

Changing governance arrangements



Policy Briefing 4

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This briefing explores some of the issues around the power in the Localism Bill to allow local authorities to introduce a committee system for decision-making.

CfPS believes that the split between executive decision-making and the overview and scrutiny function has paid dividends in local government. However, there are several authorities who have stated that they wish to change their structures when permitted. This briefing will help those authorities to thoroughly examine the options. It is the first major publication on the committee system in ten years and provides an up to date picture of the framework and key considerations for authorities which might be considering a change in their governance arrangements.

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1. Introduction

- 1.1 Further to policies formed by both the Conservatives and Liberal Democrats in opposition, the Localism Bill will put in place provision permitting authorities to change their governance arrangements – including providing the power to return to the committee system.
- 1.2 The Bill sets out the governance options that will be available to local authorities. They will be as follows:
 - A Leader and cabinet ;
 - An executive mayor and cabinet;
 - A committee system;

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- Another prescribed system (councils may propose their own system, subject to SoS approval).
 - 1.3 Any authority – other than the 12 core cities with an executive mayor - will be able to operate a committee system, following a resolution of Council and a relevant council election, and/or through referendum. A detailed explanation of the procedures for changing governance arrangements can be found in our Policy Briefing 7 on the Localism Bill. However, it is clear that in talking about the “committee system” this could be something analogous to the pre-2000 governance system operating in authorities. Equally, the Bill gives the power for committee system authorities to operate scrutiny committees, and so for some a more streamlined model, more akin to the “fourth option”, could apply. In committee system authorities, the responsibility to carry out flooding scrutiny, health scrutiny and community safety scrutiny will continue (even though such work may not occur at scrutiny committees). Later in this briefing we will touch on different models and consider which might work best in different sorts of authorities, should the decision be taken that governance arrangements should change.
 - 1.4 The CfPS has launched a brief survey to establish the likely extent of any plans to change political management structures and is carrying out detailed research as part of the Annual Survey of O&S in Local Government to get a clear picture of how many authorities would choose an option to return to the committee system, and this will inform our approach in early 2011. We will be engaging closely with authorities planning to change their executive arrangements as part of our Accountability Charter programme.
 - 1.5 We strongly believe that the cabinet/scrutiny split constitutes the most effective, flexible and proportionate form of governance for local authorities, and that the overview and scrutiny function has – contrary to what some commentators have said, and further to considerable research we have carried out on this topic – proved itself up and down the country by bringing a new attitude and approach to accountability in local authorities, making a significant impact and opening up decision making. The forthcoming Health and Social Care Bill will be extending scrutiny powers in recognition of the value of independent scrutiny. However, we realise that localism means that authorities should have the freedom, based on local democracy, to choose their own governance arrangements, and so want to ensure that in those authorities who do wish to change, the benefits of a culture of scrutiny will continue, even if the structures may not.
 - 1.6 Throughout this document we have referred to the “cabinet/scrutiny split”, but for the purposes of this paper readers should take this as including

those authorities who have already adopted the “strong leader” model and those who have an executive mayor, as the challenges faced are similar.

2. The committee system and the executive-scrutiny split: key differences

- 2.1 The “committee system” is a style of governance involving councillors sitting on committees which make decisions, receive briefing and commission reviews to develop policy. Most authorities last used such a system in 2000 (or thereabouts). The change to the executive/scrutiny split was brought in by the Local Government Act 2000 to address what were perceived as significant shortcomings in the committee system. Some of these issues are set out in the Audit Commission paper, “We can’t go on meeting like this”, published in 1990.
- 2.2 Since 2000 most local authorities have operated with an executive and scrutiny split – either a Leader, cabinet and scrutiny or mayor, cabinet and scrutiny model of governance. These arrangements also have their strengths and weaknesses and whilst not universally effective they have found success in many authorities. Following on from the committee system they have developed areas that were often overlooked under the old system and can also provide lessons to learn from in adopting a new governance system.
- 2.3 The arguments for and against various systems of governance have been rehearsed many times, and will by necessity be different for every authority, because of differing political and managerial cultures. However, the old committee system did have some significant drawbacks inherent to its operation. Authorities considering the pre-2000 committee system as a model on which they wish to base a post-2011 decision-making structure will need to bear these shortcomings in mind.
- 2.4 Many councillors elected since 2000 will not have experienced the committee system and may be interested in hearing both sides of the argument and seeing the research undertaken on previous committee systems.
- 2.5 In those authorities that retained a committee system (for the most part, “fourth option” councils –district councils with a population of less than 85,000) a streamlined committee system has evolved since 2000. These councils provide interesting examples for those authorities considering a change to their executive arrangements.

3. Changes to decision-making and the nature of local service delivery since 2000

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- 3.1 Since 2000, a number of changes have occurred in the local government landscape. We think that the pre-2000 committee system would be ill-equipped to meet these challenges.
 - 3.2 Changes include:
 - 3.3 Greater delegated powers for councillors and officers have changed the culture of decision making and led to a swifter decision-making process and clear operational responsibility for officers.
 - 3.4 Councillors have gained significant powers to hold partners to account through the scrutiny process – in particular, health and policing partners, as well as various others.
 - 3.5 Councils have recognised that often the big issues for the community need to be tackled through public services working together and have entered into formal partnerships to achieve this. Councillors attend in a representative role with a need for authority to agree to decisions. To enable productive partnership working committee systems will need to offer an element of delegation to councillors identified to represent the authority beyond that of the previous system. Shared services and outsourcing are other important issues here that will affect decision-making and accountability.
 - 3.6 Best value reviews carried out until 2005 have given way to cross party councillor-led reviews through overview and scrutiny committees. Many of these are delivered through “task and finish” groups, and are free from the application of the party whip. These reviews have enabled councillors from different groups to explore issues of common concern and seek improvements.
 - 3.7 Many authorities will find that service departments, and the corporate core, have fewer resources available to manage any increase in decision making and briefings through committees and less resource available in central teams that previously clerked such committees. Authorities planning a committee system will need to consider what resources will be required for managing the decision making of the authority.
 - 3.8 Committee systems will also have to be planned to reflect public sector reform being brought forward by the coalition government such as Police and Crime Panels, Health and Wellbeing Boards, mutuals and Local Enterprise Partnerships.

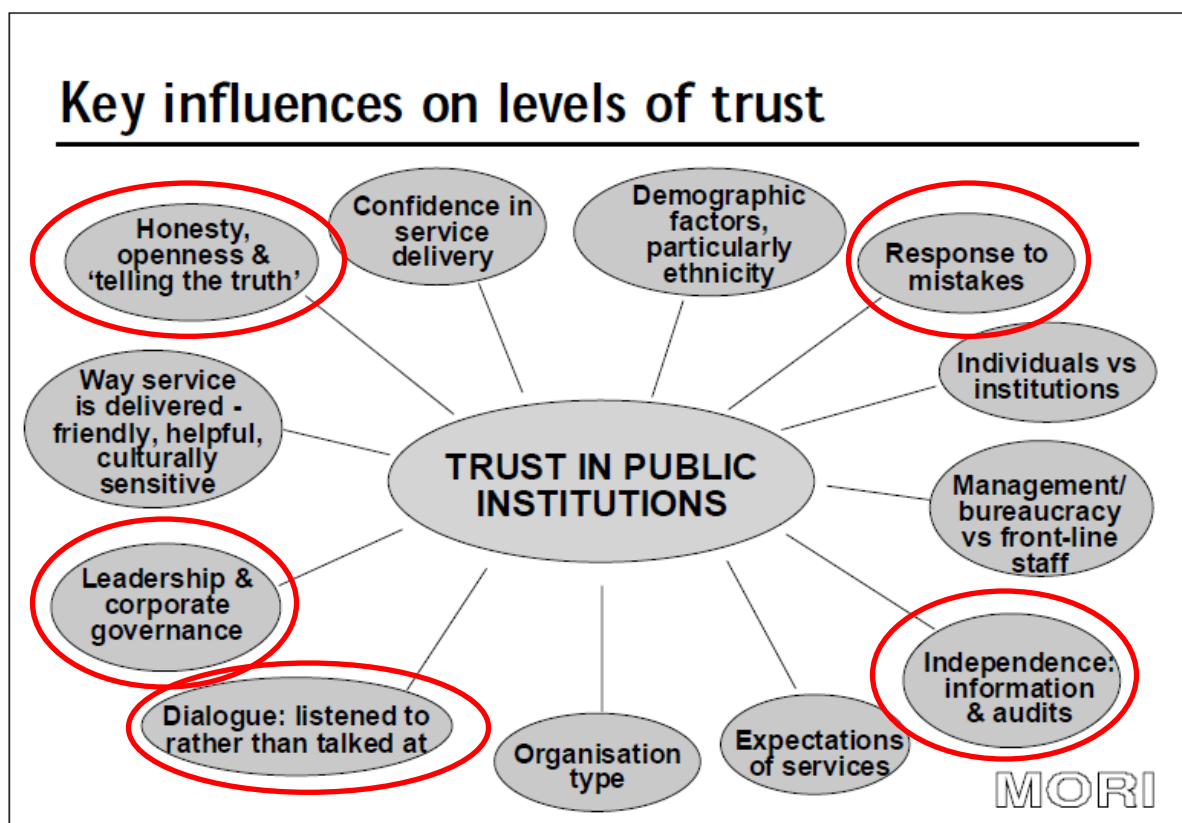
4. Wider implications: the importance of culture

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- 4.1 Below (at section 5), we will set out a series of risks, and mitigations, relevant to discussions of changing governance arrangements. These all suggest that any proposals around changes to decision-making in local authorities should be considered in the light of cultural concerns around accountability, openness, transparency and democracy. Systems should be designed to respond to and tackle issues in a way that enhances the genuinely effective involvement of councillors, and the public, in the decision-making process.
- 4.2 An undue focus on the structures of governance rather than these cultural concerns may well lead to problems that councillors and officers thought may have been unique to the cabinet/executive mayor model being equally applicable to any other decision-making system. Public frustration that changing governance arrangements has not led to greater transparency, involvement and accountability may well increase, particularly in times of economic austerity.
- 4.3 Where authorities are considering changing their executive arrangements, they should have regard to the CfPS principles of good scrutiny and our foundations of good democracy. Any new structure should:
- allow scope for individual or collective decision-making within a transparent structure (for example, through the Forward Plan and the cabinet and portfolio holder decision process and call-in that operates under the cabinet system);
 - recognise that a number of leading councillors will always lead strategic direction and development of policy, and that the Cabinet system formalises more transparently that which already existed in many authorities
 - engage with partner bodies in a realistic way, allowing individual councillors (whether they are committee chairs or Cabinet councillors) to represent the council on outside bodies and partnership boards with clear delegated decision-making authority;
 - give a strong role to all councillors in directing strategy and policy, and in (proportionate) performance management;
 - provide the maximum possible opportunities for actively engaging the public in influencing policy and improving services, with there being a specific way to feed public views into the decision making process (not limited to consultations carried out by officers);
 - limit the bureaucratic and administrative burdens on authorities of the decision-making process;
 - enable councillors to work together on a cross-party basis to resolve issues of local concern;
 - provide a means for all councillors to hold to account the work of the authority.

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- 4.4 Although there may be a strong desire to return to the committee system in some authorities, they need to guard against risks inherent in that system. We still think that the independence, flexibility and creativity within executive/scrutiny arrangements provide the best opportunity to balance transparency, democracy, involvement and the necessary expediency of decision-making. It is unrealistic to assume that the only options available to authorities are a wholesale return to the committee system, or sticking with what currently exists. There will be ways and means for authorities to use a decision to return to the committee system to put in place something that will be more streamlined.
- 4.5 In a way this reflects the proposals for structural change made by research published by the Audit Commission in 1990. These proposals focused on committee frequency, strategic clarity and councillor training. This may result in systems that look similar to a fourth option approach – a streamlined committee system with a scrutiny or policy review function providing independent recommendations for action. This, in turn, bears some similarity with the practice, adopted in some authorities in the 80s and 90s (for example, Kirklees), of appointing cross-party task and finish groups beneath decision-making committees to investigate given topics and make recommendations, as a forerunner to the current executive/scrutiny arrangements. We can envisage through these means a continued, objective scrutiny function, feeding into decision-making committees, rather than through independent overview and scrutiny committees.
- 4.6 Adopting this approach alongside a committee system which accepts the need for a significant amount of delegated decision making and a clear role for councillors in strategy and policy formulation, rather than operational matters could present an approach for authorities who wish to make the transition. It should not be noted though that the Government propose to enact secondary legislation which will go into detail about the delegation of powers in due course.
- 4.7 What is important to realise is that any governance system allows both good and bad practice. Any system relies on the goodwill and ability of those involved – councillors and officers – to be effective. Returning to the committee system will not automatically lead to open, democratic decision-making. But equally, a blind adherence to the suggestion that the cabinet/scrutiny split always works as intended is a flawed argument too.
- 4.8 Most important is the culture of accountability in decision-making in the authority. Scrutiny is about councillors coming together to investigate, to research, and to probe, and to make objective evidence-based recommendations for improvement, on a cross-party basis. It is a means to provide internal assurance that business is being transacted properly,

that issues of local concern are being considered, that stakeholders have a voice and that mistakes are being learned from.

- 4.9 These are not principles that are unique to one system of governance. In our view, however, a split between executive and scrutiny functions provides the best means to make sure such principles are adhered to. Conflicts of interest are less likely to occur because councillors are not as likely to be investigating and reviewing decisions or policies that they have made themselves. There is also more space for horizon-scanning and policy development that can be crowded out under different structures where the focus of agendas is always on making today's decisions, rather than planning ahead for tomorrow's problems.
- 4.10 Equally, where decision-making works well and is transparent, there is significant opportunity for scrutiny to influence and direct council policy, through making evidence-based recommendations to the council's cabinet and other partners. Where it works well, it can also help improve governance in many of the areas that matter most to the public, as this diagram from MORI shows in relation to influences on levels of public trust in institutions, where we have ringed those where effective scrutiny can make a particular contribution:



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- 4.11 With the prevalence of ward budgets and devolved decision-making, it seems likely in the future that – in their wards, at least – the potential for direct, operational involvement by backbench councillors in service delivery (being able to get things done) is likely to increase in importance anyway, with individual councillors being given more independence to use funds for the benefit of local people.

5. Learning from Previous Systems of Governance

- 5.1 Should local authorities wish to review their governance arrangements, an approach should be adopted that recognises that both main approaches (executive scrutiny split and committee system) have their strengths. **Four key risks** that local authorities exploring a change should consider – and how to plan for them - are set out below:

Risk	Learning from previous systems		Possible action to take
	Positive views	Negative views	
<p>1. That a committee-based system would leave councils ill-equipped to handle proactive cross-partnership decision-making, where discussions often occur and decisions are made at partnership boards. This could hinder partnership working, disenfranchise partners and turn effective partnerships into talking shops with decisions having to be taken back to local authority committees for ratification</p>	<p>Supporters of the committee system argue that it allows more councillors to be involved directly in making and influencing decisions that affect the lives of residents</p>	<p>In many authorities, the committee system led to an undue focus on operational management, with councillors duplicating the activity of officers rather than exercising a discrete leadership role. The absence of delegated decision making for individual councillors, incompatible cycles and schedules of meetings and service specific decision making means the pre-2000 committee system was not set up for the increase in partnership working that has occurred in the last ten years.</p>	<p>There is a need for any system of governance based on committee decision-making to focus on key strategic issues affecting the area, integrating the decision-making process with existing partnership arrangements.</p> <p>Delegated decision-making under certain circumstances to the chair would be advisable for example to enable timely partnership-based decisions to be made.</p> <p>There would also have to be an understanding that a volume of decisions need to be delegated to officers.</p> <p>Opportunities for providing and demonstrating accountability would need to be established; for example through one or more overview and scrutiny committees</p>

Risk	Learning from previous systems		Possible action to take
	Positive views	Negative views	
<p>2. That decisions will be reached in silos by committees lacking strategic co-ordination. Councillors would lack other ways to get involved in policy development and review currently provided by scrutiny.</p> <p>This raises the potential problem of needing more meetings to sort through cross-cutting decisions. Swifter decisions also require either more meetings (with increased costs) or more delegated decision-taking by the chair, both of which are problematic.</p>	<p>Committee system supporters argue that it is more democratic, in that it allows all councillors to be involved in the decision-making process and develop specialist knowledge, which aids succession-planning</p>	<p>Experience suggests that crucial decisions were often made at political group meetings rather than openly “in committee” - it has been suggested that in many authorities, committee chairs acted as a de facto cabinet, making decisions behind closed doors-with political management techniques (the whip) being used to ensure their committees’ assent. Of course, political control remains an issue with the executive/scrutiny split as well.</p> <p>Furthermore, the necessarily close relationship that the silo-based approach demands between councillors and departmental officers raises other problems. In some authorities, the Audit Commission found that leading councillors were so closely involved in the organisation “that</p>	<p>Committees’ structures must build in consideration of cross-cutting issues to short-circuit the ping-pong between different bodies that each have an interest in the issue. Central co-ordination of the committee system is required to ensure a strategic approach to the authority’s decision making and policy development. Corporate policy and review officers undertaking a committee manager or lead officer role for each committee, should plan and schedule decisions to reduce overlap and speed up decision making.</p> <p>Independent, cross-cutting means for policy development and formulation – such as that currently provided through the scrutiny process - will help to resolve problems.</p>

Risk	Learning from previous systems		Possible action to take
	Positive views	Negative views	
		they abandoned their representative roles and become apologists for, rather than controllers of, whatever the organisation does. Many authorities have found that the space for considering purpose, direction and results was squeezed out". This could be said of executive cabinet councillors under the current system, except that overview and scrutiny provides space to both consider wider issues and challenge the cabinet.	
3. Additional costs through transition and operation of a committee system and potential loss of relevant skills if the resource needs of the system are not properly planned.	Supporters of the committee system argue that it is more cost effective and proportionate than the cabinet/mayoral system.	In some authorities, the pre-2000 committee system led to significant demands on officer and councillor time, especially if poorly managed. For example one authority was convening 302 meetings per year solely to deal with education issues, while another authority, with a larger education budget,	The risk needs to be mitigated by carefully planning any transition to new executive arrangements rather than making the assumption that changing them will result in financial savings. Some specific resource will need to be committed for managing committees and supporting councillors to provide challenge and

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	Positive views	Negative views	
Service Decision-making committees required a greater number of committee clerks, policy officers and senior departmental officers to attend and service their needs than has been experienced in most executive systems. Relevant skills to support committees and councillor review activity through staff recruited to support scrutiny may be lost during the transition.		only convened 32 (and that is far more than authorities convene at present).	<p>accountability for other public service providers. In response to this and other risks this is likely to be best provided by a small number of policy and review officers liaising between councillors, chief officers, partners and councillor support services. Central co-ordination in this way will avoid duplication between committees and lead to efficient decision making.</p> <p>The risk can also be mitigated by developing a well structured system. Recognising that it will not be appropriate under all circumstances to make decisions at a committee, empowering the chair to make delegated decisions at external or partnership bodies will help facilitate a streamlined system. Councillors' understanding of the operation of the system through training and development will also be important.</p>

Risk	Learning from previous systems		Possible action to take
	Positive views	Negative views	
4. That councils will overlook the need to build into their new arrangements open, deliberative forums such as scrutiny that demonstrate accountability and provide the public with opportunities to effect change and influence services.	Those supportive of the committee system argue that the committee system lasted for over 100 years and was understood by the public. councillors or the public attending committees can see debates taking place in public between political parties, thus enhancing transparency.	<p>A system of formal committee-based decision-making offers few opportunities for the public to get directly and actively involved in shaping decisions alongside councillors. At formal committee meetings the public tend to be either passive observers of proceedings or asking for their views to be considered via a deputation or petition which will often be unconnected to the agenda items under discussion.</p> <p>Governance arrangements since 2000 have included more opportunities for the public to actively influence policies and services, thus enhancing participative democracy. Flexible Overview and Scrutiny evidence gathering provides a forum where councillors and the public can interact on more equal terms, with</p>	Care would need to be taken when developing policies that additional consultation is carried out to ensure the public are still able to have their say. Providing for informal review groups to work underneath decision-making committees and through a cross cutting service improvement committee would continue to provide opportunities for direct interaction and collaboration between councillors and the public in reviewing services incorporated into a committee system of decision making.

Risk	Learning from previous systems		Possible action to take
	Positive views	Negative views	
		opportunities for the public to be co-opted, appear as expert witnesses, and give testimony as to their experience of services and collaborate with councillors informally in task and finish groups, and in some cases at committee meetings themselves.	

6. Alternative Approaches

- 6.1 The Government's openness to different forms of governance creates an opportunity for authorities to think beyond the committee system and to consider their approach to governance in the light of other changes they may be making to the services they provide and the kind of authority they wish to become. The Centre for Public Scrutiny would encourage authorities to consider governance arrangements in this context rather than deciding on their governance structure in a policy vacuum that ignores other changes.
- 6.2 Some possible typologies of different approaches to service organisation and delivery and a suggested kind of governance structure that would be appropriate for each are set out below. They are intended to be illustrative of different kinds of approach, and not prescriptive, nor models of "best practice." The Centre for Public Scrutiny can provide support to local authorities seeking to explore alternative governance arrangements:

6.3 **The Community Budgeting Council**

For the council taking forward the lessons of Total Place with its partners, providing pooled budgets to the local partnership to spend as they see fit to tackle the priorities and problems they have collectively identified.

An approach to governance could be developed through a Public Service Board, involving senior leaders with decision-making power particularly over committing resources. Non-executives could be members of the PSB as in a company board model, or there could be a separate 'scrutiny' body with power to challenge, review and question. This could be based in the council or organised jointly with councillors and other non-executives.

6.4 **The 'Virtual' Commissioning Council**

For the council that sees itself as an enabling and coordinating body, rather than as a direct provider of services or as a strong strategic leader of other partners. Councillors have a limited strategic role to agree the services they wish to see commissioned and a very local, neighbourhood champion-based role in their ward or division.

Governance could be lean and regulation light through a strategic, commissioning cabinet and light-touch scrutiny system with a local focus on outcomes for local people. Ensuring clear lines of accountability and reporting are built into commissioning arrangements so that all providers know that they are expected to account to scrutiny if asked will be important to ensure public accountability. Alternatively a highly streamlined committee system could work, although committees' work would be limited to setting commissioning strategies and monitoring contract outcomes since there would be few services over which councillors could exercise direct control.

6.5 **The Municipal Council**

For the council that sees itself as the guardian of public assets and the interests of all the community. The council will work in partnership with others where a clear case can be made for it being in the best interests of the community and may seek to supplement the primacy of the council's representative democracy form of governance with a wide range of ways for people to engage with the council in whatever more participative ways suited them and their lives.

Having fairly tight control over services could be important for members of this council in order to deliver their desired outcomes. There may be a strong focus on using their democratic mandate to scrutinise and influence other service providers. A committee system could work here, as well as an executive and scrutiny system, but the need for flexibility and efficiency as well as strong, clear democratic leadership would mean slimmed down committees at the very least. A single scrutiny committee with flexible structures underneath for policy development and review and strong local scrutiny by ward/division councillors would work well.

6.6 The Collaborative Council

Here individual councils may choose to collaborate and share services between them, as sovereign organisations pooling decision-making for particular, limited purposes. This might be to make management efficiencies or to collaborate to achieve shared goals (eg the Association of Greater Manchester Authorities).

As these collaborative arrangements are likely to affect only part of the participating councils and to develop gradually over time, there is a danger that governance arrangements may not keep up. Authorities may be left with a mixture of governance systems and the risk of duplication and inefficiency. If the councils involved have cabinet-scrutiny systems of governance, then delegated powers could be used to enable joint decision-making and where this exists, joint scrutiny could exist as well. With a committee system there is a danger that a plethora of new committees could reduce the efficiencies sought by the initial drive to join things up and would be complex to arrange across authorities given the need for political balance.

7. Conclusion

- 7.1 Ultimately, it will be for local authorities and their councillors to make the choice of whether or not to choose a committee system, or something like it. We think, as we have explained, that the cabinet system works well – not just because it is convenient and expeditious, but because it enables the council to foster a strong, value-adding and highly effective scrutiny system.
- 7.2 We think that a committee system following the traditional pre-2000 model would be ill-equipped to deal with today's challenges and approaches, particularly partnership working.

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- 7.3 But we also think that there are ways and means of integrating the values of scrutiny within a hybrid committee system that – if the authority’s culture is open and values the influence and roles of all councillors – could see effective scrutiny continuing, albeit in a new, probably more flexible way.

Further reading

“We can’t go on meeting like this” (Audit Commission, 1990), available on the CfPS website
“The internal management of local authorities in England” (Department of the Environment, 1991)
“Report of working party into local authority decision-making” (Department of the Environment, 1993)
“Modern local government: in touch with the people” (Department for the Environment, Transport and the Regions, 1998)
“National surveys of overview and scrutiny in local government” (CfPS, 2003-2009)
“Control Shift” (Conservative Party Green Paper, 2009)
“Accountability Works!” (CfPS, 2010)
“Between a rock and a hard place” (CfPS, 2010)
Localism Bill 2010-11