

CAMBRIDGE CITY COUNCIL

REPORT OF: Democratic Services Manager

TO: Civic Affairs Committee

21/11/2012

WARDS: None directly affected

**THE OPTION TO CHANGE TO AN ALTERNATIVE DECISION MAKING
STRUCTURE UNDER THE LOCALISM ACT 2011**

1 INTRODUCTION

- 1.1 The Localism Act 2011 gives councils powers to consider a committee system of governance to replace the Executive/Scrutiny split. The Strategy Portfolio Plan 2012/13, agreed by the then Leader of the Council in January this year, contains an objective to determine whether the Council should adopt a different arrangement for scrutiny and decision making.
- 1.2 The current approach to decision making was most recently debated on a Notice of Motion (not carried) from Councillor Herbert at the Council meeting on 19 July.
- 1.3 This report gives an overview of the current Executive system of governance and of the committee system of governance last used in the City Council in April 2002 and considers pros and cons of changing to the committee structure.

2. RECOMMENDATION

The Committee is recommended to agree that no further work is required on adopting a different arrangement for scrutiny and decision making for the reasons set out in this report.

3. BACKGROUND

- 3.1 The Local Government Act 2000 revised governance arrangements by introducing to local government for the first time an Executive form of decision making and abolished for most councils the committee system of governance (with it only being available to local authority areas with a population of 85,000 or less). The Localism Act 2011 enables any Council to return to a committee system of governance with effect from May of this year.
- 3.2 The local authorities that have returned to a committee system from the Executive Leader and Cabinet model of governance so far are South Gloucestershire, the London Borough of Sutton, Brighton and Hove and

Nottinghamshire County. A recent report from the Centre for Public Scrutiny¹ suggests up to 40 councils are currently looking at governance options.

- 3.3 The City Council's current governance arrangements have been in place since May 2002. These were developed by a Working Party and a Sub-Committee of councillors and drafted to ensure that as well as meeting the legal requirements of the Local Government Act 2000 to adopt an Executive which made decisions, the 'good' elements of the soon to be abolished committee system were preserved. The then Leader of the Council as the Member lead, wanted officers to develop a governance system that allowed for pre-scrutiny by a politically proportionate committee of the decisions that each individual Executive Councillor was being asked to take.

4. COMPARING THE CURRENT ARRANGEMENTS WITH A COMMITTEE SYSTEM OF GOVERNANCE

- 4.1 This section of the report sets out the differences between the two systems of governance. The starting point is that the city council, unlike the vast majority of councils, does not have a Cabinet where the Executive meets collectively at regular intervals to take executive decisions.

Leader and Executive Councillors

- 4.2 The Council appoints a Leader for a four year term of office, they can only be removed before the term comes to an end by a resolution of the Council. The Leader then appoints six Executive Councillors and assigns portfolios to these members.
- 4.3 Executive Councillors take the majority of decisions and this is because the law sets out what is the responsibility of an Executive. The decisions are made by Executive Councillors who are individually accountable to councillors and the public for their portfolio area.
- 4.4 Issues that are defined as budget and policy framework items in the Constitution have to be developed by the Executive and then recommended for approval by the Council. The Executive is then required to take decisions within these budget and policy framework parameters.
- 4.5 Scrutiny Committees hold Executive Councillors (as the decision makers) to account, by pre-scrutinising key decisions and scrutiny committee selected non-key decisions. Scrutiny Committees may also review policy after implementation although this is less common because of the pre-scrutiny requirements.
- 4.7 Executive Councillors cannot decide certain matters. These decisions, which are reserved as Council functions, can either be taken by a meeting of Council or can be taken by a Committee of Council under delegated powers. An example of this would be Development Control issues by the Planning Committee.

¹ Musical Chairs – practical issues for local authorities in moving to a committee system (April 2012)

- 4.8 Decisions can be delegated to Area Committees and there is a scheme of delegation to officers.

Committee system

- 4.9 A committee system involves decision making by groups of councillors from across the Council sitting as committees, so there is no one individual councillor accountable for the decision, it a decision of the committee.
- 4.10 Committees are appointed by the Council and reflect the political proportionality of the Council thus ensuring representative decision making. Council agrees the terms of reference for committees. These terms of reference define the subjects that the committees are able to make decisions about.
- 4.12 In the majority of instances, committees have the power to take the original decisions delegated to them without the requirement for ratification by Council. However, some safeguards could be provided through a preset process to refer a decision up to Council in certain circumstances.
- 4.13 A chair for each committee is appointed also appointed by the Council. Chairs would take the lead role for the ruling group on each policy committee, but would have no individual power.
- 4.14 Decisions can be delegated to Area Committees.
- 4.15 Some matters will be reserved for Council to make decisions on.
- 4.16 It is arguable whether the model would require scrutiny in the same way.

Any comparisons between the City Council Executive arrangements and a Committee system

- 4.17 Executive Councillors are clearly demarcated from each other by portfolio. Their decisions are, on the whole, taken following debate at a scrutiny committee meeting which is politically proportionate to the overall composition of the Council. Scrutiny committees do vote on the recommendations for the Executive Councillor, but accountability for decisions resides clearly with the Executive Councillor in the current model.
- 4.18 Decisions made by regulatory committees (eg. Planning Committee, Licensing Committee, Civic Affairs Committee) would still be required.
- 4.19 Enhancing area committee decision making, recently agreed, would continue under either model.
- 4.20 The decision making cycle has required that scrutiny committee meet four, or occasionally five, times per year. This frequency matched the previous committee system.

Reasons why a council may consider a change in governance

4.21 The Centre for Public Scrutiny report lists reasons why councillors may choose to return to a committee system of governance:

- “a desire for backbench councillors to be more actively involved in decision-making”

Comment: This Council’s approach enables councillors to have a say and vote before an Executive Councillor makes the decision

- “all councillors develop a detailed subject expertise, enhancing the added value of decision making”

Comment: Because of the pre-scrutiny approach to decision making, scrutiny committee members have this ability even though they do not have ownership of the decision in the same way

- “it would be as swift for decision making as a Cabinet system”

Comment: The city council does not have a cabinet, its scrutiny committees meet to the same frequency as the previous committee cycle

- “scrutiny is ineffective at influencing or altering executive decisions”

Comment: Executive Councillors have amended proposals following debate by scrutiny committees.

- “it will enhance transparency and democracy and will link councils, councillors and local communities closer together”

Comment: The Council’s approach to openness and transparency is at the heart of its governance arrangements. It is a matter for debate whether one governance system over another would link councils, councillors and local communities closer together.

Timescale for a change

4.22 Moving to a committee system can only take place at the Annual Meeting of Council, so the earliest would be from 23 May 2013. Prior to adoption at an Annual Meeting, the Council would need to pass a resolution to change to a committee system of governance.

4.23 Following a change in governance, no further change is permitted within five years, except as a result of approval for change in a referendum.

5. CONSULTATIONS

5.1 The Chief Executive and the Head of Legal Services have been consulted on the content of this report.

5.2 There is no requirement for specific consultation under the Localism Act 2011. In essence, there are only obligations in respect of publication of any decisions taken to return to a Committee system.

6. CONCLUSIONS

6.1 Cambridge City Council changed its governance from a committee system to the Leader/Cabinet model of Executive decision making in May 2002. But, it did not adopt the conventional collective Cabinet meeting approach like the vast majority of councils.

6.2 Nationally, following the Localism Act coming into force, a handful of councils have changed governance and there are some others considering the matter.

6.3 For the city council, the differences between the two forms of governance are far less than for those councils which have reverted to a committee system from a Cabinet form of governance. Moving to a committee system would therefore not deliver significant change or benefits to Cambridge City Council.

7. IMPLICATIONS

(a) **Financial Implications**

It is assumed at this stage that any change in governance to a committee system would need to be cost neutral or produce a saving.

(b) **Staffing Implications**

There are no immediate staffing implications other than currently unallocated project work if there is a decision to change to a committee system. Moving to a new system of governance would include looking at the staffing resource required.

(c) **Equal Opportunities Implications**

No implications at this stage. If there was a decision to change governance arrangements, an equalities impact assessment would be undertaken as part of the project to change.

(d) **Environmental Implications**

As part of this section, assign a climate change rating to your recommendation(s) or proposals. You should rate the impact as either:

- Nil: to indicate that the proposal has no climate change impact.

(e) **Community Safety**

No implications.

BACKGROUND PAPERS: There were no background papers that were used in the preparation of this report. However, the following published papers were used as background information:

The Localism Act 2011

<http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>

South Gloucestershire Council – Governance Arrangements report to Council 21/3/12

<http://council.southglos.gov.uk/mgConvert2PDF.aspx?ID=26535>

Brighton and Hove Council – A new constitution, Council 26/4/12

[http://present.brighton-hove.gov.uk/Published/C00000117/M00003925/\\$\\$ADocPackPublic.pdf](http://present.brighton-hove.gov.uk/Published/C00000117/M00003925/$$ADocPackPublic.pdf)

Sutton, London Borough of – Governance Arrangements, Council 30/4/12

<http://sutton.moderngov.co.uk/ieListDocuments.aspx?CId=146&MId=3047&Ver=4>

Musical Chairs: Practical issues for local authorities in moving to a committee system – The Centre for Public Scrutiny April 2012.

http://www.cfps.org.uk/domains/cfps.org.uk/local/media/downloads/L12_286_CFPS_musical_chairs___webversion_final.pdf

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	Leader and Executive Councillors (City Council model)	Committee system
Who takes the decision	<p>Seven Executive Councillors take the majority of decisions in policy and spending.</p> <p>Outside of the meetings themselves, it is clear to the public an individual is accountable. At the meetings, the roles of the Scrutiny Committee members, the Chair and the Executive Councillor (with often more than one present) can appear blurred</p>	<p>The committees.</p> <p>Each member of a committee has a vote, with a casting vote for the chair. So more councillors will take decisions but no individual councillor can alone.</p>
What decisions do they take	<p>Each Executive Councillor has a portfolio of plans, policy, functions and services that they are responsible and accountable for.</p> <p>The role of Council (all 42 members) in decision making is limited to setting the budget and policy framework (on the recommendation of the Executive). It delegates regulatory matters to committees eg. to the Planning, Licensing and Civic Affairs Committees.</p>	<p>A committee will be given delegated powers by the Council to take decisions within its terms of reference, also set by the Council.</p>
How are decision makers appointed	<p>The Council appoints the Leader for four years. The Leader chooses the Executive.</p>	<p>The Council appoints committees and chairs of committees.</p> <p>Committees are made up from all political groups using proportionality rules.</p>
Can decisions be changed?	<p>There are clearly defined Executive functions and decisions and Council functions. Council can only request that the Executive reconsider a decision, it cannot overturn it.</p>	<p>Committee decisions can be referred up to Council for reconsideration and can be overturned.</p>
How are decisions scrutinised?	<p>Scrutiny Committees match the Executive Councillor portfolios. Decisions which are</p>	<p>Decisions by committee would 'self-regulate'.</p>

	<p>'key' must be reported to the Scrutiny Committee prior to being taken. Most executive decisions, key and non-key, appear on agendas for pre-scrutiny.</p>	<p>One local authority which has converted to a committee system has set up a separate scrutiny committee.</p>
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