

Governance Review

The reason for the decision

On 17 July 2019 the Council agreed to instruct officers to prepare a detailed report to be considered by the Council's Constitution Working Group and a future Council meeting setting out every option for future governance structures including the committee structure, hybrid models of governance, the current model and any other option that is available to be considered.

Summary of options considered

In carrying out the review, the Council want to consider all options for the Council's Governance structure and arrangements.

Recommendations

It is recommended that Council:

- (a) Agree the scoping document and terms of reference attached at Appendix 1 for the Constitution Working Group' review of the Council's Governance arrangements
- (b) Require the Constitution Working Group to report its findings within the 2019/2020 municipal year on options and improvements to the Council's governance arrangements, and in any event to report on progress to the Executive and Council as necessary.

Financial/resource implications

There are resource implications to conducting the review. The use of external support or advisors will be met from a reserve totalling £8,103 which is made up of funding received from Government in relation to local government transparency.

Legal/governance implications	The review of the governance arrangements will need to ensure that the recommendations are legal and adhere to processes within the Localism Act 2011 and other relevant legislation. When implementing a change in governance it is necessary to comply with the Local Government Acts. Any changes will require an update to the Council's Constitution. The extent of the resource involved will depend on the extent of the changes.
Community safety implications	There are no Community Safety implications
Health and Safety and Risk Management Implications	There are no Health and Safety implications
Equality Duty considered / Impact Assessment completed	The assessment of the existing arrangements will seek to identify how Members serve different communities across Allerdale. Any options put forward as a result of the review will need to ensure that they are assessed against the equality and diversity framework. An objective of the review is to enhance community engagement and participation.
Wards Affected	All
The contribution this decision would make to the Council's priorities	
Is this a Key Decision	No
Portfolio Holder	Councillor John Cook Governance and Regulatory Services
Lead Officer	Sharon Sewell Head of Governance and Regulatory Services Email: sharon.sewell@allerdale.gov.uk

Report Implications

Community Safety	N	Employment (external to the Council)	N
Financial	Y	Employment (internal)	Y
Legal	Y	Partnership	Y
Social Inclusion	Y	Asset Management	N
Equality Duty	Y	Health and Safety	N

Background papers – Local Governance Association (LGA) and Centre for Public Scrutiny (cps) Guidance - Rethinking Governance

1.0 Background

- 1.1 A number of key legislative changes have influenced the current governance arrangement for the Council.
- 1.2 The Local Government Act 2000 (“the 2000 Act”) introduced a separation of powers into local government for all but the smallest local authorities with the aim of making council decision-making efficient, transparent and accountable. The 2000 Act required most local authorities to change governance arrangements from the committee system to an executive-scrutiny model. The Council adopted the leader and cabinet (executive) model.
- 1.3 The Local Government and Public Involvement in Health Act 2007 (“2007 Act”) restricted the governance options available to local authorities. The 2007 Act required the Council to introduce a choice of two models: a directly elected mayor or a new style “strong” council leader. Both models place executive powers in the hands of an individual, who, in the normal course of events, will serve an uninterrupted four year term. A directly elected mayor and the new style council leader have the power to appoint and dismiss executive members and decide what executive powers they will exercise (if any). The Council introduced the strong leader and executive model.
- 1.4. The Localism Act 2011 increased the governance options for local authorities as follows:
- Executive arrangements (leader and executive or directly elected mayor and executive);
 - A committee system;
 - Prescribed arrangements. If councils propose their own system of prescribed arrangements this will require approval of the Secretary of State. Regulations or detailed criteria for such an alternative governance structure have not been issued although it would at least need to be an improvement on the current arrangements, demonstrate “efficient, transparent and accountable” decision-making and be appropriate for all other councils to consider adopting. To date no councils have proposed such arrangements.
- 1.5 Outlined below are the three main models of governance available for councils to choose from:
- Leader and cabinet (executive) system
- The decision-making structure operated by most councils and the model currently run by Allerdale Borough Council. The leader is elected by full Council for a four year term and leads the executive. Councillors

in the executive are appointed by the leader. At least two and up to nine councillors can be appointed to the executive.

Some councils require decisions to be made by the whole executive, other councils delegate such powers to individual executive members. Some non-executive functions are reserved to committees (such as Planning and Licensing). The appointment of at least one Overview and Scrutiny Committee is required under this system.

- Directly elected Mayor and cabinet (executive) system

A directly-elected Mayor is elected by local residents and holds office for four years. The Mayor is in addition to the elected councillors. An executive of at least two and up to nine councillors is appointed by the mayor who may (or may not) delegate decision making powers. Some non-executive functions are reserved for committees (such as Planning and Licensing). The appointment of at least one overview and scrutiny committee is required under this system.

- Committee system

Decisions are made by committees, which comprise members from all political groups (they must be politically proportionate in accordance with Local Government and Housing Act 1989). Committees receive briefings and commission reviews to develop policy. The Council appoints the committees and sets their terms of reference. Overview and Scrutiny is optional under this model with certain powers reserved to overview and scrutiny (such as crime and disorder scrutiny) exercised by another committee.

1.6 In practice, the governance options available to the councils are more nuanced than the above classification suggests because councils can adopt a so-called “hybrid” arrangement. While not a formal change of governance, such a hybrid approach typically retains the leader and executive system but builds a layer of advisory committees advising and making recommendations to Executive.

1.7 The perceived merits and shortcomings of various governance models for the Council are not discussed in this report, not least because the objectives against which to judge the models in the Allerdale context are not identified adequately. Such an evaluation will form a key part of the review by the Constitution Working Group.

2.0 Current Position

Trends in other local authorities

2.1 A guide on governance change published jointly by the Local government Association (LGA) and the Centre for Public Scrutiny (CfPS) in January 2014 identifies nine local authorities that changed governance arrangements to

move to a committee system in May 2012 or May 2013. An additional seven local authorities adopted hybrid arrangements in the same period. In May 2014 at least four other local authorities moved to the committee system.

- 2.2 Councils have continued to review and change their governance arrangements. Gathering evidence from local authorities of governance change is likely to be of interest to the Constitution Working Group; and is listed within the scope and Terms of Reference in Appendix 1. Other Councils are investigating different arrangements in public while others may be discussing proposals internally. Therefore, the LGA and CfPS will be an appropriate source of evidence and advice for the working group.

Process for changing governance arrangements

- 2.3 The Localism Act 2011 specifies that governance arrangements can be changed either by a Council resolution alone or by a Council mandated by a referendum. If the change is made by a Council resolution alone then the change will be locked in for five years. However, if the change in governance form is implemented as a result of a referendum then the change is for a ten year period.
- 2.4 In order to conduct a referendum on a proposed change of governance a valid petition containing signatures of 5% of the borough's electorate requesting such a referendum would need to be received by the Council and its validity confirmed.
- 2.5 In instances where a referendum is held to decide a change in governance arrangements, such as when a local authority is petitioned to adopt a committee system instead of executive arrangements with a leader and executive, the Council would be required to draw up proposals for the operation of a committee system in the event of a vote for change.

3.0 Review Timetable

- 3.1 It is anticipated that the working group should submit its findings and recommendations within the 2019/2020 municipal year. It is anticipated that the Council in January/March 2020 will use the groups conclusions and recommendation to inform its decisions for future governance arrangements with effect from May 2020, October 2020 (elections can only take place in May and October if the decision is to proceed with an elected Mayor and cabinet model) or May 2021 depending on the decision and the extent of the required changes including the changes to the Constitution. The Constitution Working Group will update on timelines as more work and research is undertaken.

The Constitution Working Group Membership

3.2 The Constitution Working Group membership is as follows:

- Councillor Marion Fitzgerald
- Councillor Nicky Cockburn
- Councillor Daniel Horsley
- Councillor John Cook
- Councillor Alan Pitcher
- Councillor Mike Heaslip
- Councillor Andrew Semple

The Scope of the Governance Review

3.3 The terms of reference or scope of the review is broadly to assess and review the Council's governance arrangements bringing together best practice from across the country and to develop a model tailored to the needs and aspirations of Allerdale's residents and stakeholders. The main objective of the review being to enhance councillor involvement, openness and transparency, local democracy and community participation. This would consider if a change in arrangements could improve the quality of decision making as well as how it could improve member' involvement and participation. Alternative potential models and options would be considered with regard to the relative merits and shortcoming, including legal and resource implications.

Constitution Working Groups evidence gathering

3.4 In addition to seeking wide public involvement in the review of the governance structure and arranging member workshops the working group will gather evidence from other sources. For example, desk based research, visits and discussions with other councils, and calls for evidence from interested parties will feature.

3.5 The scoping document and terms of reference attached at Appendix 1 should form the basis of the groups activities. It is envisaged that it will consider the document at its first meeting on 30th September 2019 to ensure the process and timescale for reporting back is established at the outset.

3.6 Clearly the working group has a considerable amount of work to do in order to conduct the review. It is envisaged that the working group will need to meet frequently, and could require meetings, during the daytime as often as fortnightly – possible more frequently than that.

4.0 Finance/resource implications

4.1 Undertaking this review will result in a cost to the Council. Costs which could be incurred include:

- The possible use of an external Chair and external facilitators for a member issues workshop;
- The working group using expert advisors; and
- Obtaining verbal or written evidence from stakeholders, together with delivery of a suitable communications/consultation plan.

4.2 The use of external support or advisors will be met from a reserve totalling £8,103 which is made up of funding received from Government in relation to local government transparency.

4.3 The Constitution Working Group may recommend actions that have a financial implication, including an impact on the Members Allowance Scheme and support on changes to the Constitution and these will be contained within the review's report, and funding to be identified once costs have been developed. Officer time will be required to assist the group in scheduling meetings, summoning and minuting meetings, research, providing legal advice, gathering evidence and compiling its final report. The working group will report separately on any human resource implications arising from its recommendations (if any).

5.0 Legal implications and risks

5.1 The review of the governance arrangements will need to ensure that the recommendations are legal and adhere to processes within the Localism Act 2011 and other relevant legislation. When implementing a change in governance it is necessary to comply with the Local Government Acts. Any changes will require an update to the Council's Constitution. The extent of the resource involved will depend on the extent of the changes.

6.0 Recommendations

It is recommended that Council:

- (a) Agree the scoping document and terms of reference attached at Appendix 1 for the Constitution Working Group' review of the Council's Governance arrangements
- (b) Require the Constitution Working Group to report its findings and make recommendation within the 2019/2020 municipal year on options and improvements to the Council's governance arrangements, and in any event to report on progress to the Executive and Council as necessary.

Sharon Sewell
Head of Governance and Regulatory Services