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Legal, Procurement and Democratic Services

## **Review of Derby City Council Governance System**

### **Purpose**

- 1.1 In May 2018 Council agreed to establish a Committee System Working Group tasked with 'reviewing and considering proposals' relating to our governance arrangements.
- 1.2 The Group has reached their conclusions following full research of all the key principles and is now in a position to make their recommendations to Cabinet and Council in order to put in place a more effective governance system through a Committee system structure for political decision making rather than the current Leader and Cabinet system.
- 1.3 Further to consideration by the Executive Scrutiny Board and Council Cabinet on 12 and 13 February respectively, the report is now presented to Council for endorsement.

As part of this process, Council Cabinet accepted a recommendation from the Executive Scrutiny Board to request that Council explore the possibility of moving to 'all-council', four yearly elections, in conjunction with the review of Derby City Council's governance system.

The additional recommendation is detailed at 2.3 of the report. Minute extracts from the Executive Scrutiny Board and Council Cabinet are provided at Appendix 1 and 2.

### **Recommendations**

- 2.1 To authorise the Strategic Director of Corporate Resources to develop a Committee System based on the following working principles:
  - Achieve greater councillor engagement in decision-making;
  - No increase in the number of meetings;
  - No increase in costs;
  - Avoid unnecessary delays in decision-making so that any change is at least comparable to the Leader and Cabinet model;
  - Including call-in within the functions of the new committee structure;
  - To allow all councillors to put items on the agenda of committees;
  - Fit for purpose officer delegation scheme, with councillor involvement only in significant officer decisions.
- 2.2 To agree that local electors should be consulted prior to any final decision being made.

- 2.3 To request that the Committee System Working Group explore a move to four-yearly 'all-council' elections, in conjunction with the review of Derby City Council's governance system.

### **Reasons**

- 3.1 There are several different governance structures for local government allowed under national legislation, a Committee system being one of them.
- 3.2 Since the original introduction of the Leader and Cabinet model in Derby there has been a reduction in resources available to support the scrutiny function and the local leadership roles of councillors. The views of the working group are that this will work better under a Committee system.

### **Supporting information**

#### **Committee System Working Group**

- 4.1 The Group is a cross party group and is made up of Councillors Care, Eldret, Graves, Marshall and Wood. The Group has met six times since its formation and has considered the following:
- Original outline working principles;
  - Proportionality rules in a Committee system, including how it would apply under the various states of composition the council has had in recent years;
  - Outline view of committee systems applied at other councils including Maidstone, Nottinghamshire, Norfolk, Reading, South Gloucestershire, Brighton and Hove, Barnet, Kingston, Newark and Sherwood and Worcester;
  - A proposed 10-committee model that could be considered for Derby;
  - A system for involving minority groups in decision making;
  - A proposed Leader and Cabinet model involving changes to scrutiny;
  - Discussion and debate involving leaders and officers at Brighton and Hove City Council, and observation of a meeting there;
  - A verbal presentation from the Local Government Association detailing different councils that had (a) adopted and retained the committee system, (b) adopted the committee system and subsequently looked to reverse it, and (c) considered adopting the committee system but decided against;
  - Feedback from a councillor questionnaire on the authority's governance;
  - Advice and the views of the former leader at Maidstone Borough Council;
  - Amended working principles as set out at the meeting on 9 January 2019 and approved at the meeting on 30 January 2019.

#### **Working Principle 1: Achieve greater member engagement in decision-making**

- 4.2 At present strategic Council decisions are made by the Cabinet (or delegated to Cabinet members, strategic directors and officers) and regulatory decisions by specific committees – principally Planning and Licensing. Councillors who do not have any of these roles are only involved in limited decision-making at Council meetings.
- 4.3 Giving all councillors more responsibility for decision making can enrich the role and potentially attract a wider range of people to become councillors.

**Working Principle 2: No increase, or minimal increase, in the number of meetings**

- 4.4 The baseline considered by the working group for this was 94 committee meetings in 2017/18, as well as 28 Cabinet Member Meetings. Based on the 10-committee model proposed to the working group, plus Council, there would be 126 meetings per year. The number of meetings would therefore be over 30% more under a committee system. However, it should also be noted that whereas Cabinet Member Meetings often last less than 15 minutes, this may not be the case for committee meetings. It is therefore anticipated that the amount of time spent in meetings would increase considerably.
- 4.5 The number of regulatory sub-committee meetings (19 in 2017/18) would not be affected by any change in governance system. Any further sub-committee arising from the committee structure would be additional.

**Working Principle 3: No increase in costs**

- 4.6 The working group remains committed to developing a scheme that is cost neutral when compared to the status quo.
- 4.7 This has meant looking at examples of how functions can be brought together, for example having a call-in system whereby decisions being taken at a service committee can be referred to an over-arching 'Resources Committee, rather than a separate Scrutiny function.
- 4.8 In addition it needs to be explored how often it is necessary to have specific Legal or Finance staff at meetings when there aren't items on the agenda requiring their obvious input (stand by arrangements could be put in place for these officers to be called upon when needed).
- 4.9 Additional time spent in meetings would also have unquantifiable resource implications and opportunity costs in relation to the diversion of officer time into supporting committees. This may impact on all senior officers, including the Chief Executive and strategic directors, as well as officers at more operational levels.

- 4.10 Members' Allowances and Special Responsibility Allowances (SRAs) would also need to be reviewed by the Independent Remuneration Panel (IRP). A move to the Committee system may lead to a change in allowances.

**Working Principle 4: Avoid unnecessary delays in decision-making compared to Leader and Cabinet model**

- 4.11 In considering this principle, the working group took account of the shortest possible timescale for a decision (excluding urgent items) currently being 35 days, between notice being given in the Forward Plan and the expiry of the call-in period. This can obviously be significantly more depending on the notice given of the decision.
- 4.12 It is difficult to predict how swiftly decisions could be taken under the Committee system. One factor in favour of the system is that the statutory requirement to give 28 days' notice of proposed decisions does not apply. It should be noted, though, that while this potentially reduces the amount of time a decision may take it also impacts on transparency.
- 4.13 It should also be noted that the extent to which decisions may be taken quickly will depend to a large extent on the Scheme of Delegations which is adopted. This will need to minimise the number of different committees that consider the same business.
- 4.14 At present, the Leader is able to represent the council in partner meetings and is able to make decisions and commitments. This would not be the case under a Committee system, as the Leader of the Council's role would likely revert to chair of Policy and Resources Committee. This may increase transparency.
- 4.15 The working group has agreed the necessity to include a mechanism for urgent decision making, as is presently the case under the Leader and Cabinet model.

**Working Principle 5: Including call-in within the functions of the new committee structure**

- 4.16 If this principle is applied in any adopted system then committees would be responsible for their own scrutiny of decisions within meetings.
- 4.17 A call-in of committee decisions including review of the decision by a 'Policy and Resources' or similar senior committee/Council could be included.

**Working Principle 6: Inclusion of items on committee agendas**

- 4.18 The ability for councillors to have items included on committees could be done in a number of ways. The simplest might be for councillors to speak to committees and if approved for officers to then write a more formal report on the issue.
- 4.19 A range of alternative options is possible, but if they require officer support at the first step, costs would increase.

**Working Principle 7: Fit for purpose officer delegation scheme, with councillor involvement in significant officer decisions**

- 4.20 Delegations are the easiest way to control the numbers of decisions requiring determination by committee.
- 4.21 If the number of decisions taken by officers is increased, this will have the effect of reducing costs and time taken for them to be considered, but there is potential for this to conflict with Working Principle 1 (greater member engagement). This point will need to be considered by the working group if this report is approved. A widened scheme of officer delegation may be linked to councillor consultation requirements for agreed categories of decisions.

## **Public/stakeholder engagement**

- 5.1 There is no longer a legal requirement for a public referendum to be held and the Constitution has been updated to reflect this, but it is considered appropriate that the public be consulted if councillors do opt to proceed with a Committee system.
- 5.2 The Executive Scrutiny Board and Council Cabinet considered the report on 12 and 13 February, agreeing to seek the commitment of Council to the development of a Committee system in line with the recommendations set out at 2.1 and 2.2.

## **Other Options**

- 6.1 Do nothing and stay with the Leader and Cabinet model. This was considered and is not a recommendation of the Committee System Working Group.
- 6.2 Not to pursue a Committee system due to the principles set out in 2.1 not being supported.

## **Financial and value for money issues**

- 7.1 The potential costs to delivering a Committee system depend on the model and the remuneration afforded to councillors for the work they do. Officers will work up proposals on these two criteria within the confines of working principle 3, being “no increase in costs.”
- 7.2 Any proposals for a change to councillor allowances would need to be considered by the Independent Remuneration Panel and for them to come back with their proposals to Council.

## **Legal implications**

- 8.1 We are able to change our governance model and make amendments to our governance model by a straight majority vote of Council. Upon adopting any change, we are committed for the next five years before it can be changed again or changed back as laid down in the Localism Act 2011.
- 8.2 The previous requirement for a referendum in Article 15 was removed at the Council meeting on 23 January 2019. The constitutional requirement to consult with local electors is considered reasonable. While Council may hold an initial view on these decisions, it is essential that any consultation exercise is conducted in accordance with recognised principles, drawn from case law and government guidance, and that full consideration is given by the Council to the outcomes.

## **Other significant implications**

### **Political proportionality**

- 9.1 The Local Government and Housing Act 1989 sets out requirements as to the composition of committees, arising from recommendations in the Widdicombe Report on the conduct of local authority business (1986).

- 9.2 Those rules state that the composition of committees shall reflect that of the council, as far as reasonable. The principles applied to achieve this are:
- a) Not all seats are allocated to the same group;
  - b) A political group with an overall majority gets a majority of seats allocated;
  - c) Subject to (a) and (b), the total number of seats each political group has on all ordinary meetings is in proportion to that group's share of the total council elected membership; and
  - d) Subject to (a) and (c), each political group has the same proportion of seats as it holds on the council as a whole.
- 9.3 Widdicombe Rules apply to committee places overall and to each committee. The allocation of committee chairs does not need to be politically balanced, and is a matter for determination either by Council or by the committee itself.
- 9.4 Under the Committee system, numbers on a committee become even more important where an issue is likely to be drawn on political lines. Under executive arrangements, formal or informal agreements can be reached between political parties at the commencement of a municipal year. Thereafter any negotiation is likely to be on occasions where key issues require formal resolution, such as at meetings of Council, with the leading group able to make most decisions at Council Cabinet or via portfolio holder decisions.
- 9.5 By contrast, under the Committee system, such relationships could come under increasing pressure due to the regularity upon which groups would be required to formally vote together at meetings in order to achieve the equivalent outcomes.

### **Accountability**

- 9.6 Under the Leader and Cabinet model, cabinet portfolio holders take accountability for the decisions that the council makes, within their area of responsibility. Under the Committee system, there is collective responsibility. While the public will still be able to identify committee chairs, it does not necessarily follow that the chair voted in favour of a particular decision which the committee has taken, particularly in a council like Derby where the political balance has been tight for many years.
- 9.7 It therefore follows that while there is greater collective accountability with the Committee system and members of the public would have more options on councillors to contact, there is also likely to be less individual accountability for decisions. This would mean that the public would not have an ultimate decision-maker to approach in the event that they were unhappy with a decision.

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

<b>Role</b>	<b>Name</b>	<b>Date of sign-off</b>
<b>Legal</b>	Emily Feenan, Interim Director of Legal, Procurement & Democracy	18 February 2019
<b>Finance</b>		
<b>Service Director(s)</b>		
<b>Report sponsor</b>	Don McLure, Strategic Director for Corporate Resources	18 February 2019
<b>Other(s)</b>	Alex Hough, Acting Head of Democracy	18 February 2019

<b>Background papers:</b>	None
<b>List of appendices:</b>	Appendix 1 – Minute extract 86/18 from the meeting of the Executive Scrutiny Board held on 12 February 2019 Appendix 2 – Minute extract 186/18 from the Council Cabinet meeting held on 13 February 2019

**Appendix 1**

**Minute Extract**  
**Executive Scrutiny Board**  
**12 February 2019**

**86/18 Council Cabinet Agenda**

The Board considered a report of the Chief Executive on the Council Cabinet Agenda. Members considered the Council Cabinet Agenda in its entirety for the meeting scheduled for Wednesday 13 February 2019 and made a number of comments and recommendations to Council Cabinet.

**Late Items****Item 2 – Review of Derby City Council Governance System**

The Board received a report of the Strategic Director of Corporate Resources in relation proposals put forward by the Committee System Working Group, which had been tasked with reviewing and considering proposals in relation to Derby City Council's governance arrangements.

Following a period of research, the working group were now in a position to make recommendations to Council Cabinet and subsequently Council that would mandate officers to develop a committee structure based on seven key principles, as detailed under recommendation 2.1.

The Board queried whether it would be possible to develop a committee structure that would require no increase in the number of meetings and no increase in costs. It was stated that this would prove challenging, but was the task that had been set by the working group. The requirement for no increase in costs would likely impact the structure of any committee system; it was further noted that consultation with the Independent Remuneration Panel (IRP) would be necessary in order to determine levels of Special Responsibility Allowance.

It was noted that both the Strong Leader and Committee models of governance had weaknesses. Some members suggested that ensuring adequate representation was of more fundamental importance than potential cost implications. In this context, it was suggested that a change in the electoral cycle to all-out elections was considered concurrently.

Some members expressed concern that a committee structure would require a greater number of daytime meetings, which would exclude councillors who were in full time employment. Further queries were raised in relation to stand-by



arrangements for legal and finance support at committees with decision-making powers.

The Board sought clarification as to whether a decision to endorse the working principles by Council would also constitute a decision to move to the committee system. It was confirmed that this would not be the case.

**The Executive Scrutiny Board resolved to recommend that Council Cabinet amend the report to include a recommendation that Council explore the possibility of moving to all-out, four yearly elections, in conjunction with the review of Derby City Council's governance system.**

**Minute Extract  
Council Cabinet****13 February 2019****186/18     Review of Derby City Council Governance System**

The Council Cabinet considered a report which stated that in May 2018 Council agreed to establish a Committee System Working Group tasked with 'reviewing and considering proposals' relating to our governance arrangements.

The Group had reached their conclusions following full research of all the key principles and was now in a position to make their recommendations to Council Cabinet and Council in order to put in place a more effective governance system through a Committee System structure for political decision making rather than the current Leader and Cabinet System.

The Executive Scrutiny Board resolved to recommend that Council Cabinet amend the report to include a recommendation that Council explore the possibility of moving to all-out, four yearly elections, in conjunction with the review of Derby City Council's governance system.

**Decision**

1. To authorise the Strategic Director of Corporate Resources to develop a Committee System based on the following working principles:
  - Achieve greater councillor engagement in decision-making;
  - No increase in the number of meetings;
  - No increase in costs;
  - Avoid unnecessary delays in decision-making so that any change is at least comparable to the Leader and Cabinet model;
  - Including call-in within the functions of the new committee structure;
  - To allow all councillors to put items on the agenda of committees;
  - Fit for purpose officer delegation scheme, with councillor involvement only in significant officer decisions.
2. To agree that local electors should be consulted prior to any final decision being made.
3. To agree to seek the commitment of Council on 27 February 2019 to the development of a Committee System in line with the two recommendations set out in 2.1 and 2.2 of the report.
4. To accept the recommendation from Executive Scrutiny Board to amend the report to include a recommendation that Council explore the possibility of moving to all-out, four yearly elections, in conjunction with the review of Derby City Council's governance system.

