



**REPORT FROM: CORPORATE DIRECTOR**

**TO: COUNCIL**

**DATE: 18<sup>th</sup> MAY, 2017**

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## **COUNCIL GOVERNANCE ARRANGEMENTS**

### **PURPOSE OF REPORT**

To report to the Council the views of the Governance Working Group on how a change to a Committee system of governance would best work to enable the Council to come to a decision on this.

### **FOR DECISION**

1. If the Council wishes to change to a Committee System of governance then it should resolve as follows:

**That, pursuant to Sections 9K, 9KC and 9L of the Local Government Act 2000 as inserted by the Localism Act 2011, the Council hereby resolves to change its governance arrangements to a Committee System with effect from the 2018 Annual Council meeting.**

2. If it does so decide then the following detailed recommendations are made as to the features of the new system and the steps required to make the change.

### **RECOMMENDATIONS**

- (1) That there be a single centre Policy and Resources Committee of 17 Members.
- (2) That there be three regulatory committees – Licensing, Taxi and Other Licensing and Accounts, Audit and Performance Management, and, subject to review, five Area Committees.
- (3) That there no longer be a Development Management Committee and that its terms of reference be incorporated in those of the Policy and Resources Committee.

- (4) That there no longer be a Scrutiny Management Committee but it be recognised that the Council would, at any time, have the ability to appoint a task and finish committee to investigate and report back on an issue.
- (5) That the Policy and Resources Committee appoint a standing panel to examine Health and Social Care issues.
- (6) That a call in procedure be introduced as described below.
- (7) That the Council continue to appoint a Leader removable if he/she ceases to be a Councillor or on resolution of the Council.
- (8) That the Council appoint a Deputy Leader, and that the Leader, in consultation with the other Group Leaders, have the authority to appoint lead members.
- (9) That the Corporate Director, in consultation with Group Leaders, be authorised to establish an Independent Remuneration Panel to make recommendations on a new scheme of Members' allowances.
- (10) That the Corporate Director prepare and publish a Statement of the effect of the change in governance arrangements.
- (11) That the Corporate Director submit a further report on amendments required to the Council's constitution.

#### **REASON FOR RECOMMENDATION**

To put in place the features of the proposed Committee System.

#### **INTRODUCTION**

1. At the Annual Council in May 2015 the Council resolved to support, in principle, the proposal to change its governance arrangements to a Committee System. It further resolved to appoint a cross party Governance Working Group to consider such a change and to report on the details of how it could best work.
2. Members of the Working Group have met on several occasions with representatives of all three groups present. The Group Leaders have had sight of this report and the opportunity to comment prior to its issue.

#### **BACKGROUND**

3. Before 2001 all councils operated committee systems. Under the Local Government Act 2000 all councils above 85,000 population had to move to executive arrangements, in most cases a leader and cabinet. Pendle abolished its three central committees and retained its area committees, set up an Executive and introduced Scrutiny which is a fundamental and legally required aspect of Executive arrangements.
4. The new Constitution provided for the Leader and Executive Members to be appointed by full Council each year on a politically balanced basis and whilst there were portfolios allocated it stopped short of individual Executive member decision taking.
5. Over time there were further legislative changes and a growing sense that the requirement for political balance did not really work. The Leader is now appointed by the Council for 4

years and he/she selects the other members and allocates portfolios. There is still no formal individual decision making.

6. The amount of Scrutiny work has gradually reduced alongside a reduction in the number of Members willing to take on the role.
7. Under Executive arrangements the full Council sets the budget and policy framework. The Executive, subject to call in and Scrutiny, is then free to take action within the framework.
8. In Pendle we have a rather unusual feature in that the Executive in effect delegates a number of executive decisions and functions to the area committees. These must be taken within the policy, budget and guidelines set by the Council and the Executive. This allows all Members to a degree to be involved in Executive work at local level.
9. As a result of changes brought in by the Localism Act 2011, councils now have greater freedom to change their governance arrangements and this, in particular, includes the ability to move to a Committee System.
10. In essence, there are now the following governance options available to councils:
  - **A leader/cabinet system**
  - **An elected mayor/cabinet**
  - **A traditional committee system**
  - **A streamlined committee system**
  - **A hybrid (in which an executive ratifies decisions made by a number of executive committees)**
  - **Another arrangement which an individual council can develop and seek the approval of the Secretary of State**

## **CURRENT PROPOSAL**

11. The proposal as presented in the original motion to the Annual Council meeting in May 2015, and considered by the Governance Working Group is on the face of it very simple. It retains the existing structure of area committees and regulatory committees but replaces the Executive with a politically balanced Policy and Resources Committee of 17 members.
12. Of the options above it is best described as a streamlined committee system.
13. The Committee would be appointed each year at Annual Council alongside the regulatory and area committees with places allocated to the political groups in accordance with the political balance rules. The Council would appoint its Chairman and Vice Chairman.
14. The Committee would essentially have the same remit and responsibilities as the current Executive.
15. In itself the proposal would not increase the cost of the Council's decision making structure. The Council should however, be aware of the following issues and have regard to them.

## **COUNCIL SIZE**

16. The Council has on a number of occasions considered a reduction in the number of Councillors. A reduction of around a third was previously suggested and more recently the Council has agreed to seek a reduction to 45 preferably in 15 wards of three members each.

17. A change in the size of the Council can only be made following a review and recommendations by the Local Government Boundary Commission. As part of this the Commission will require a detailed submission from the Council on its future governance arrangements (and also on its future electoral arrangements).
18. It will be apparent therefore, that the two questions of whether to move to a Committee System and the number of councillors are very much linked.

## **SIZE OF COMMITTEE STRUCTURE**

19. Whilst the proposal envisages just the one central committee, once the change to a Committee System has been made there would be nothing legally to stop the Council appointing further committees or sub-committees or varying the numbers on the committee(s).
20. There is a danger, over time, of drift with additional unaffordable costs of operating a larger and more cumbersome structure which the Council must guard against. The Governance Working Group confirmed the intention to have just the one central committee together with the regulatory committees and area committees.
21. The proposed new Constitution should embody this intention.

## **FINALITY AND CERTAINTY OF DECISION MAKING**

22. A Committee System is fundamentally different to an Executive as regards finality and certainty of decision making.
23. The legal position with an Executive is that, subject to call in, it can get on with taking decisions and managing the Council within the framework set by the Council. Only where there is a proposal to go beyond that framework i.e., to change or depart significantly from a framework policy or incur significant expenditure outside the approved budget, is it necessary for the matter to go to full Council.
24. Under a Committee System all decisions of the Policy and Resources Committee would potentially be capable of being overturned or altered at Council and this is the case even though on the face of it the Council has delegated full decision making.
25. Clearly this has the potential to lead to delay and confusion and reticence to take action on decisions when there is a difference of political opinion at the Committee meeting and the possibility of a different decision at the Council meeting.
26. The Governance Working Group considers that this can be mitigated by having a call in procedure similar to what the Council has now under scrutiny arrangements. A refinement would be that the call in notice would have to be signed by members from at least two of the political groups.
27. The call in would be discussed with the three Group Leaders and a decision taken whether the decision would be resubmitted to the Policy and Resources Committee or it should be put before the Council for decision. If necessary a meeting would be convened with the callers in to explore the merits of the issue.
28. Such an arrangement would give more certainty. The expectation would be that if a decision is not called in then there would be no attempt to overturn or change it at Council and this

expectation should be embodied in the Constitution. At the same time numerous call ins and resultant meetings would be cumbersome and lead to delay and Members would need to guard against this.

29. The timetable of Council meetings and how they synchronise with meetings of the proposed Policy and Resources Committee would need to be looked at carefully to minimise any delay.

### **THE LEADER/DEPUTY LEADER**

30. A Council Leader is viewed as having considerable authority to represent or commit his/her Council at meetings with other councils, Government and the outside world. To underline the importance of the position and to retain continuity the Council may wish to continue to appoint a Leader removable if he/she ceases to be a Councillor or by a resolution of the Council.
31. The Leader would also be the Chairman of the Policy and Resources Committee.
32. A Deputy Leader (and Vice Chairman of the Committee) would also be appointed by the Council.

### **PORTFOLIOS/LEAD MEMBERS**

33. Portfolios are a feature of executive arrangements. The Council could still have a system of lead members though this would be more informal and less authoritative and may not work as smoothly on a committee comprising members from three groups. It is suggested that this be left to the Leader and Group Leaders to work out from year to year.
34. The Council should understand that a move to a Committee System will mean a reversion to the legal position under S101 of the Local Government Act 1972 namely that delegation can only be to an officer or a committee or sub-committee of members, and not to an individual member.

### **SCRUTINY**

35. A Committee System may or may not include Scrutiny arrangements. The view of the Governance Working Group is that there should no longer be a Scrutiny Management Committee. It would still be possible for the Council at any time to appoint an ad hoc Committee or Working Group to investigate and report on a particular issue.
36. The Working Group also felt that the Council should continue to have a body to look at Health and Social Care. This could be done via a standing panel reporting to the Policy and Resources Committee.

### **REGULATORY AND AREA COMMITTEES**

37. The Licensing Committee is a statutory Committee.
38. There seems every reason to continue with a separate Taxi and Other Licensing Committee and Accounts, Audit and Performance Management Committee.
39. The Development Management Committee was established on the introduction of Executive arrangements in 2001 because dealing with planning matters is a non-executive function and so referrals from Area Committees could not go to the Executive.

40. A criticism of the Committee is that it does not truly have sufficient regard to planning policy and the implications of costs awards. Referrals should, in future, go to the Policy and Resources Committee which would be responsible for the policy and finances of the Council. The Development Management Committee would therefore be abolished.
41. The Council may feel that in the light of diminishing business and the growing roles of town and parish councils that the present arrangement of area committees should be reviewed.

## **MEMBERS' ALLOWANCES**

42. A move to a Committee System will require a review of the scheme of Members' Allowances, in particular around special responsibility allowances. This need not be a lengthy or detailed exercise or lead to additional cost but an Independent Remuneration Panel will need to be appointed to do this and make recommendations to the full Council. It will be Council itself that makes the final decision on the scheme.

## **CONSTITUTION**

43. A change to a Committee System would require a significant re-write of the Constitution. The fully revised Constitution would need to be approved in time for the Annual Council meeting in May 2018.

## **MAKING THE CHANGE**

44. The Council should be aware that if the decision is taken to change the governance arrangements then the Council is, by law, locked into them for five years.
45. In relation to this Members should understand that it is the resolution to change which is critical not the implementation of the change itself. So if the Council decides at this meeting to make the change as from Annual Council in May 2018 it cannot reverse or change that decision in the meantime as that would, in effect, be taking a decision to go back to a Leader/Cabinet Executive.
46. When a council decides to change its governance arrangements it is required to publish a statement explaining the change and make this available at its offices for public inspection. Notice of this will be given in the local press and on the Council's website.

## **CONCLUSION**

47. A change of governance arrangements envisages changes in culture and ways of working across the Council. The main argument in favour of the present proposal would be that it would foster closer working and collaboration between all three political groups and would help the Council face the forthcoming serious financial and other challenges. To what extent this happens in practice is of course dependent on the behaviour and attitudes of the political groups.

## **IMPLICATIONS**

**Policy:** The Council's current policy is to have an executive arrangement of a leader/cabinet.

**Financial:** The present proposal would be cost neutral but the Council should guard against increased meetings and committees which would result in additional cost.

- Legal:** A change of governance arrangements is allowed for by the Localism Act 2011.
- Risk Management:** None arising directly from this report.
- Health and Safety:** None arising directly from this report.
- Sustainability:** None arising directly from this report.
- Community Safety:** None arising directly from this report.
- Equality and Diversity:** None arising directly from report.