



## Review of the Governance Structure

### SUMMARY

- 1.1 The Localism Bill currently going through Parliament contains a number of clauses affecting governance of local authorities. The Council's Governance Committee considered some of the key proposals at its February meeting and recommended the SMC undertake a review of whether the Council should:
- Retain the current leader and cabinet model of governance or return to committee system
  - Adopt a voluntary code of conduct
  - Retain a local Standards Committee
  - and that the Commission make recommendations to Council detailing its conclusions and recommendations.
- 1.2 The Governance Committee requested that SMC invites all councillors and the independent members of the standards committee to participate in the review.

### RECOMMENDATION

- 2.1 To consider and agree a process for conducting this review with aim of presenting Commission findings to the November 2011 meeting of the Full Council.

### REASONS FOR RECOMMENDATION

- 3.1 There are strengths and weaknesses of both the Committee and the Leader and Cabinet model of governance arrangements. An impartial review conducted by the SMC that includes recommendations based on evidence should enable the Council to consider whether it wishes to change its governance structure. The review should also enable the council to determine whether it wishes to adopt a voluntary code of conduct and retain a local standards committee.

### SUPPORTING INFORMATION

- 4.1 At its meeting held on 23 February 2011 the Governance Committee considered a report from the Strategic Director of Resources summarising the governance provisions within the Localism Bill which had been laid before Parliament on 13 December 2010. The Bill contains a number of clauses affecting local authority

governance including a clause that allows council to return to a committee system of governance should they wish. Any changes would take effect from next annual election after a resolution is passed by the Council. Overview and scrutiny is permitted under a committee system but is not compulsory.

- 4.2 Prior to the Local Government Act 2000, local authorities could either take all decisions in full council or could delegate decision making to committees, sub committees, other local authorities or officers. The 2000 Act abolished the committee system, and required all local authorities with a population of 85,000 or more to adopt an executive model of governance with an Elected Mayor and Cabinet or Leader and Cabinet. Overview and scrutiny is an integral part of the executive model.
- 4.3 The Bill also abolishes the Standards Board for England and removes the requirement for local authorities to adopt a centrally subscribed code of conduct and have a statutory standards committee. In its place, the Government is legislating to make it a criminal offence for members who fail to register or disclose a personal interest without reasonable excuse.
- 4.4 There will however be discretionary powers for councils to adopt a code of conduct for their members and to maintain a standards committee to consider allegations of breaches of their code and censure members but they will not have powers to impose sanctions such as suspension or disqualification.
- 4.5 The Governance Committee felt that these changes need to be explored in more detail by the SMC and presented to a future meeting of the full Council. The Governance Committee resolved that SMC at its first meeting in 2011/12 municipal year undertake a review of whether the Council should:
  - Retain the current leader and cabinet model of governance or return to committee system
  - Adopt a voluntary code of conduct
  - Retain a local Standards Committee
- 4.6 The Governance Committee asked that the SMC invites all councillors and the independent members of the standards committee to participate in the review and make recommendations to Council detailing its conclusions and recommendations.
- 4.7 It is important that the SMC completes this review and present its recommendations to the November 2011 meeting of the full Council to allow time for any changes if appropriate to be made in next year's election. This is a relatively tight timescale which will be affected by the summer recess and therefore needs to be monitored closely.
- 4.8 The Commission needs to establish a set of principles on good governance to guide the review and appropriate system in Derby. These include:
  - Accountability - enable decision makers to be held to account by members
  - Democracy - opportunity for members to be engaged and contribute to the debate
  - Transparency –process decision making is clear and open for all to see
  - Effectiveness - decisions making is efficient and achieves positive outcomes, performance is monitored and evaluated

- 4.9 Evidence on the governance element of the review should be sought from all elected members as recommended by the Governance Committee as they all have a stake in the process. However, of the 51 current councillors only 18 are thought to have the experience of the former committee system, which was abolished in 2001 and the new Leader with a Cabinet model implemented in November 2001.
- 4.10 It is proposed that evidence from councillors is sought in two stages. Firstly a questionnaire (attached) is circulated to the 18 members that have experience of both systems asking them of their views of the merits two systems in reference to the four principles stated above. Secondly, the Commission asks all members for their views on which system they think is appropriate for Derby.
- 4.11 The Commission may consider receiving evidence on the effectiveness and viability of voluntary code of conduct and the standards committee from the chair and other members of standards committee as proposed by the Governance Committee.
- 4.12 The Commission should also seek the views of senior officers who have experience of administering both systems including the Chief Executive, Strategic Directors, Service Directors and the Monitoring Officer.
- 4.13 The Commission should also consider views of independent expert witnesses on the advantages and disadvantages of the two systems. This could include one or more of the following individuals:
- Steve Leach is Professor of Local Government in the Department of Public Policy, De Montfort University;
  - Dr Andrew Coulson Senior Lecturer INLOGOV, Modernisation agenda and local government scrutiny.
  - John Austin Assistant Director of Corporate Governance and Monitoring Officer at the London Borough of Enfield. He is also the chairman of the ADSO Board
  - IDeA
- 4.14 The questionnaire to all councillors could include question on the standards committee and ask members whether they wish to have a voluntary code of conduct and if so, whether it should follow the existing model code of conduct adopted by the Council.

## OTHER OPTIONS CONSIDERED

- 5.1 Continue with current governance arrangements and do nothing.

**This report has been approved by the following officers:**

<b>Legal officer</b>	Stuart Leslie
<b>Financial officer</b>	Roger Kershaw
<b>Human Resources officer</b>	Jon Redfern
<b>Service Director(s)</b>	Steve Dunning
<b>Other(s)</b>	Phil O'Brien

<b>For more information contact:</b> <b>Background papers:</b>	Mahroof Hussain 01332 643647 e-mail <a href="mailto:mahrooh.hussain@derby.gov.uk">mahrooh.hussain@derby.gov.uk</a> Governance Committee Report
<b>List of appendices:</b>	<a href="http://cmis.derby.gov.uk/cm5/MeetingsCalendar/tabid/73/ctl/ViewMeetingPublic/mid/410/Meeting/6720/Committee/1554/Default.aspx">http://cmis.derby.gov.uk/cm5/MeetingsCalendar/tabid/73/ctl/ViewMeetingPublic/mid/410/Meeting/6720/Committee/1554/Default.aspx</a> Appendix 1 - Implications Appendix 2 - Minutes of the Governance Committee Appendix 3 - List of potential witnesses Appendix 4 - Member Survey Appendix 5 - cfps Governance Arrangements report

<b>IMPLICATIONS</b>
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**Financial and Value for Money**

- 1.1 Cost of conducting this review will be contained within the research budget for Overview and scrutiny.

**Legal**

- 2.1 The Leader with a Cabinet model was established under the Local Government Act 2000. The Localism Bill enables local authorities to adopt a new structure should they wish. The outcomes of the review will depend on the Localism Bill provisions being enacted and brought into force. These provisions could change as the Bill completes its parliamentary stages.
- 2.2 It is anticipated that the Bill will receive Royal Assent in late October or November of this year but particular provisions will be introduced in stages after the Bill becomes law. The Standards Board for England is likely to be abolished two months after the Bill becomes law (approx Jan 2012).

**Personnel**

- 3.1 None directly arising from this report.

**Equalities Impact**

- 4.1 None directly arising from this report.

**Health and Safety**

- 5.1 None directly arising from this report.

**Environmental Sustainability**

- 6.1 None directly arising from this report.

**Asset Management**

- 7.1 None directly arising from this report.

**Risk Management**

- 8.1 None directly arising from this report.

**Corporate objectives and priorities for change**

- 9.1 The governance structure should help to achieve all our corporate objectives and priorities.

Time commenced : 5.03pm

Time finished : 5.39pm

### **GOVERNANCE COMMITTEE 23 FEBRUARY 2011**

Present: Councillor Jennings (in the Chair) Councillor Allen, Councillor Bayliss, Councillor Holmes and Councillor Jones.

#### **10/10 Apologies for Absence**

Apologies were received from Councillor Banwait

#### **11/10 Late Items to be Introduced by the Chair**

There were no late items

#### **12/10 Minutes of the meeting held on 3 November 2010**

The minutes of the meetings held on 3 November 2010 were agreed as a correct record and signed by the Chair.

#### **13/10 New Executive Arrangements from May 2011**

A report from the Strategic Director of Resources was considered. The Assistant Director – Democratic Services explained that the agreed changes in executive arrangements from May 2011 meant that various changes needed to be made to the Council Constitution. The report detailed these changes and sought approval from the committee to recommend these changes to Council at the Annual Meeting in May.

Members highlighted some discrepancies in the proposed amendments to the Constitution and requested that these be resolved prior to the report progressing to Council.

**Resolved to recommend to Council the proposed changes to the Constitution in Appendix 2, as amended, relating to:**

- **Part 1 – Summary and Explanation**
- **Part 2 – Article 7 – The Council Cabinet**
- **Part 3 – Responsibility for Functions and Scheme of Delegations**
- **Part 4 – Access to Information Rule AI24**
- **Part 4 – Council Cabinet Procedure Rules EP1-EP7**

## 14/10      Localism Bill – Governance Provisions

Members considered a report from the Strategic Director of Resources summarising the governance provisions within the Localism Bill, which had been laid before Parliament on 13 December 2010.

### **Resolved:**

- 1) To note the report.**
- 2) To recommend to the Scrutiny Management Commission at its first meeting in the 2011/12 municipal year that it undertake a review of whether the Council should:**

**Retain the current leader and cabinet model of governance or return to a committee system**

**Adopt a voluntary code of conduct**

**Retain a local Standards Committee and that the Commission make recommendations to Council detailing its conclusions and recommendations.**

- 3) To request the Scrutiny Management Commission to invite all councillors and the independent members of the Standards Committee to participate in the review.**

MINUTES END

## List of potential witnesses to the review

### All Councillors

A questionnaire to all Councillors asking them for their views on the future governance arrangements;

A questionnaire asking members listed below who have experience of both systems for their views based on the principles of good governance.

### Councillors

Bayliss (1996- 20006)  
 Bolton (1984- 88)  
 Dhindsa (1993-97 County & 1996 – 2002)  
 Graves (1995-2000)  
 Hickson (1987-95 &1990-2002)  
 Hussain (1991- 97)  
 Jackson (1995 – 2002)  
 Jones (2000- 2002)  
 Keith (1976 78 & 1981- 1994)  
 Redfern (1994- 1999)  
 Repton (1987 – 2002)  
 Roberts (2000-2002)  
 Skelton (1999 – 2002)  
 Troup (1998 – 2002)  
 Turner (1989- 1997)  
 Webb ( 1985 – 1997 County & 1996 – 2002)  
 Williams (2000 – 2002)  
 Wood ( 1979- 1995)

### Possible External witnesses:

<b>Professor Steve Leach</b> – De Montfort University	Steve Leach is Professor of Local Government in the Department of Public Policy, De Montfort University (Leicester) where he has been working since 1996. His main interests are political leadership, local politics, strategic planning and management and local government structures and reorganisations. He has carried out extensive research and published books and papers in all these fields. Recently his main areas of research activity have focused on the impact of the new political management structures in local government, introduced under the 2000 Act. He has been involved in a series of three research studies commissioned by the Office of the Deputy Prime Minister, (ODPM) including 'The Development of Overview and Scrutiny' (2002) and 'Making the Most of the New Constitutions' (2003). He led a team of researchers from De Montfort University and the Local Government Centre (Warwick Business School) which recently completed a Joseph Rowntree Foundation study of political leadership in England
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	and Wales under the new arrangements, which will be published later in 2004. He is a member of a consortium led by the University of Cardiff which is carrying out a long-term meta evaluation of the government's modernisation agenda for the ODPM
Dr Andrew Coulson – University of Birmingham	<p><b>Specialism</b></p> <ul style="list-style-type: none"> <li>• Partnerships and governance</li> <li>• Economic and environmental strategies</li> <li>• Waste management</li> <li>• Role of agencies and arms-length companies in the development process</li> <li>• Local government in Central and Eastern Europe</li> <li>• Procurement</li> <li>• Modernisation agenda and local government scrutiny processes</li> </ul> <p><b>Current and recent projects</b></p> <ul style="list-style-type: none"> <li>• Leads on INLOGOV scrutiny</li> <li>• Leads on INLOGOV seminars</li> <li>• Interim evaluation of 2005-2008 European Social Fund (ESF) Co-financing programme, Birmingham City Council</li> <li>• Partnerships and governance</li> </ul> <p>Dr Coulson has published a range of articles and books on local government.</p>
<b>John Austin</b> – Chair of Association of Democratic Services Officers (ADSO)	<p>John is Assistant Director of Corporate Governance and Monitoring Officer at the London Borough of Enfield. He was previously Borough Secretary at the same authority.</p> <p>He is chairman of the ADSO Board and was instrumental in steering the development and formation of the Association. He has been very active in designing and introducing the new Certificate and Diploma in Democratic Services and chaired the NVQ Implementation Group for a number of years.</p> <p>John also tutors on courses run by the South East Employers' and the Committee Administration residential course, formerly run by UNISON and now administered by the IDEA.</p>
Local Government Development and Improvement - IDeA	

### Senior Officers

Adam Wilkinson & Strategic Director/s  
 Stuart Leslie/ Phil O'Brien/ Steve Dunning  
 Others ?

## Review of Council's Governance Arrangements

The SMC is conducting a review on whether the Council should continue with the current leader and Cabinet model of governance or return to the Committee system. The Commission is initially seeking the views of members with experience of both systems. Please answer the questions taking in to account the following principle of good governance.

- Accountability - enable decision makers to be held to account by members
- Democracy - opportunity for members to be engaged and contribute to the debate
- Transparency - process decision making is clear and open for all to see
- Effectiveness - decisions making is efficient and achieves positive outcomes, performance is monitored and evaluated

1. In your view which of the two governance systems provide greater transparency in the decision making process? Please give reasons/ examples
2. What do you think are the advantages and disadvantages of a committee system?
3. What do you think are the advantages and disadvantages of a Leader and Council Cabinet model of governance?
4. In your opinion, which of the two systems make more efficient use of your time?
5. Please state your overall preferred model of governance and give reasons why
6. Please state your name .....
7. How long have you been a councillor,  years
8. What experience do you have of the Council's governance processes:
  - a. A Committee system,  years
  - b. A Leader and Cabinet experience,  years
  - c. Please state if you have been Committee Chair ☐ Cabinet member ☐

Please complete and return the questionnaire by 15 July to Mahroof Hussain, 5<sup>th</sup> Floor Saxon House.