AUDIT AND GOVERNANCE COMMITTEE
29 November 2023

Future Council Governance Group final report

Report of the Director of Law & Governance and Monitoring Officer

RECOMMENDATIONS

1. To note the work undertaken by the Future Council Governance Group including the findings and recommendations at paragraphs 35 to 40 of the report.

Council motion – 1 November 2022

2. The Council debated and agreed the following motion proposed by Cllr Charlie Hicks and seconded by Cllr Judy Roberts on 1 November 2022:

   This Council has considered a change of Governance in the past from Leader and Cabinet to having a more inclusive Committee structure. The Oxfordshire Fair Deal Alliance wishes to review the decision-making structures of the County Council, with the aim of operating in a much more inclusive way that can involve all the talents of the Council.

   The Council now requests the Director of Law and Governance to institute a Full Governance Review of the County Council as soon as practicable, with any recommended changes to the Council's Executive and Governance structure to be decided by Full Council and fully implemented by May 2024.

3. In response to the motion, the Director of Law and Governance prepared a report for the Council meeting on 13 December 2022 setting out the process for undertaking a governance review. At that meeting, it was agreed that a Future Council Governance Group would be established that reports to the Audit and Governance Committee which will make any recommendations to Council.

4. Following the meeting, the members nominated to the group were:

Liberal Democrat Green Alliance(4)	Cllrs Robin Bennett, Andrew Gant, Judy Roberts and Roz Smith
Conservative Independent Alliance(3)	Cllrs Yvonne Constance, Ted Fenton and Eddie Reeves (Cllr Kieron Mallen has replaced Cllr Ted Fenton)
Labour and Cooperative Party Group(2)	Cllrs Brad Baines and Charlie Hicks
Non-aligned Independent(1)	Cllr Stefan Gawrysiak

5. At the same meeting on 13 December 2022, the following motion proposed by Cllr Michael Waine and seconded by Cllr Eddie Reeves was supported:

This Council welcomes the changes to its scrutiny function generally and the creation of dedicated People, Place and Performance & Corporate Services committees offering more targeted scrutiny of specific workstreams.

Notwithstanding the successes of the People Scrutiny Committee in providing effective scrutiny of the very significant challenges facing Adult Social Care and Children's Services, Education and Schools issues have, at times, appeared to be marginalised.

Accordingly, Council resolves to ask the Audit and Governance Committee to consider the question of whether the Education Scrutiny Committee should be re-established as part of its review of the Council's scrutiny function in any governance review so as to ensure that Education policy issues can be more fully addressed by members on a deliberative and cross-party basis.

6. At the Council meeting on 28 March 2023, Cllr Charlie Hicks proposed and Cllr Robin Bennett seconded a motion on 'Future Generations' which included the following request:

That the Future Council Governance Group, as part of its remit, develop recommendations on how to structure political decision-making in the council in a way which best considers the impact of decisions on future generations, including exploring the role of deliberative and participatory processes (including citizens' assemblies) as part of routine council governance and decision making.

Future Council Governance Group

7. At its first meeting the Future Council Governance Group (the Group), members elected Cllr Stefan Gawrysiak as the chair. Six meetings of the Group have been held: 12 May, 30 May, 29 June, 7 July, 21 September and 27 November 2023.

8. The parent committee for the Group is the Audit and Governance Committee. The committee received a report on progress with the review on 20 September 2023 and a position statement is included with the agenda pack for the meeting on 29 November 2023. This is the final report of the Group and is presented to the committee with recommendations, as appropriate, going forward to full Council on 12 December 2023.

9. The Centre for Governance and Scrutiny (CfGS) has been engaged to work with the Group as they have particular expertise in undertaking local authority governance reviews. Their work has focused on the following areas:

- Current governance framework, including strengths and weaknesses
- Purpose and drivers for changes and improvements to the governance framework.
- Design principles to inform any possible change
- Alternative ways of working and different structural solutions

Changing Governance

10. The Council has operated the leader and cabinet model of executive arrangements since 2002 in line with the requirements of the Local Government Act 2000.

11. Local authorities must operate one of three governance models:
    a) Executive arrangements including leader and cabinet or directly elected mayor and cabinet.
    b) Committee system broadly similar to the governance arrangements operated by councils prior to the Local Government Act 2000.
    c) Submit a different form of governance for consideration by the Secretary of State. It is understood that none have been submitted to date.

12. There are two ways for local authorities to change their governance arrangements:
    a) Through a Council resolution and the new arrangements become effective at the following Council Annual Meeting. After which the Council is locked into new governance arrangements for five years.
    b) Through a referendum. After which the Council is locked into new governance arrangements for 10 years and can only be changed again via another referendum.

13. The perceived benefits of the leader and cabinet model are quicker decision-making. By contrast, the committee system is usually viewed as more consensual.

14. In reality, a governance change to a committee system was unlikely in itself to rebalance decision-making in favour of members. The committee system may allow more discussion among members at a meeting ahead of a decision but the outcome is often the same. It did not automatically mean a change in how a local authority operates.

15. A parallel channel of work is needed to bring about change in behaviours around how members relate to each other and how members relate to officers. Discussions often coalesce around particular issues that have the potential to be incorporated within current structures.

16. Some local authorities have changed governance model to committee system and later reverted back to leader and cabinet.

17.   Reviews usually aim to be cost neutral but there is always a cost to change. A great deal of work is involved in changing governance arrangements. Most aspects of the constitution have to be changed including procedural rules and schemes of delegation.

18.   A stream-lined committee system can be run at no extra cost in terms of officer support but arguably a well-run committee system with strong member engagement requires more officer support.

19.   The work involved in a governance review is rarely wasted as it allows the Council to reflect on its current operating arrangements and introduce improvements even if the governance model stays the same.

Design principles

20.   The Group discussed the principles that could be used to determine which features of a governance system were most important. The following areas were highlighted:
   a)   Clear relationships between members and officers – it is important to people that there be clarity about member and officer roles, as part of a culture of strong member leadership.
   b)   Cost neutrality - members felt that the costs of any new arrangements should be the same or lower than the costs of the existing system, recognising that there is inevitably a cost associated with any transition itself.
   c)   Transparency and access to information - members wanted to have the confidence that they would obtain the right information, presented in the right way, at the right time, in order to support them to carry out their roles.
   d)   Provision for better public engagement and more effective area working
   e)   Sufficient flexibility to account for no overall control

21.   It was recognised that meaningful involvement from a large number of members in policy development is a challenge in any governance system. Some key questions were worked through:
   a)   What kind of briefing do members need and expect on forthcoming decisions?
   b)   Is there a need for more active involvement in decision-making alongside briefings?
   c)   What might your expectations be around involvement in policy-making?
   d)   What do you think some of the limits or constraints might be?

22.   Space needs to be built for member oversight of performance, finance and risk issues. There is always a risk, in any governance system, that such important management activity is squeezed out. At the same time, oversight should be proportionate and not hinder the Council undertaking business as usual.

23. Mechanisms for public engagement and locality working were identified by members and this fed into discussions around participatory democracy and 'Future Generations'.

Participatory process and deliberative democracy

24. The Group received a presentation via MS Teams by Claudia Chwalisz, Founder and Chief Executive Officer of Democracy Next. She highlighted the key aspects relating to participation, representation and deliberation. She provided examples of success including the French Citizens' Assembly on 'end of life' which heard from more than 60 subject matter experts over 27 days. The result was 92% consensus on recommendations for change.

25. One of the core ingredients for deliberative democracy is that it should be able to plug into existing democratic structures and fit into policy making. It should not be seen as a separate process for it to be successful.

26. The approach works best when it looks at particular issues where there is not a clear way forward. Urban planning is a good example where it is unlikely that one approach would be supported by everyone. A citizens' panel provides an opportunity to consider priorities and acceptable trade-offs.

27. Citizens' panels should complement existing member arrangements and care is required in choosing the right topics. Run well, citizens' juries provide opportunities for a more people to get involved in local democracy and influence things that matter to local people. Oxford University's Kellogg College ran a particularly successful process that had empowered local people.

28. Panels could not be run on a shoestring and funds are required to compensate the individuals involved along with fees for subject matter experts. It is also important for proper officer support arrangements to be in place.

Futures and foresights policy-making

29. The Group received a presentation via MS Teams by Darja Vrščaj from the School of International Futures. She explained that the main principle of the approach was considering the well-being of both future and living generations.

30. Intergeneration fairness (IGF) is a way to negotiate needs between people alive today and those who will live in the future. In reality, it is 'easy to say but harder to do'. It is often difficult to relate to the issues that are likely to impact on future generations.

31. The IGF Framework has three essential elements: policy assessment, national dialogue and institutional ownership.

32.   Cllr Charlie Hicks had been appointed as the Champion for Future Generations. His role is to make sure that young people's voices were heard, including those not yet born. He has joined the Future Pioneer's Network which is an international special interest group around future generations.

33.   Work undertaken in Japan shows that people could adopt a different mindset of looking towards the future and the results are very different. The National Assembly for Wales is legislating for future generations including sustainable development.

34.   There may be opportunities for the Council to use futures planning as part of scrutiny work planning.

Findings and recommendations

35.   **Governance model**

35.1   There is no consensus for changing from leader with cabinet to a committee system. It is too late in the current council cycle, with the next election in May 2025, to consider a governance change. Changing to a different governance model at the present time would provide an unnecessary distraction from critical service issues.

36.   **Improving the current governance arrangements**

36.1   Members note the recent change to the Administration at the Council and note that this has had an impact on how political groups operate and the wider governance arrangements. They are anxious that any changes are robust enough to deal with future changes, irrespective of how many political groups sit inside or outside are in the Administration. A critical element is giving backbench members more opportunities to engage in policy development with influence decision-making.

36.2   The Scrutiny process needs to be reviewed to ensure that the timing of items fitted with the Cabinet decision-making process. Whenever possible, Cabinet Members should present reports to Overview and Scrutiny Committees and be accompanied by the relevant senior officers.

36.3   More meetings of the Overview and Scrutiny Committees may be required to provide sufficient coverage of Council services. The Council Constitution provides for this as it states that there will be a minimum of four committee meetings each year. Scrutiny committee dates have been published up until May 2024 and extra meetings can be arranged before then. For the 2024-25 Civic Year, the number of scheduled meetings can be increased as required.

36.4   More scrutiny focus is required on Young People and in particular Education. A Young People and Education Overview and Scrutiny Committee will provide that focus, and allow coverage of critical areas such as Special Educational Needs.

a) Integrated Forward Plan

Recommendation 1 – To review the inter-relationship between the Cabinet and Scrutiny and introduce an Integrated Forward Plan which brings together the individual work plans of the Cabinet and Overview and Scrutiny Committees.

Recommendation 2 – To establish an Education and Young People Overview and Scrutiny Committee.

36.5   The terms of reference of the People Overview and Scrutiny Committee to be adjusted as necessary. There is an expectation that Scrutiny Committee Chairs will work together to ensure that Scrutiny of areas relating to the transition into adult life are undertaken effectively and avoid duplication. The Council Constitution already includes a requirement for Scrutiny Committee Chairs to liaise with each other to avoid the same issue being considered by more than one committee.

b) Deputy Cabinet Members

36.6   The appointment of Deputy Cabinet Members would allow more members to engage in the decision-making process and spread the workload. It is noted that the power to appoint Deputy Cabinet Members rests with the Leader of the Council. There should not be an expectation that Deputy Cabinet Members are appointed for every portfolio but they could be useful where the Leader, following consultation with the relevant Cabinet Member, believes they would be of value to lead on a topic or help in managing the workload associated with a particular portfolio.

36.7   Cabinet Members are already able to set up and chair Cabinet Advisory Groups on a time-limited basis to focus on individual policy areas. Cabinet Advisory Groups allow backbench members with an interest or expertise in particular areas to help with policy development. Deputy Cabinet Members could chair these groups when required to allow the workload to be shared.

37.   **Participatory process**

37.1   There is divided opinion on the value of citizen's panels. Some members believe that they provide an opportunity for wider public engagement on issues where there are a range of options open to Council. By engaging more widely views are likely to become less polarised and solutions can be co-produced with community representatives. It is recognised, however, that the Council's financial position is becoming extremely challenging and it may be difficult to provide adequate resources for a citizen's panel to undertake an effective review of a particular issue.

37.2   Other members do not support a citizen's panel as they feel that it undermines the democratic accountability of councillors and to be effective would require committing significant resources. They believe that a 'deep dive' led by Scrutiny with expert witnesses is a better way to look at a particular issue and can be undertaken with significantly less resources.

Recommendation 3 – To evaluate the cost and processes for a citizen's panel with a view to selecting one topic in 2024-25 for review by a citizens' panel and review its success or otherwise before committing to any future panels.

38.   **Locality working**

38.1   Members value the meetings which allow them to meet with members from neighbouring divisions and Council officers. They note that members bring a wealth of local knowledge which the Council often fails to tap in to and locality meetings provide an opportunity to utilise that knowledge in decision-making. Locality meetings have the potential to be a key source of information for the Council in understanding the needs of individual communities but they are currently under-utilised.

38.2   Local stakeholders could be invited to meetings as necessary and there might be an opportunity for some budgets to be delegated to a local level. It is also suggested that locality groups should be able to make recommendations to the Cabinet or Cabinet Member.

38.3   There are already good examples of members from different political groups working well together in particular localities. It is hoped that this good practice can be extended throughout the county.

Recommendation 4 – To reinvigorate locality meetings by inviting local stakeholders as necessary and undertake a wider review of locality working including the practicalities of delegating some budgets and allowing recommendations to be made to the Cabinet and Cabinet Members.

39.   **Future and foresights planning**

39.1   Member are anxious that 'futures planning' is not just seen as the remit of the Education and Young People Overview and Scrutiny Committee. It should be embedded across the Council and form part of the work plans for all of the Scrutiny Committees.

Recommendation 5 – To take steps to embed 'futures planning' across the Council and for it to become integral part of the decision-making process and scrutiny work plans.

Corporate policies and priorities

40. The Council has a stated priority to ensure a vibrant participatory democracy

Financial implications

41. There will be additional costs associated with the recommendations included in the report, in particular participatory process, expanding the remit of locality meetings and embedding 'futures planning' across the Council. These have not yet been assessed in any detail.

Legal implications

42. Governance arrangements are included in the Local Government Act 2000 (LGA 2000), as amended by the Localism Act 2011. Section 9B of Part 1A of the LGA 2000 sets out the three governance models: executive arrangements, committee system or prescribed arrangements. Section 9BA sets out the power of the Secretary of State to prescribe additional permitted governance arrangements. *Comments checked by – Anita Bradley, Director of Law & Governance and Monitoring Officer*

Staff implications

43. The actions identified by the Future Council Governance Group will require the involvement of staff across the organisation, most notably Democratic Services and Scrutiny, in helping to facilitate some of the recommendations.

Anita Bradley
Director of Law & Governance and Monitoring Officer

Background papers:
   a) Report to full Council on 12 December 2022 – Review of Council Governance Arrangements
   b) Report to Audit and Governance Committee on 20 September 2023 – Future Council Governance Group
   c) Report to the Audit and Governance Committee on 29 November 2023 – Future Council Governance Group
   d) Centre for Governance and Scrutiny paper: Rethinking Council Governance

Contact officer: Simon Harper
                 Head of Governance
                 Email simon.harper@oxfordshire.gov.uk

November 2023