will be additional net cost implications if a change of governance to the committee system were to take place. At this point in time it is difficult to quantify such costs. However, Maidstone Borough Council estimated their costs in changing from an executive to a committee system of governance when reviewing their governance arrangements on the 10th December 2014 as follows:

“The cost of making the change

As stated earlier there will be one-off cost implications if the governance system is changed. The resource to write a new constitution and develop an agreed structure further with Members cannot be found within existing resources. This will require bringing in senior additional legal expertise from December until April 2015, the costs of this will have to be ascertained. There will also be costs in terms of training for officers and Members and re-writing templates and processes on the modern.gov system. This could be covered by an additionally funded temporary Democratic Services Officer who could also support the formulation of the new constitution. Costs of publishing notices as required by legislation also need to be taken into account, plus dealing with questions and issues raised by the public and outside organisations in response to the changes. As an indicative amount, this cost is estimated to be in the region of £30,000”

Legal Implications and Risk Assessment Statement.

The Localism Act 2011 (“the 2011 Act”) gives Councils greater freedoms over their governance arrangements allowing them to choose which governance system they operate from the following options:

- Leader and Cabinet Executive;
- Mayor and Cabinet Executive;
- a Committee System;
- other arrangements approved by the Secretary of State.

The Secretary of State has power to approve alternative forms of governance arrangements on request from local authorities, provided that they demonstrate that the proposed arrangements would be an improvement on the current arrangements, they would ensure efficient, transparent and accountable decision making and that they would be appropriate for all local authorities, or a particular type of local authority. The Monitoring Officer has spoken to the Department for Communities and Local Government (“DCLG”) who informed her that no Councils in England have put forward proposals to the Secretary of State to consider any alternative form of governance arrangements. Even if proposals passed the initial requirements test set by the Secretary of State there would still need to be House of Commons approval and House of Lords approval to any alternative form of governance arrangements.

The Act is clear that a local authority with committee based governance arrangements may appoint one or more committees as the authority’s overview and scrutiny committee or committees and so any desire to return to the Committee system of governance could include the elements of an authority’s current scrutiny system.

If a change is made to revert back to the Committee system the Localism Act 2011 requires the Council to make information available to enable people to understand the changes once the decision is made. There is no longer an obligation to consult in advance, although Councils may choose to hold a referendum or may consult on the new arrangements proposed (either in advance of making any decision or on the detailed proposals or once the resolution is made).

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Conclusions

The Governance Committee through its working group has undertaken work to look at the practicalities and appropriateness of moving to the Committee System or a Hybrid model. The Hybrid model over the Committee System was chosen as the most appropriate system to overcome the concerns that had been expressed by Members.

Once the Hybrid model had been adopted at Annual Council in May 2013 a year long review took place which involved lengthy Member consultation which resulted in changes being made to the Hybrid model at Annual Council in May 2014.

Annual Council in May 2014 also resolved that the Governance Committee continues to investigate future Governance arrangements in general to allow the newly elected administration in 2015 to consider future governance which this report aims to explore.

Appendix

London Borough of Sutton's Report on Future Governance Arrangements plus the minutes.

Background Papers:

[Localism Act 2011](#)

[Governance Committee report entitled "Governance Arrangements dated 18 September 2014 and the minutes of such meeting"](#)

[Rethinking governance – Practical steps for councils considering changes to their governance arrangements](#)

Christine Nuttall
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