

AUDIT & GOVERNANCE COMMITTEE

17 SEPTEMBER 2014

GOVERNANCE AND CONSTITUTION REVIEW

Report by County Solicitor and Monitoring Officer

Introduction

1. In April 2013, the Council adopted new governance arrangements which came into effect following the May 2013 elections. The Council asked its Monitoring Officer to review the effectiveness of these decision-making arrangements a year after their coming into operation, along with the underlying Constitution. His recommendations will be considered by Full Council on 9 December. This Committee, given its remit for overseeing effective governance, and is therefore being asked to comment on the emerging issues from the Monitoring Officer's review, which are included in this report.
2. The governance and constitution reviews are of course related. In both instances, while the Council cannot increase its resources and would not wish to extend its bureaucracy, it can maximise the use of its existing resources to better effect; particularly, for instance, with regard to scrutiny.

Background

3. The new arrangements, following the elections, were made to involve members further in policy development ahead of decision-making and to improve decision making generally. For instance:
 - Scrutiny: the aim being to tie scrutiny more closely to the business and priorities of the Council
 - Cabinet Advisory Groups: the aim being to enhance decision making through effective prior involvement of members in policy development
 - Locality meetings: the aim being to assist councillors in representing their communities through a more focused flow of information and to enable decision-making to benefit further from councillor perspectives of services 'on the ground'
4. The changes had involved:
 - Reducing the number of scrutiny committees from six to three: Performance, Education and Joint Health Overview and Scrutiny
 - Creating the option to hold task-and-finish Cabinet Advisory Groups to support the Cabinet in policy development
 - Creating a standing Transport Advisory Panel

- Creating 9 locality meetings to integrate member perspectives more fully into the decision-making of the Council and to ensure better information to and from the local level
5. To inform the review, the Monitoring Officer consulted a cross-party Sounding Board of members established by the Audit & Governance Committee which itself has a watching brief over the review. As a result, the Monitoring Officer formally consulted all councillors, co-opted members and senior managers to obtain their views about each aspect of the governance. Agenda and outcomes reviews, consultation with political group leaders, cabinet members and scrutiny chairmen were also undertaken.
 6. Views were also sought about the supporting Constitution. A section-by-section review was undertaken of it, particularly those key sections such as the Council, Cabinet, Scrutiny, Contract and Financial Procedure Rules, with a view to updating, clarifying and improving the rules which underpin the Council's decision-making arrangements.
 7. A copy of the summary of the members' survey is included as **Annex 1** and a schedule of potential changes to the Constitution is included as **Annex 2**.

Emerging Issues

Governance

7. The governance changes are considered to have been beneficial in engaging members further and achieving a closer focus on the business of the Council. There is a consensus that the arrangements should be allowed to bed down and that no major changes are necessary although greater clarity as to the roles/remits around decision-making and information would be welcome. Co-opted members are equally satisfied, on the whole, that they feel engaged and that the arrangements work well for them. The headline issues arising from the governance review:
 - **Locality Meetings:** these have been very successful and are perceived by councillors and officers to be working well, engaging and informing councillors more fully in the interests of their community and the delivery of council services. The challenge is to build on this and achieve greater engagement with wider service- and policy development.
 - **Cabinet Advisory Groups (CAGs):** CAGs are regarded as a useful aspect of the Council's governance, informing service and policy development with the benefit of wider member experience. The challenge is to continue to raise their profile among members and ensure they are contributing effectively and visibly. Improved public awareness is already being facilitated (on the website) about CAGs and the outcomes of their work.
 - **Keeping members informed:** an encouraging outcome has been that members consider they are generally being kept more informed about issues affecting their area. Well-informed councillors are crucial to

effective democracy, representation and decision-making. It is encouraging that councillors are positive about their access to information.

- **Council:** the emphasis here is to improve the procedures to streamline effective debate and decision-making to improve decision-making and debate. For example, motions to be alternated between groups; questions and motions to be limited to 3 per person.
- **Cabinet:** the Leader wishes to engage local members more fully in terms of receiving their views and hearing their questions
- **Scrutiny:** no real demand for change has been expressed; rather it is the view that the arrangements should be allowed to bed down and that more emphasis should be given towards continuing to develop a more targeted focus on key issues and performance. This might, for example, involve the use of councillor briefings to increase specialist knowledge and the carrying out reviews of specific areas of concern.

8. Most of these issues can be taken forward resolved through a greater emphasis on communication and engagement; and the alignment of the Constitution.

Constitution

9. Clearly any decisions arising from the governance review which affect the governance structure itself will require constitutional changes. However, many of the Constitutional changes would effectively be 'tidy up' measures to:

- Streamline county council business by providing further clarity or less bureaucracy.
- Reduce the number of sections within the Constitution or otherwise to make the use of it easier, e.g. through potential inclusion of an index (as some authorities do).
- Update legislation and post roles.

10. However, some potential changes raise issues of principle. These include:

- **Council Meetings:** provisions for making these meetings more effective
- **Cabinet Meetings:** facilitating members' engagement with Cabinet in giving views and asking question
- **Scheme of delegation:** revisions to achieve greater clarity over senior officer responsibilities e.g. directors
- **Contract Procedure Rules:**
 - clarity over the thresholds for triggering tendering (if the amount exceeds EU threshold then tender necessary; if below then Directors to determine having regard to the achievement of best value/value for money)
- **Contract Procedure Rules (CPRs):** Legislative changes, affecting the procurement regime, will be forthcoming later this year. This will require a fundamental review of the CPRs and will revise thresholds, contract clauses, division of contracts into lots and include currently excluded contracts such as those for CEF, S&CS and Public Health. The legislative

changes will be the result of the UK Public Procurement Regulations implementing an EU directive.

- **Petition Scheme:** the Petition Scheme is little used and is no longer a statutory requirement. The Council Procedure Rules already contain the most often used provisions for making and presenting petitions. It is therefore suggested that this section is no longer needed. should be removed.); its wider provisions have been very.
- **Locality Meetings:** given the success of these meetings and the consensus to continue them, it is suggested that the Constitution sections on the roles of members should include reference to Locality Meetings.

Financial, staff and legal implications

11. Given that it is not intended to amend the governance arrangements significantly, there would be no material financial or staffing implications. The Constitution is, in any case, updated in line with new legislation whenever this occurs and the currently envisaged amendments would accord with this.

Conclusion

12. The Governance Review has raised no significant concerns either from councillors, co-opted members or senior managers. The key issues are: enabling the arrangements to bed down, raising members' awareness of them and achieving a focus (in scrutiny) on priority areas. The Constitution Review, while necessarily reflecting the Governance Review, can also achieve a greater clarity on various procedures, assisting in improving efficiency.
13. Cabinet and the Performance Scrutiny Committee will also be informed of these emerging issues, prior to Council's consideration of the Monitoring Officer's final recommendations on 9 December.

RECOMMENDATION

14. **The Audit & Governance Committee is RECOMMENDED to consider and endorse the direction of travel of the review.**

Peter Clark
County Solicitor and Monitoring Officer

Contact Officer:
Peter G Clark, County Solicitor & Monitoring Officer; Tel: (01865) 323907

September 2014