

Council Report

Cabinet 11th April 2016

Title

Governance Review

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Director Approving Submission of the Report

Assistant Director Legal Services

Ward(s) Affected

All

Executive Summary

To report the recommendations of the Governance Review Working Group (“the Report”) for the consideration of Cabinet with a view to recommendations being made to Council as to amendments to the Constitution.

Recommendations:

- That Cabinet note the recommendations of the Members Governance Review Working Group.
- That Cabinet recommend to Council the amendments to the Constitution set out in Appendix 1 to this report.

List of Appendices Included

Appendix 1 - Proposed amendments to the Constitution

Appendix 2 – Commentary on proposed amendments to the Constitution

Background Papers

- Final Report of Rotherham Council’s Governance Working Member’s Group [February 2016]
- Local Government Association/Centre for Public Scrutiny – “Rethinking Governance” [February 2014]

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Governance Review Member's Working Group

Council Approval Required

Yes

Exempt from the Press and Public

No

Title (Main Report)

Governance Review

1. Recommendations

- That Cabinet note the recommendations of the Members Governance Review Working Group.
- That Cabinet recommend to Council the amendments to the Constitution set out in Appendix 1 to this report.

2. Background

.1 Following the publication of the Casey Report, the then Secretary of State, Rt. Hon. Eric Pickles MP, directed the Council to consider its governance arrangements. The review group was established by a resolution of Council made on 3 June 2015, on the recommendation of the Commissioners in order to seek Member involvement in the determination of a future governance structure. The terms of reference of the Group were to:

- Consider the case for change, including the strengths and weaknesses of the current decision-making arrangement;
- Consider the main governance options;
- Conduct an analysis of the strengths and weaknesses of such models;
- Investigate how the models have been implemented elsewhere in the UK and to consider independent evidence regarding their success;
- Formulate recommendations on the way forward for the Council;
- Consider the purpose, role and duties of members, to include decision-making, scrutiny, community leadership and representation;
- Review the Scheme of Delegation to ensure that it is streamlined and with the appropriate levels of delegation to officers and properly supports the new governance arrangements,
- Consider the appropriate number of elected members that will be required under the new governance arrangements with a view to inviting the Local Government Boundary Commission for England to conduct an electoral review.

.2 The Group was independently chaired by Professor Tony Crook CBE of the University of Sheffield and the members of the Group were the Leader of the Council, the Deputy Leader of the Council, the Portfolio Holder for Corporate Services and Finance, the Portfolio Holder for Neighbourhood Working and Cultural Services, The Chair of Overview and Scrutiny Management Board, the Chair of Standards Committee, the Deputy Chair of Audit Committee, the Leader of the UKIP Group, a member of the UKIP Group and the Leader of Rotherham Independent Group. The Group met on seven occasions between July 2015 and January 2016. The Group visited four local authorities and

examined their governance arrangements through discussions with members and senior officers.

3. Key Issues

3.1 The Group were not able to agree on all their recommendations but their recommendations reflect the views of the majority of the Group. The main recommendation was that the Council should continue to operate Executive Arrangements via the Leader and Cabinet model. The decision making systems available to local authorities are:

- **Leader and Cabinet.** This is the governance system that most councils operate. In some councils, individual members of the cabinet have decision-making powers; in others, decisions have to be made by the whole cabinet. 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 (and who will usually be the leader of the largest party on the council). Councils operating this model must have at least one overview and scrutiny committee. A summary of the key features of the Leader and Cabinet model is set out in Appendix 1
- **Mayoral System,** with a directly-elected executive mayor with wide decision-making powers. The Mayor appoints a cabinet made up of other councillors, who may also have decision making powers. Councils operating this model must also have at least one overview and scrutiny committee.
- **Committee System.** The Localism Act 2011 reintroduced this option for all councils. Previously it was available only to district councils with populations under 85,000. Committee system councils make most decisions in committees, which are made up of a mix of councillors from all political parties. These councils may have one or more overview and scrutiny committees but are not required to.
- 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 will come to a decision about whether or not to approve any option suggested under this part of the Act.

There are also variations for each of these models that can lead councils to adopt hybrid approaches; most commonly this is a hybrid between Leader and Cabinet and the Committee System which are seen as a modified version of the Leader and Cabinet system, and therefore not requiring a formal change under the legislation.

3.2 The Group considered that the elected mayor model had the potential to concentrate too much power in the hands of one person with a potential perception that it would be less transparent and democratic than other models. While a small number of members of the Group favoured a committee system the view of the Group as a whole was that concerns

about public and member confidence in the current model could be better addressed by strengthening the existing model.

3.3 The Group as a whole favoured the Leader and Cabinet model subject to sufficient checks and balances to ensure transparency and accountability. The specific recommendations were that:

- Executive decisions should be taken collectively by the Cabinet rather than by the Leader or Portfolio Holders acting alone.
- The Leader be elected for a term to be agreed by Council;
- The Leader appoint her/his Cabinet;
- Legal requirements as to the publication of a Forward Plan of Key Decisions be met and that the Forward Plan be circulated to all members on a regular basis.
- The Leader consults with both the Chair of the Overview and Scrutiny Management Board and the leader of the main opposition party prior to a decision being designated as 'urgent' and therefore exempt from call-in.
- The number of members currently required to request that a decision be called in for scrutiny be reduced from one member supported by at least five other members to one member supported by at least three other members;

3.4 The Group also made a recommendations as to the role of Council. The specific recommendation was:

- That Council's sovereignty in relation to the consideration and setting of the Policy Framework, Medium Term Financial Strategy, budget and council tax setting, should be reaffirmed

3.5 The Group also made further recommendations as to the Scrutiny function. The specific recommendations were:

- That the forward plan of key decisions is considered by OSMB on a regular basis with an opportunity to examine proposals in advance of decisions being made;
- That Cabinet papers are considered at a meeting of OSMB scheduled in the week preceding the Cabinet meeting to ensure that 'pre-scrutiny' of proposed decisions is facilitated;
- That the current number of commissions are retained, subject a review of the number after a year; however their terms of reference should be reviewed to ensure that there is closer alignment with Cabinet portfolios;
- That the vice chair of the OSMB be a member of the main opposition party;
- That the chairs and vice chairs of the other commissions be filled by parties according to the proportional representation of their party group on the Council;
- That the work of the commissions to focus on policy development as well as scrutiny of implemented policies;

3.6 The Group also made further recommendations as to area working. The specific recommendations were:

- Area Assemblies to be retained as committees of the Council comprising all councillors from the wards making up each assembly;
- Each Area Board to be chaired by a member of the party with the most seats in the given area;
- The terms of reference for the Area Boards to be established as part of the review of the Constitution including a wider review of the Council's Neighbourhood-Based working, but each would have a budget for 2016-17 (budgets for later years to be subject to the review) to be spent on 'area caretaking' and 'social inclusion' projects and consistent with the councils' overall policy framework; they would operate as the identity of the Council at a local level and provide an annual report of the work carried out.

3.7 Any implementation of the proposals for Area Boards would have to await the publication of the Review of Neighbourhood-Based Working.

3.8 The Group also made further recommendations as to information sharing, member development and services, the number of councillors, the scheme of delegation to officers, accountability and the future review of any new arrangements. The specific recommendations were:

- That Cabinet agenda papers be circulated to all members at date of publication;
- That Exempt papers be provided to the Opposition group leaders and Scrutiny chairs at date of publication. Any member found to breach the confidentiality of any council papers would be the subject of party discipline and possible investigation as a breach of the Code of Conduct;
- That all new members undertake a thorough induction programme, and that every member has an annual appraisal conducted by her/his party leader (or nominee) with an agreed personal development programme as one of the outcomes. That all members provide an annual report to the electors in their ward;
- That members are provided with an annually updated A-Z directory of the services provided by the various departments and a comprehensive Members' handbook;
- That consideration of the number of Councillors be deferred pending the Boundary Commission's review starting in summer 2016;
- That a review of scheme of delegation be considered regarding the level of delegation to Officers; it is recommended that this should be an ongoing and appropriate task for a Constitution review working group to undertake and that in the first instance it should consider and report on whether the upper limit for spending decisions by officers should be lowered to £250,000;
- That the council adopts an online system of recording decisions in an open and transparent way, including investigating how this could be extended to senior officer decisions;
- That there should be a review of the new arrangements and their operation after one year. It would be appropriate for this to take the form of a peer/external review and also for there to be an ongoing annual self-

assessment by the Council, which could be undertaken by a standing council group as the successor to the Governance Review Working Group.

- 3.9 The Assistant Chief Executive is reviewing the arrangements for the induction of new elected members after the May elections to ensure that an effective induction process which new members will find helpful is in place for May.
- 3.10 The recommended annual appraisal process for members would primarily be a matter for the political groups.
- 3.11 The recommendation for a Constitution Review Working Group to be established could allow for its terms of reference to include the recommended review of the scheme of delegation to officers, the recommended annual review of the new arrangements and a review of the current arrangements for publishing Council decisions on-line.

4. Options considered and recommended proposal

- 4.1 It is a matter for the Cabinet as to whether they wish to recommend to Council that it adopts some, all or none of the recommendations of the Governance Working Member's Group.
- 4.2 The recommended proposal is that Cabinet recommend to Council the amendments to the Constitution set out in Appendix 1 to this report.

5. Consultation

- 5.1 Extensive consultation was undertaken throughout the Review process as set out in the Report.

6. Timetable and Accountability for Implementing this Decision

- 6.1 As the recommendations, if agreed, will involve amendments to the Council's Constitution, the Report will need to be further considered by full Council.
- 6.2 The Assistant Director of Legal Services will be responsible for implementing any decisions made by full Council.

7. Financial and Procurement Implications

- 7.1 None directly from this report

8. Legal Implications

- 8.1 The legislative options for decision making systems for local authorities are set out in the Report.
- 8.2 Further relevant legal implications are set out in respect of each proposed constitutional amendment at Appendix 2.

9. Human Resources Implications

9.1 There may be resource implications in respect of the proposals for an enhanced role for Scrutiny.

10. Implications for Children and Young People

10.1 The recommendations within the Report will provide for transparent, effective and accountable decision-making in respect of matters involving Children and Young People.

11. Equalities and Human Rights Implications

11.1 None directly from this report

12. Implications for Partners and Other Directorates

12.1 Appropriate Governance arrangements for the Council are essential to ensure Partners have confidence that the Council's decision-making is transparent, effective and accountable.

13. Risks and Mitigation

13.1 There is a risk that if the Council does not operate with appropriate Governance mechanisms, public trust in the Council will not be fully restored.

14. Accountable Officer(s)

Assistant Director Legal Services

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