

<b>Governance Committee</b>
<b>2 December 2019</b>
<b>Proposals for change – improving Council Governance</b>
<b>Report by Director of Law and Assurance</b>

## **Summary**

The report provides a context for proposals to change governance arrangements for both executive and scrutiny functions. It describes the principles and aims which sit behind the proposals and the challenges that drive them.

A number of changes are proposed for how decisions are taken by Cabinet and how the Forward Plan of key decisions will be used. Changes are also proposed to meet the need for more effective scrutiny.

This report is accompanied by a separate report of the work of the member panel set up by the Committee to consider options for change to scrutiny arrangements. The Panel's report needs to be considered in light of the proposals in this report.

The following papers are attached to this report:

1. Appendix 1 – The recommendations relating to executive arrangements
2. Appendix 2 – Scrutiny Review Panel Report (with an annex setting out its response to the recommendations from the Centre for Public Scrutiny)
3. Appendix 3 – The recommendations for changes to scrutiny from the Scrutiny Review Panel and from the Director of Law and Assurance (with an annex setting out a proposed scrutiny business planning guide and checklist)

In some instances, this report suggests alternatives to those being recommended by the member panel. The explanations for different recommendations are set out in this report. The Committee must decide which changes are preferred.

## **Recommendations**

- (1) That the Committee considers the proposals for changes to executive arrangements set out in Appendix 1 and confirms which of the proposals it wishes to approve;
- (2) That the Committee considers the report of the Scrutiny Review Panel at Appendix 2, the proposals for changes to scrutiny arrangements set out in Appendix 3 and confirms which of the proposals it wishes to approve; and
- (3) In the case of any proposal requiring an amendment to the Constitution, the Committee is asked to make the relevant recommendation for approval to the next meeting of the County Council.

## **Proposal**

### **1. Background and Context**

- 1.1 Concerns have been raised about the effectiveness and soundness of parts of the Council's governance arrangements – how decisions are taken and how members discharge their various roles. This report describes the basis of the concerns raised and options for the Committee to consider for changes that may improve things and ensure the interests of residents are served.
- 1.2 In June 2019 an adverse Ofsted report into the Council's Children's Services specifically identified ineffectiveness in the scrutiny of this area of the Council's business. It also raised concerns about the quality of the Council's oversight of corporate parenting responsibilities through the work of the Corporate Parenting Panel. The HMICFRS inspection report into the Fire and Rescue Service received in June also raised concerns about arrangements the Council has for the governance of its Fire and Rescue function.
- 1.3 In July 2019 the Government published revised guidance on local authority scrutiny arrangements and a member panel was established to consider options for the improvement of the scrutiny function. This coincided with a decision to commission the Centre for Public Scrutiny to undertake a 'health check' of the Council's scrutiny arrangements particularly focused on the scrutiny of children's services. The work of the Panel and the output of this health check are covered in the attached report by the Panel chairman.
- 1.4 The adverse Ofsted report led to a Direction from the Department for Education to appoint a Commissioner to prepare a report on the capacity and capability of the Council to secure the necessary improvement to its Children's Services. The Commissioner's findings have been reported to the Department for Education and the Department has issued a Direction to the County Council in connection with action required for the improvement of Children's Services. One of the recommendations in the Commissioner's report is a requirement to address aspects of the Council's governance. In particular the report identified the following concerns:
  - Inadequate transparency in executive decision making
  - A lack of collective Cabinet responsibility in important business
  - Excessive effort and resource needed to process committee and executive decision reports, stifling the Council's ability to move at pace
  - Insufficient engagement with partners and other agencies as part of business planning and decision making
- 1.5 Some changes have already been implemented and the Committee's endorsement of these would be welcomed alongside the consideration of the other proposals set out in this report. In particular:
  - Changes to the scheme of delegation to the Cabinet were approved by Council in October to enhance collective decision-making
  - Cabinet has scheduled monthly meetings in public to enable more executive decisions to be taken collectively and in public
  - These meetings will include opportunities for contributions from scrutiny committee chairmen and leaders of opposition groups.

- The Forward Plan has been revised to identify the key decisions allocated for collective decision by the Cabinet meeting in public

1.6 In relation to the scrutiny arrangements a separate report accompanying this report sets out a number of recommendations from the recent work of the member panel established by the Committee. In that context it helps to summarise the challenges and issues which prompted the various strands of work reviewing scrutiny arrangements, including the health check carried out by the Centre for Public Scrutiny.

### **Effectiveness of scrutiny**

1.7 The challenge for members is to settle what is meant by effectiveness in scrutiny and to determine the changes needed to better achieve those aims. They can perhaps be summarised as:

- Being able to influence the development of policy ideas or proposals before they are finalised.
- Having the time to focus on areas critical to service outcomes for residents
- Being able to exercise meaningful challenge to the performance management of services
- Being able to show what difference scrutiny makes to the achievement of service outcomes for residents

The Committee is invited to consider the proposals for change against these ambitions for effectiveness in scrutiny.

1.8 Options for change need to address how these aims can be better realised. Concentrating on decision preview or call-in may be seen as the least effective way of influencing policy development and so the greater use of task and finish groups or member reference groups could provide a more agile and influential use of member time and provide more opportunities for scrutiny members to have an impact.

1.9 Members should identify what service outcomes are at issue and what lines of enquiry should provide the focus for the committee. The same focus is needed to identify which areas of performance to examine rather than be overwhelmed by an excess of data. There is a need to have clearer criteria for agenda planning and the allocation of work to small member groups and for a more structured dialogue with cabinet members to inform that work.

1.10 Finally, there are the challenges of member skill and capacity. If scrutiny committees are to achieve the aims set out above their members must have the skills, tools and sources of advice to enable them to do so.

## **2. Proposals**

### **(a) Proposals for Cabinet and the executive**

2.1 It is proposed that a schedule of monthly Cabinet meetings be published to accompany the Forward Plan of key decisions and that the format for these meetings set out in **Appendix 1** be approved and recommended to Council

for inclusion in the Constitution. The previous measures taken in relation to the executive are also set out in Appendix 1 for information.

- 2.2 It is proposed that a simplified decision report template be adopted and that the number of officers able to contribute to the text of a report be defined, that strict timetables for the completion and submission of reports be adopted and that the Modern.Gov system be used as soon as possible to provide a single version of a draft report. It is also expected that the deadline for the dispatch of executive cabinet member decision reports will provide additional discipline to the generation and sign off-of such reports.
- 2.3 It is proposed that a programme of training of report authors and senior officers be arranged to promote better report writing – both for decision reports and those prepared for Select Committees.

#### **(b) Proposals for scrutiny**

- 2.4 In order to achieve more timely and effective influence on proposals and policy development and to make better use of member time it is proposed to place greater emphasis on business and agenda planning. The work of Business Planning Groups and pre-agenda meetings should be strengthened to focus on planning scrutiny business to be more effective, including the use of criteria for the use of Scrutiny Task and Finish groups. A suggested guide to these tasks is included in the recommendations in **Annex A, Appendix 3**.
- 2.5 It is proposed that key lines of enquiry are used in the preparation of scrutiny reports and that the report provides advice to the committee by reference to those lines of enquiry. This should reduce the size of agendas and the tendency of committees to become overburdened by detailed narratives and data. The approach should enable the committee to set the requirements of the reports and determine the output from the committee for measurable impact.
- 2.6 It is imperative that meetings are planned more thoroughly at the pre-agenda meeting so that the resulting report and evidence is provided in the most useful form and that the use of time is planned and adhered to. The agenda of pre-agenda meetings should include a checklist of issues for scrutiny and key lines of enquiry with less time spent on reviewing report content.
- 2.7 Select Committees need to make more effective use of external evidence and witnesses and to settle the best way in which to receive and consider such advice and information. These can be addressed as part of agenda planning, but it will be important for each committee to identify potential sources of advice and to plan this as part of business planning work.
- 2.8 The principal focus of scrutiny of policy and service performance is the cabinet member. This should ensure an appropriately strategic approach and one focused on democratic accountability and should avoid the committees drifting into operational detail. It is proposed that meetings be planned so that the relevant cabinet member is the principal respondent to questions and requests for information from any Select Committee.

- 2.9 Arrangements for the scrutiny of collective Cabinet decisions will be the same as for current arrangements – Select Committees able to ask to preview proposals or to call them in in accordance with Standing Orders.

### **New Select Committee for Fire and Rescue Service scrutiny**

- 2.10 The report from the Member Panel reviewing options for change to scrutiny recommends the establishment of a separate committee dedicated to the scrutiny of Fire and Rescue business. This Committee needs to fully understand the rationale for and the implications of such a proposal. The Committee's attention is drawn to the list of factors considered by the Member Panel at paragraph 2.2 of **Appendix 2** when considering this option.
- 2.11 There is a need to improve the transparency of the Council's governance of its Fire and Rescue functions. That is addressed primarily by raising the profile of collective responsibility of the Cabinet which discharges the executive functions of Fire and Rescue. It will also be important for the County Council, which is the Fire and Rescue Authority, to ensure that areas for debate, Notices of Motion, questions to the executive and other strategic issues affecting the service are given due prominence at Council meetings.
- 2.12 The Select Committee's role is not to take the place of those forums for debate and decision and there is a risk that the establishment of a committee dedicated to the service will give a false impression that Fire and Rescue business is dealt with at the committee whereas its role is to scrutinise the plans and proposals of the executive. It also calls into question why other significant areas of statutory responsibility are not given equal status in the scrutiny arrangements. Members should also bear in mind the need to avoid adding to the costs of the Council's democratic systems when there are significant budget pressures affecting front line services and improvement priorities such as those for the Fire and Rescue service.
- 2.13 It must be questioned also whether the need to better manage the length and volume of the agendas of Environment, Communities and Fire Select Committee is best met by moving the business to another meeting rather than to examine ways of ensuring the committee's business is more focused and its time more effectively used through agenda planning. The proposals set out above for business planning should provide a useful means to do so.

### **3. Resources**

- 3.1 There are no resource implications for the majority of the proposals covered in this report. The accompanying report from the member panel sets out the resource implications of the proposal for an additional Select Committee to cover the Fire and Rescue Services functions of the Council (at Section 3, **Appendix 2**).

### **Factors taken into account**

#### **4. Consultation**

- 4.1 Cabinet Members were consulted in relation to the proposals relevant to the executive function and decision making and have endorsed the proposals for changes to meetings of Cabinet.

4.2 The report from the Member Panel sets out the range of member consultation that has helped to inform the consideration of options by the Panel.

**5. Other Options Considered**

5.1 Other options for changes to scrutiny are set out in the accompanying report from the member panel.

**6. Other considerations (Equality Duty, Social Value, Human Rights Crime and Disorder)**

6.1 There are no specific issues arising from these proposals which engage any of the Council's obligations in relation to these provisions.

**Tony Kershaw**

Director of Law and Assurance

**Contact:** Tony Kershaw 033 022 22662

**Appendices:**

Appendix 1: Proposals for change - executive

Appendix 2: Scrutiny Review Panel Report

Appendix 3: Recommendations for changes to scrutiny from the Member Panel and from the Director of Law and Assurance

**Background papers**

None