

# Rethinking council governance for the 20s

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Learning from councils changing their formal governance option

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This publication was altered in January 2021 to provide more specifics on the timing of the first elections of councils moving to the directly-elected Mayoral model.

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# 1. Introduction

This paper is designed to assist councils considering making formal changes to their governance arrangements, using the powers set out in Chapter 4 of the Local Government Act 2000.

Two previous papers have been produced by CfGS to support councils to consider their options on governance change.

- “Musical chairs” (CfGS, 2012);
- “Rethinking governance” (CfGS / LGA, 2014)

Both documents contain useful and important context. This document is intended to update and expand on that context, while restating fundamental principles – based on the direct experiences of councils going through the process since 2011/12. An appendix to this document has been published, which can be accessed at [www.cfgs.org.uk/governance-change](http://www.cfgs.org.uk/governance-change). The appendix sets out as comprehensive as possible a list of councils which have considered, and/or made, a change in governance in recent years, as well as those councils contemplating change, with links to relevant documents. We intend to keep this document under review, publishing an updated version at least once a year.

This document is designed to be read by councillors, by council officers, and by those involved in campaigns on local governance issues.

## 2. Background and context

In 2011, much was made of new powers in the Localism Act for councils to be able to “return to” the committee system. For many, councils’ forced transition from the committee system between 1999 and 2001 cast a long shadow, and there was an enthusiasm to re-adopt the committee model of working.

When the powers were brought in, however, they initially seemed a bit of a damp squib. A handful of councils announced their intention to move – experiences which we recounted in our 2013 publication “Musical chairs”. Even a year later in 2014, when we and the LGA produced our “thinking toolkit” entitled “Rethinking governance”, only a handful more councils had decided to make the move.

More recently, however, a larger number of councils have decided to go down this road. There could be a number of reasons for this. The local government landscape in the second half of the last decade was politically febrile, with more councils under no overall control and more being regularly contestable (ie, changing hands between parties regularly). Under these circumstances it seems to be the case that leader-cabinet councils look less attractive to some, and the promises made of the more “consensual” committee system model appear a better fit.

We don’t believe, however, that any one governance model is intrinsically better than any other. Any of the prevailing models – Mayoral, committee, leader/cabinet or a hybrid form – can be made to work. Structures are important, and can influence and inform behaviour. But culture – how people are predisposed to behave and think, depending on their roles – is arguably more critical. Without the right attitudes, values and behaviours being in place, a system which looks exceptional on paper could be found wanting in practice. Equally, a governance system which might be robust and effective in one council could be inadequate if transposed wholesale into another authority.

There are no hard and fast rules for where these strengths and weaknesses may arise – they depend largely on local context. For that reason, this paper aims to:

- Provide a brief reminder of the legal issues and requirements relating to a change in governance;
- Restate and refine the fundamental steps that we recommended in “Rethinking governance” that councils considering governance change take;
- Set out the practical experiences of a number of councils which have taken the decision to change governance option in recent years, and reflect on their experiences.

We should stress that commentary on councils and their experiences is ours alone, and reflects our own summary and analysis.

### 2.1 Pros and cons, and the importance of culture

There are no real pros or cons to any governance model.

Governance operates differently in every council. What is most important is culture – the behaviours, values and attitudes that govern how individuals work together. Particularly important here is the need for officers and members to work together to consider their options and decide on the right approach.

Changing structural model in the hope that people will start to behave differently won’t work. If the plan is to bring about wider cultural change, with a change in structure being part of the way to deliver that change, then it may be worthwhile. But structural change, on its own, won’t do this.

Trying to transpose arrangements which suit another council is likely not to work, because every council is different. You are likely to come across generalised research on different models – either produced internally, or by external bodies (like ourselves). Always view this research in the context of the local situation in which you find yourself.

Having more people involved in the legal act of decision-making does not automatically make a system more democratic. This is because the important thing is for members to be able to influence the content of decisions. This will often mean involvement in policy development well before an issue comes for decision, and robust review of the implementation of that decision to check it has achieved its objectives. At the legal point the decision is made the only real options that exist are to approve or reject that decision – opportunities for alteration and amendment tend to be very limited.

### 3. The legal fundamentals

The powers to change governance option can be found in Chapter 4 of the Local Government Act 2000, as amended by the Localism Act 2011. Chapter 1 of the 2000 Act sets out that a council can opt to operate one of three governance options<sup>1</sup>:

|   |  |
|---|--|
| <p><b>“Executive arrangements”</b></p> <p>(details in Chapter 2 of the 2000 Act)</p>  | <p>Either</p> <ul style="list-style-type: none"><li>■ A directly elected executive Mayor and Cabinet, where the Cabinet is appointed by the Mayor and which holds advisory power, executive authority being vested in the Mayor, or;</li><li>■ A Leader and Cabinet, where the Leader and Cabinet share executive authority.</li></ul> |
| <p><b>Committee system</b></p> <p>(details in Chapter 3 of the 2000 Act)</p>          | <p>A system of governance involving politically balanced “service” committees of elected councillors making decisions collectively.</p>  |
| <p><b>Prescribed arrangements</b></p> <p>(details in section 9BA of the 2000 Act)</p> | <p>A different system of governance, approved by the Secretary of State following an application from a local authority.</p>   |

It should be noted that in Labour authorities, Cabinet positions are usually filled by elections within the Labour Group, which lessens the executive authority of the Mayor/Leader.

Another option also exists – a **“hybrid”** governance arrangement.

A hybrid model is one that combines the features of more than one governance model. So there are some councils operating under the leader/cabinet model where scrutiny committees carry out detailed debate and discussion on forthcoming Cabinet decisions, and where Cabinet essentially rubber stamps what they decide. And there are some councils operating under the committee system which operate “de facto” cabinets made up of committee chairs.

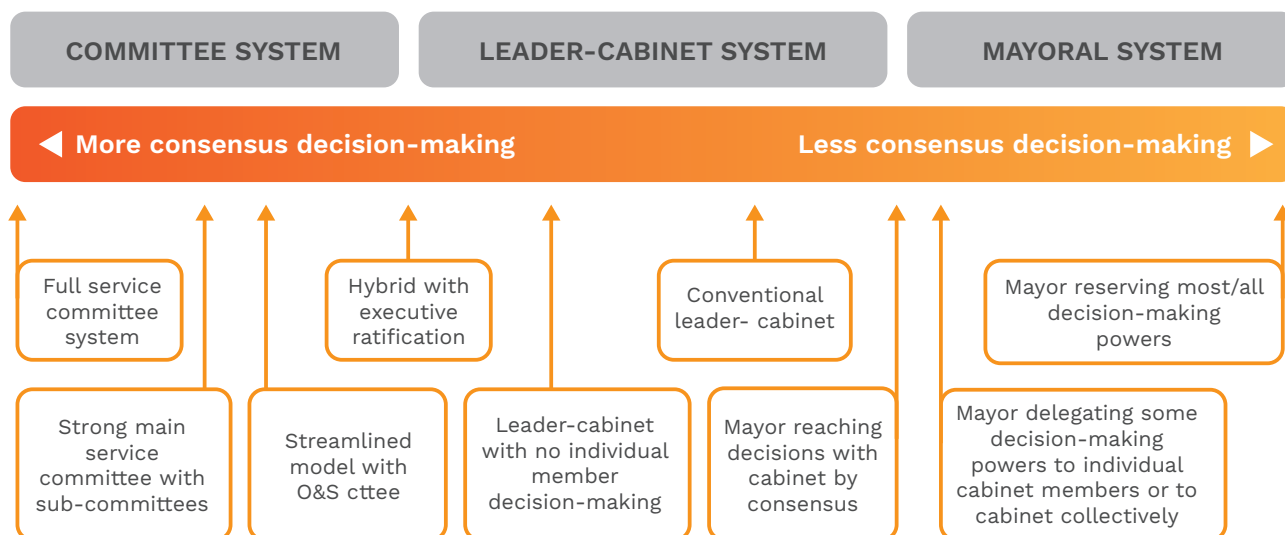
We explain hybrids in more detail in a section below.

<sup>1</sup> Previously, councils could select one of four options. The first two were “executive arrangements” – the Leader and Cabinet, and Mayoral, models which continue to exist. The third model was the “Mayor and council manager” model, only adopted by one council which later abandoned it. The committee system was the final option, but it was only available in a “streamlined” form for district councils with populations 85,000 or less. The term of art used for these councils was “fourth option” – this is not a term that should be used today as an analogue for the committee system as it does not reflect the change in law, or the breadth of possibilities relating to the contemporary committee system model.

### 3.1 The options as a spectrum

In reality, there are more than four “off the shelf” options. It is best to look at the various systems as points on a spectrum – from systems which involve all members in the legal act of decision-making to those that may involve only one person.

Fig 1: governance model options on a spectrum



To explain the options in this diagram:

- Full service committee system. This is a model in which individual service committees have the freedom to make decisions in the way that they like. Decisions which cut across more than one area will need to go to multiple committees for signoff.
- Service committees but with strong P&R. It is common for committee system authorities to have a “policy and resources” or “strategy and resources” committee – a committee that has an overarching role in setting corporate policy. This committee may have the chairs of other committees sitting on it, and it may also set the agendas for those other committees. It will usually deal with major cross-cutting issues itself;
- Streamlined “fourth option” style approach. Councils operating the committee system used to be obliged to operate what was termed a “streamlined” model – with only a couple of service committees, a strategy and resources committee and a separate scrutiny committee.
- Hybrid, with executive ratification. This is a hybrid model, legally the leader-cabinet system but with features of the committee system. There are two basic forms:
  - A model where committees – which, legally, are scrutiny committees - actually act as de facto decision-making committees;
  - A model where politically-balanced Cabinet advisory committees or other such bodies exist as sub-committees of Cabinet, with overview and scrutiny remaining a distinct function.
- Leader-cabinet with no individual decision-making. In this model, while all decisions are made by Cabinet, Cabinet decides everything collectively, in formal meetings;
- “Conventional” leader-cabinet. Under this model, there is a mix of all-Cabinet decision making, and individual cabinet member decision making by holders of distinct portfolios.



- Executive Mayor, with delegation to Cabinet or individual Cabinet members. In the Mayoral system formal powers rest with the Mayor, but here the Mayor may delegate a significant proportion of that power to Cabinet;
- Executive Mayor reserving most powers. In this model, the Mayor makes most or all decisions themselves, with Cabinet having a mainly advisory role.

These are not, of course, the only possible models. Other forms of hybrid, for example, exist. An appendix to this document sets out a full range of examples.

How these systems operate will rest on two technical issues:

- the Council's formal scheme of delegation. This will also impact on the extent to which officers are delegated to make decisions; the scope and scale of officer decision-making being an important adjunct to the member systems described above;
- the Council's decisions on "local choice" functions. Councils operating under executive options may decide which of certain functions sit with Cabinet, and which sit with full Council<sup>2</sup>.

How these systems operate will also rest on the council's wider approach to community participation and engagement. An increasing number of councils are experimenting with deliberative systems like "citizens' assemblies"<sup>3</sup>, with hyper-local systems of local governance (like neighbourhood forums with powers and budgets) and with systems for co-production of decisions. The presence of these decisions will naturally influence the scope and nature of member decision-making. An understanding of the available models needs to rest on the presence of these mechanisms.

### 3.2 The legal change process

Change can be made either by a **resolution of full Council** or by a **referendum**. A referendum can be called by the Council directly or can be precipitated by a valid petition (or by powers held by the Secretary of State to require a specified council to hold a referendum on the Mayor and Cabinet system). Some of the unique circumstances around referendums are set out later in this section.

A **resolution** may be laid at any point, by any councillor, and requires a simple majority to be passed. It only needs to set out the main features of a new governance system.

When a resolution is passed, the Council is required to publicise the forthcoming change – by making documents available at its offices for inspection and setting out plans for the change in a newspaper. There is no formal requirement to publish information online although the need to do this can probably be taken as a given.

This is a requirement for publicity rather than consultation, but councils will probably want to think about the need to ensure the final design of a new system reflects any public input.

Change can only happen on one specific day in the municipal calendar. This is the day of the Council's next Annual General Meeting. If change involves moving to, or from, the Mayoral system, the "relevant change time" is a day three days after the date when the next Mayoral election takes place or would otherwise be due to take place if the Mayoral system is being abolished. When Torbay held its referendum on moving away from the Mayoral system in 2016, the governance change itself could not take place until 2019, the date of what would otherwise have been the next Mayoral election.

Otherwise, the change happens in the course of the next AGM. This is the case whenever the resolution is laid.

<sup>2</sup> Which can be found in Schedule 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000: <https://www.legislation.gov.uk/uksi/2000/2853/contents/made>

<sup>3</sup> London Borough of Newham being the first English council to establish a standing citizen's assembly as part of its governance arrangements.

In our assessment a resolution of Council should precede Council AGM by about six months. This provides enough time for officers and members to work together on the detailed design of a new system. We discuss the issues that will need to be decided in section 4.

A referendum may occur as a result of a Council resolution, or may be precipitated by a referendum. The same arrangements apply as above. Where a referendum is held, and the result is for a change in governance, a resolution must be passed by full Council within 28 days. This would mean that a referendum would result in a change in governance the following year. The exception to this is where the council is moving to a directly-elected mayor, either by resolution or referendum. Here, Regulations set out specific detail on when the first election of that Mayor should be held on the third Thursday of October of the same year. More information can be found in the Local Authorities (Elected Mayors)(Elections, Terms of Office and Casual Vacancies)(England) Regulations 2012.

The wording used in a referendum question is set out in legislation. Councils have no discretion over what wording is used.

Fig 2: illustrative timescales, excluding councils moving to a directly-elected Mayor

|              | Change by resolution alone  | Change by resolution and referendum  |
|--------------|---|--|
| October 2021 | Council resolves to change governance arrangements. The five year time limit is counted from this date. | Council resolves to hold a referendum on governance change   |
| May 2022     | The relevant change time is at Council AGM.   | A referendum is held. The public vote for a change in governance.  |
| June 2022    |   | Within 28 days, a resolution to change governance arrangements is passed. The ten year time limit is counted from the date of this resolution. |
| May 2023     |   | The relevant change time is at Council AGM.  |

### How do we change our mind?

If change happens by way of a resolution, the council is effectively “locked in” to the new governance arrangement for a period of five years, starting from the date the resolution is passed.

The Council can make a change sooner than this five year timescale, but this subsequent change must be by way of a referendum. Any change of governance by way of referendum locks the Council in to its new governance arrangement for a period of ten years. Furthermore, any subsequent change must also be by way of a referendum.

A Council may decide that it has changed its mind on governance change between the date a resolution is passed and the “relevant change time”. This may happen if there is a change in political control between the two events. Whether the resolution can be “reversed” in these circumstances is untested. The wording of the Act suggests not but this is not made explicit.

### 3.3 Hybrid arrangements

The adoption of a hybrid model is seen as one way as developing more consensual models of decision-making without having to undergo formal changes. It is an approach taken by a range of councils which formally operate under leader-cabinet. The extent to which governance is hybridised varies from council to council – there are a range of examples below.

The path for decision-making, and the roles of councillors, will differ significantly from council to council. Often, the degree of the distinctions can be lost by the fact that hybrid working rests more on culture and accepted ways of working than other systems – on which we comment more below. As such, structures can look quite similar, leading to confusion for the casual researcher.

#### Identifying hybrid authorities

It is difficult to easily identify hybrid authorities. Some councils contest the use of the word; others would describe their approach as leader/cabinet but with more member consultation, or a modern version of the committee system. As councils must go through no formal process to “hybridise” their governance, and because most councils in this position do not formally describe themselves as “hybrid” authorities, there is no accurate list or set number of councils which it can be agreed operate these systems. It has been estimated that there may be 30 or 40 councils operating such systems but this is no more than an educated guess. Even many otherwise standard Leader-cabinet councils have something of a hybrid flavour to some of their operations.

#### Common features of hybrid systems

There are two general models:

- A model where committees which, in the governance framework, are legally overview and scrutiny committees actually act as de facto decision-making committees. Legally, scrutiny committees cannot make decisions, so while political agreement is reached at committee the “decision” must be legally made, or ratified, elsewhere;
- A model where Cabinet advisory committees or other such bodies exist, with overview and scrutiny remaining a distinct function.

Functional operation is “hidden” behind the terms of the constitution, which tends to reflect the legal position of the authority as operating under executive arrangements. While legal decision making is highlighted as happening in Cabinet meeting (and at full Council), in a practical sense the decision path through committees can be more difficult to discern. In many cases, functional distinctions between overview and scrutiny committees and “advisory” committees are loose; scrutiny committees tend to be places for general member briefings and updates, although some make use of them as a space for policy development on complex and cross-cutting policy issues, over and above the opportunities made available in cabinet, or advisory, scrutiny committees.

To the extent that there are common features of hybrids they are:

- A Cabinet which “ratifies” decisions made in committee, usually with no delegated decision-making to individual cabinet members;
- A Cabinet which may be cross-party, or at least cross-party chairing of cabinet committees;
- A number of Cabinet Advisory Committees or Policy Development Committees. These may be cross-party, sub-committees of Cabinet, or they may be (legally) scrutiny committees. They will be the place where debate and discussion over policy happens;

- A scrutiny function that focuses on external matters, or on performance issues, because other committees take on a policy development function. Usually there will only be a single scrutiny committee in this format;
- Cross-party chairs of the above bodies. If the bodies are overview and scrutiny committees then the chairs cannot also sit on the cabinet, so two separate groups of lead member might be identified.

Often, the operation of delegation and financial procedures in hybrid arrangements may also reflect an approach that gives members more oversight and control. In conventional leader/cabinet councils these may give wide power to cabinet members to oversee officer delegations; in a hybrid system these powers may rest with different people.

Frequently, “informal” mechanisms for executive control and leadership can be found in hybrid systems – so, informal Cabinet meetings may manage the progress of issues through committee, in a way that cannot always be discerned by reviewing constitutional material. In councils with large majorities, significant discussion of forthcoming decisions can also take place in Group, in ways that can be opaque both for members of the public, officers and other councillors.

### **Making the change**

Moving to a hybrid form of governance does not engage any of the formal governance change rules found in legislation. However, discussion of the change (and some amendments to the constitution) are still likely to be necessary.

## 4. The steps to making a change

In “Rethinking governance” (2014), we and the LGA suggested a set of steps for councils to take in deciding whether to change governance option, and acting on that decision. These continue to represent the best way to manage a conversation, and agreement, about governance change. We have however amended and updated some of the detail to ensure that it reflects the experiences of councils undergoing this work. We have also suggested how the steps can be practically carried out by a small councillor working group.

### **Before starting: initiating the work**

#### **Step 1 Plan your approach, and assess your current position**

This involves:

- Assessing where you are now
- Establishing what change you need to deliver – what the purpose of governance change is likely to be

#### **Step 2 Agree design principles**

This involves taking from an initial assessment a sense of the council's current governance strengths and weaknesses, and using them alongside the terms of reference of the review in order to develop some “design principles”.

These principles should be tangible aims that you can use for two purposes:

- To reach a judgement on possible new governance models – seeing whether proposed structures and ways of working are likely to live up to your objectives;
- To return to in future to help you to come to a judgment on whether your new systems are working or not.

#### **Step 3 Think of ways to meet these objectives and put a plan in place**

This involves:

- Exploring different ways of working
- Deciding on your overall structural needs (the point in the process where the question of which formal governance option arises);
- Planning for the change, and where necessary laying a motion for a resolution to that effect at full Council.

#### **Step 4 Make the change**

This is about taking the necessary legal steps – altering the constitution, deciding on the terms of reference of new formal bodies – constructing a new structure which is directly informed by the previous steps.

#### **Step 5 Return to the issue after a year and review how things have gone**

Steps 1 to 3 are ones that can be carried out by way of a cross-party councillor working group. In order to carry out these steps our experience suggests that a working group will need to meet three or four times.

It is important for councillor working groups to remain focused. Governance change can be a complex and wide-ranging issue. It will be extremely tempting for councillors and officers alike to jump ahead to consider the detailed structural design of a new system. But without addressing the fundamentals sitting behind that system, much time and effort will be spent designing something new which does not, in fact, deliver meaningful change.

For this reason, we suggest that while working group meetings should be chaired by a councillor they should receive active technical advice, and some direct facilitation, by either:

- an experienced council officer able to command the confidence of councillors and able to navigate the political context within which the debate will happen, or
- an independent person or organisation with similar credibility.

### **Taking a different approach**

Of course, other methods do also exist. Governance change can be considered by a more wide-ranging democracy review – as happened in Newham in early 2020. This can provide a mechanism for drawing the public in to a larger local conversation about how the council works with local people. Other councils to have conducted such reviews in recent years include Croydon in 2019, Lewisham in 2018, Kirklees in 2017 and Cornwall in 2016.

Smaller-scale consultation exercises can also be built into the process of considering governance change. Public meetings (as happened in Guildford and Canterbury) can contribute.

In some cases, local campaign groups will exist, with the objective of bringing governance change about. We talk about these groups, and engagement with them, in the section on petitions and referendums below.

Finally, in some places an entirely different approach has been taken. In Uttlesford, a “shadow committee” was established to mirror the Council’s existing decision-making processes. It is a cross-party committee convened in private, and is being used to experiment with how decision-making might operate differently under the committee system. More detail is provided in the appendix.

What follows is a possible process based on the assumption that most councils will seek to resolve these issues by way of a small, time-limited member working group, which may or may not meet in public. By and large this has been the most common approach used.

### **Before starting: initiating the work**

Following earlier informal discussion, or following a manifesto commitment, a formal committee of the council will usually resolve to investigate governance in more detail.

Sometimes, this will be an open process – the council may not have decided that it wants to bring about a formal, legal change. Sometimes, the decision will already have been made (for example, that the council will be adopting the committee system) and a working group is being established to work through what this system should look like. The process described below is relevant to both of these situations.

A councillor working group will be established. This involves members from all parties. This may meet publicly but is more often an informal grouping of members.

The terms of reference of this working group are extremely important. CfGS recommends that, on being commissioned, terms of reference from the commissioning body be set generally. For example, they might be that a group explore issues relating to governance change and to report back.

Setting terms of reference broadly at this stage means that the smaller group of members can carry out initial reflection before refining their approach. Otherwise, terms of reference might be set before the issues, and potential solutions, are properly understood – inadvertently placing barriers in the way of councillors’ work.

## **Step 1: Plan your approach**

Overall, this process is one led by the working group, supported by officers. It involves quick thinking about the baseline position before terms of reference can be formally set.

This involves:

- Assessing where you are now
- Establishing what change you need to deliver – what the purpose of governance change is likely to be

Both of these steps can be carried out in a single meeting of a member working group.

## **Assessment**

What are the current strengths and weaknesses of the Council’s governance framework?

There will be local drivers for governance change. Understanding these drivers will aid understanding of where strengths and weaknesses might lie.

This is not about mapping the existing committee structure or creating diagrams to describe the legal process of decision-making. It is about considering the less obvious matters that might make arrangements unsatisfactory – things like:

- Strengths and weaknesses in the member/officer relationship. This might look like, for example, a commitment to involve all members in the policy development and decision making process, through scrutiny, area committees, partnership boards and cabinet decision-making as appropriate, or conversely an officer-led process where only cabinet members are seen to have any stake in decision-making and non-executives are relegated to the position of passive spectators;
- Strengths and weaknesses in the way that forward planning/work programming occurs. This might look like, for example, clarity and consistency in the way that officers approach policy development and decision-making, with plans being kept to and important, strategic decisions identified, or conversely a muddled plan composed of a mixture of operational and strategic decisions which reveals little about the priorities of decisionmakers, or the way in which they formulate decisions.
- Strengths and weaknesses in the way that information about decisions (including background papers) are published and used. This might look like, for example, proactive efforts to publish background papers as they are produced, and attempts made to respond positively when the assumptions in those background papers are challenged by others, or conversely an opaque system whereby attempts are not made to justify decisions and engagement is tightly controlled through consultation processes that are wholly divorced from the formal decision-making cycle.
- Strengths and weaknesses in the way that the council involves the public in major decisions. This might look like, for example, a commitment on major policy changes to engage those most affected by those changes, or conversely a more defensive attitude that sees members or senior

officers exerting control over the agenda for fear that the public will derail necessary decisions. These strengths and weaknesses, and others like them, are not strengths and weaknesses in the various governance options per se. They are strengths and weaknesses in the way that your existing governance arrangements work in your council.

These, and other, issues may form part of the political catalyst for change. It is important that they be articulated, so that they can properly be addressed. Otherwise there is a risk that they are forgotten in what might quickly become a technical conversation.

### **Setting terms of reference**

On the basis of the above it will be possible to set more detailed terms of reference for the working group. These will need to address:

- How the working group can ensure that this work – from the consideration of options, to the implementation and review of new arrangements – will be led by elected members?
- Whether the working group will seek views from beyond the authority - how can we ensure that the broad democratic expectations of local residents are built in to this study?
- The breadth of the review - is this a review just of internal council decision-making, or are there knock-on impacts on partners, who may need to be involved?

Generally speaking, reviews which have reached a firm conclusion have focused on issues like:

- Councillors' expectations on policy development, and decision-making.
  - Do councillors expect to play a part in the planning of major decisions well before those decisions come to committee, and if so how should this be managed?
  - How is the split between members' and officers' roles currently expressed, both in the scheme of delegation and elsewhere? Does this need to be rebalanced?
  - How do councillors expect to play a role in the formal act of decision-making?
- Councillors' expectations on performance review, and review of the budget and major risks.
  - How hands on do councillors expect to be on oversight of operational matters?
  - What approach might provide a balance between member control and proportionality?
  - How active do councillors need to be in setting the authority's appetite and tolerance for risk?
  - How should councillors be involved in the development of the budget, review of the budget's implementation, and formal audit functions?
- Councillors' roles in the local community.
  - What local arrangements are there – ward forums, area committees and local parishes and community councils – whose roles may be impacted by any change?
  - Will, and should, any change have an effect on councillors' roles as local representatives, and as problem-solvers for local people?
- What information do councillors need to carry out their roles under a new system?

The tools of appreciative inquiry can provide a good way to approach these connected issues. Having this general discussion at the outset will set some broad parameters for the work, and it will also help to manage expectations of what can, and cannot, be achieved through governance change.



On the basis of this opening conversations, councillors can begin to translate some terms of reference into some design principles against which a menu of different governance options can be judged. This is the focus of the next stage.

## **Step 2: Setting design principles**

If you have undertaken an initial assessment you will have identified some strengths (practice and ways of working that you want to keep) and some weaknesses (ways of working that you want to stop or change substantially). These strengths and weaknesses might reflect the attitudes and behaviours of council decision-makers (both members and officers), partners, the public and others, as well as reflecting structural issues.

You can use this, along with your terms of reference, to develop some design principles. These should not be vague, general aspirations such as making the council operate more democratically or enhancing transparency. They should be tangible aims that you can use for two purposes:

- To reach a judgement on possible new governance models – seeing whether proposed structures and ways of working are likely to live up to your objectives;
- To return to in future to help you to come to a judgment on whether your new systems are working or not.

For example, you could state that any new governance system should:

- involve councillors more in the development of key policies;
- involve the more regular sharing of information about policy and performance with councillors to inform both decision-making and scrutiny;
- seek to engage more fundamentally with local people and their needs;
- focus councillors' work on strategic decision-making – or focus councillors' work on strategic and operational decisions which are of a particularly high public profile locally;

These are just examples to demonstrate the clarity you need in your objectives; there may well be others that are particularly important for your council.

## **Step 3: Think of ways to meet these objectives and put a plan in place**

### **Exploring different ways of working**

The design principles are the product of the work in the earlier steps which will have given you a strong sense of what you are trying to achieve and how you will judge the success of a new system. The next step is to consider the new ways of working that could allow you to make those improvements.

These are likely to include changes both to the culture of the organisation and to its systems and processes – such as:

- More consistent principles underpinning when matters are placed in the Forward Plan / schedule of key decisions, how those decisions are described and the background papers for those decisions;
- Similar principles underpinning how such decisions might benefit from wider public involvement;
- Systems to support early member involvement, where needed, in major policy and operational matters. This may be an augmentation of informal briefings for members, possibly supported with the early provision of options and business case information – taking account of the need for confidentiality;

- Changes to the scheme of delegation to clarify members' involvement;
- Changes to the way that procurement and contract management is overseen and directed by councillors;
- Changes to the way that performance matters in general are reported – their frequency and the scale and nature of information provided to councillors to support this.

You may find that your objectives and design principles can be met without a formal change in governance. You may, for example, be able to meet them by bolstering the role that councillors play through the overview and scrutiny process. As part of this process, you may find it useful to consider the risks in taking either formal or informal action to change governance arrangements, and to establish how you will seek to mitigate those risks.

### **Deciding on your overall structural needs**

Only at this point will you be ready to consider whether the change you want to bring about will require.

The kinds of changes described above could, for example, be made within your existing governance arrangements. A strengthening of scrutiny arrangements, improvements to the members' access to information protocol, and other constitutional amendments, could be sufficient.

Alternatively, councillors (and officers) could consider that formal governance change is required to embed these, and other, changes.

For example, governance change can:

- be a means of embedding a new culture of decision-making, where the protection afforded by the law and the constitution are seen as a backstop.
- be seen as a necessary component in a wider approach to improving the way decisions are made; for example, more effective partnership decision-making or the devolution of decision-making responsibilities to a ward or divisional level.
- may provide a means of signaling within the authority, and to those outside it, of a break with past practice and a commitment to do things better; however it will not achieve these improvements on its own.

The fundamental judgement – why make this change? – is something that will be different for every authority. The political and organisational context within which your council sits will affect the changes you make. For example some changes that, in another council, might be seen as requiring formally moving from one governance option to another to be fully embedded, in your instance may not be seen as demanding such a change. It is important to be self-critical at this point in the process. This is the final stage before you start to undertake work to implement the change itself and an opportunity to challenge assumptions and to set out the fundamental reasoning behind your decision.

### **Planning for the change: the resolution in Council**

It will not be necessary to describe the structural detail of a formal change in the resolution being put to Council – the number of committees, their precise terms of reference and so on. You may think that this is wise in order to allow councillors to make an informed decision.

There is no specific form of words that the resolution must take. Once it is passed (only a simple majority of councillors is required) a change will automatically take effect concurrently with your

next Council AGM, unless the council proposes to make the change in the following year, for example. Alternatively, the Council may choose to hold a referendum. The earlier section 3.2 sets out more detail on this.

#### **Step 4: Make the change**

Making the change is a project which should be managed using conventional project management systems. The previous steps will provide the outline and parameters of that project, and its overall objectives. While specialist project management support will probably not be necessary, the amount of work needed to put the arrangements in place for a change should not be underestimated. Skills and resources, on both the officer side and the member side, need to be in place for a change in governance to be successful.

The following are the various different council processes and systems that may need to be looked at when you are amending your decision-making arrangements, and any relevant legal issues should also be considered. You will need to think about the way you design these changes, and the way that members make decisions on their implementation (which will usually be at full council):

- financial procedures, including the operation of audit
- access to, and publication of, performance scorecards and quarterly financial monitoring information
- the forward plan and corporate work programme
- changes to committee structures (which can happen at a time other than at Council AGM, but usually will coincide with that meeting)

Making these changes requires time, skills and capacity, both from officers and members.

Where a formal governance change is happening the six months that we suggested is taken between that resolution and Council AGM should be enough.

It is important that the way in which these changes are made itself reflects the design principles which you have established for your new governance system. This will include the way that the change is publicised. By law, a governance change has to be publicised. You might want to incorporate ways for the public to actively feed back on the change, particularly those elements which are public-facing. Ideally, this will constitute the continuation of a process of public involvement which began earlier in the process, as we described above.

You might also want to consider a risk plan so that you can be aware of issues or situations that could negatively affect your proposed arrangements.

In the section above we highlighted what might happen if a Council changes its mind on governance change before the “relevant change time”.

#### **Costs**

As far as we know one governance option does not cost more than another (indeed many councils making the change have stipulated that a key criterion in evaluating whether or not to do so has been whether it is cost neutral in the long term).

One particular place where costs can be difficult might be in the level of Special Responsibility Allowances; these may differ between a Mayor, the Leader of a Council operating executive arrangements, the Leader of a Council operating the committee system, and so on. These will be matters for the IRP to determine, and may be difficult to predict in advance.

Of course, the act of making the change itself does cost money. The Government's impact assessment suggested that costs would range from £70,000 to £250,000 but this seems very high (although costs will be increased where councils hold referendums). In practice we suggest that costs will be in the tens of thousands, if that, and for a move to hybrid arrangements we have reason to believe that costs will be significantly lower, which could make these kinds of change more attractive. Costs are likely to focus on:

- Legal costs, in making changes to the council's constitution and wider governance framework;
- Other costs, relating to:
  - Convening member meetings to oversee the change – with resource implications for members and officers;
  - Redesigning financial systems and procedures to accommodate the change;
  - Liaison with partners, to discuss and agree how business with outside bodies will be transacted – particularly important where the council may be part of a joint venture or a constituent authority of a Combined Authority.

### **Step 5 Return to the issue after a year and review how things have gone**

It is important to evaluate how things have gone after a year or so, in order to see whether the resources you have expended in making the change in governance have made the difference you hoped. This need not be a complicated bureaucratic exercise – just a short assessment of the position, informed by insight from councillors and any other interested parties.

Tying this process to the preparation of the Council's Annual Governance Statement presents a neat way to review the issue.

If the changes have not resulted in the outcome you were trying to achieve, there are ways and means of addressing that. The detailed work carried out the previous year to plan and deliver the new governance arrangements will help with this. It may have been that your plan was too ambitious, or there may have been factors – internal or external – that were not taken into account, or that were difficult to predict (political issues, for example). If you developed a risk plan it will be much easier to identify and act on any failings. You can review the likely reasons for the failure and take action to address them, as long as you do not consider that they will require a further formal governance change.





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