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| Meeting: | Audit and governance committee |
| Meeting date: | Tuesday 19 November 2019 |
| Title of report: | Review of governance models |
| Report by: | Solicitor to the Council |

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To agree arrangements and a timetable for undertaking a review of governance models in compliance with a resolution passed by Council on 11 October 2019.

The resolution passed by Council requires the Audit and Governance Committee to lead a review of the models of governance open to the Council and bring forward recommendations to Council no later than October 2020. The motion to council explained that the way in which the council's current cabinet and leader system operates means that many significant decisions are taken by a very small proportion of the elected members.

The review will consider whether the council's current arrangements are as effective as possible in supporting fulfilment of our corporate governance commitments and maximises the engagement of all elected members in decision making.

The review is to be undertaken in accordance with the Local Government Association and Centre for Public Scrutiny guidance "Rethinking Governance: Practical steps for councils considering changes to their governance arrangements" at appendix 1. Additionally the review is to be undertaken by a cross party working group reporting to the Audit and Governance Committee; the membership of this group is to be determined by the Monitoring Officer following consultation with political group leaders.

The report sets out the arrangements for undertaking this work and proposes a timetable for the

review group to work to.

Recommendation(s)

That:

- (a) the timetable and arrangements for the review of the council's models of governance, as set out at appendix 2, be approved;**
- (b) the scope of the review incorporates the effectiveness of our partnerships governance arrangements in meeting the guiding principles and the impacts of any recommendations on partners;**
- (c) the planned biennial review of the constitution is not progressed pending the outcome of the review of models of governance; and**
- (d) the committee determine its preferred option, as set out in paragraph 12, regarding amendments to the process for public and member questions at scrutiny and, as necessary, recommends that option to Council.**

Alternative options

1. There is no alternative to leading the review; it is a requirement of Council.
2. It is open to the committee to determine an alternative timetable but in doing so, should have regard to the requirement to make recommendations to Council no later than October 2020, and be mindful of any resource implications associated with a shorter timescale.
3. It is open to the committee to continue its planned biennial review of the constitution. This is not recommended because it would reduce the resource available to support the review of governance models and may result in work that is abortive, should a significant change to models of governance be recommended.
4. There are a number of options open to the committee regarding improving the process of public and member questions at scrutiny in the shorter term; these options are set out at paragraph 12 below. It is also open to the committee to retain the current system.

Key considerations

5. At its meeting on 11 October Council resolved that:
 - a) the Audit and Governance Committee oversee a review of governance models for a recommendation to Council no later than October 2020;
 - b) the review be undertaken by a cross-party working group, reporting to the Audit and Governance Committee, to contain representation from each political group, from the executive, scrutiny and other functions. The Monitoring Officer be authorised to determine membership following consultation with political group leaders;
 - c) the review should follow guidance from the Local Government Association and from the Centre for Public Scrutiny guidance; 'Rethinking Governance: Practical steps for councils considering changes to their governance arrangement'; and

- d) the review be undertaken having regard to the following guiding principles;
- i. To maximise member engagement and participation in decision making
 - ii. Ensure decision making is informed, transparent and efficient
 - iii. Welcome public engagement
 - iv. Enable member and officers to perform effectively in clearly defined functions and roles
 - v. To assess any resource implications for any proposed changes.
6. The table attached at appendix 2 proposes a timetable for undertaking the review, in accordance with the rethinking governance guidance, and confirms what steps the working group should take. The committee is invited to approve the timetable.
7. To ensure that the working group is both cross party and captures the views of those members already fulfilling particular functions, the Monitoring Officer has consulted with political group leaders and determined the membership in the table below, which ensures that each political group and each function of the council is represented. Working group members will provide the focus of communication between the working group and their political group as well as other members who are involved in the function that they represent. The Audit and Governance Committee representative will chair the working group.

| Member | Substitute member | Political Group | Function |
|----------------------|--------------------------|---------------------------------|-------------------------|
| Councillor Bolderson | | Conservatives | Audit and Governance |
| Councillor Bartlett | Councillor Toynbee | Green | Scrutiny |
| Councillor Watson | Councillor Hardwick | Herefordshire Independents | Planning and Regulatory |
| Councillor Harvey | Councillor Seldon | It's Our County (Herefordshire) | Cabinet |
| Councillor James | Councillor Andrews | Liberal Democrats | Employment Panel |
| Councillor Hunt | Councillor Matthews | True Independents | Scrutiny |
| Councillor Kenyon | | Ungrouped | Frontline member |

8. Independent support for the council to undertake this review is available from the Centre for Public Scrutiny (CfPS), and the proposed timetable includes provision for the CfPS Director of Research to facilitate working group discussions at key points on the process.
9. The guiding principles established by Council provide a focus for maximising member engagement in decision-making and public engagement. The committee is invited to consider requesting that the working group consider the effectiveness of member and public engagement in decision making within partnerships the council participates in and to any potential impacts on partners of any recommendations to be made. The council adopted a framework for partnerships governance three years ago and it would be timely

to review the effectiveness of this framework in supporting the guiding principles set by Council.

10. The committee had, as part of its agreed work programme, scheduled the biennial review of the current constitution in the current municipal year. Given that a review of governance models is now in hand, it is recommended that the in year review of the constitution is not progressed.
11. The council's constitution was last adopted in May 2019, a list of the changes made since then, under delegation to the monitoring officer are recorded and published on the website
<http://councillors.herefordshire.gov.uk/documents/s50072706/Constitution%20Change%20Record%2019%20May%202017%20onwards.pdf>
12. A list of matters to consider are logged during the year, there is nothing on the list that is pressing at this time other than improving public and member engagement at scrutiny. Currently the process for public and member questions is applied equally to all public meetings of the Council at which questions are allowed. However this process when applied to the scrutiny committees, which do not have responsibility making decisions results in a very unsatisfactory and overly bureaucratic process. To resolve this difficulty pending the more fundamental review, the following options are open to the committee to recommend to Council:
 - Option 1) – Allow up to 15 minutes for public and member speaking at the start of each substantive agenda item at a scrutiny committee. This would enable members and the public to express their views, ideas, concern or support for a particular matter before it is considered by the committee. Although a formal response would not need to be given, it may provide a mechanism for people to make their views known directly to the committee and any queries they raise may be drawn out during the committee's examination of the matter.
 - Option 2) – Retain the existing system but where a question relates to an item on the agenda but requires a cabinet member response request that the responsible cabinet member provide a response and attend the meeting to deal with any supplementary questions.
 - Option 3) – Retain the existing system for the substantive questions and answers but ensure at the end of the relevant item on the agenda that all supplementary questions have been addressed.

Community impact

13. Corporate governance is the term used to describe the systems, processes, culture and values Herefordshire Council has established to ensure we provide the right services, to the right people in a timely, open, and accountable way. Good corporate governance encourages better informed longer-term decision making using resources efficiently, and being open to scrutiny with a view to improving performance and managing risk. Periodic reviews of the models of governance adopted by the council and the established processes and culture are valuable ways in which we can demonstrate how we uphold the code of corporate governance.
14. The council is responsible, as a corporate parent, for providing the best possible care and safeguarding for children who are looked after by the council, and as part of this must consider the impact of decision making on looked after children and care leavers. Any

review of models of governance and mechanisms for stakeholder engagement in decision-making must consider how this responsibility may best be discharged.

Equality duty

15. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
16. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. Any review of governance models and decision making processes must ensure this duty is demonstrably upheld and promoted.

Resource implications

17. The review will be undertaken using existing resources. The monitoring officer by law is required to have a budget and it is proposed that if external support is required from CfPS or another provider that up to £6,000 may be spent from the monitoring officer's revenue budget.
- 18.

| Revenue budget implications | 2019/20 | 2020/21 | 2021/22 | Future Years | Total |
|----------------------------------------------------------|--------------|--------------|--------------|--------------|--------------|
| | £ | £ | £ | £ | £ |
| External support from existing monitoring officer budget | 2,500 | 2,500 | 1,000 | | 6,000 |
| TOTAL | 2,500 | 2,500 | 1,000 | | 6,000 |

Legal implications

19. The council is required to have a constitution. This review will provide the basis for any proposed changes to the current constitution.

Risk management

20. The review does not create any risk other than not meeting the date of October 2020 as directed by Council. The working group will be responsible for ensuring that timescales are met and will provide updates to the audit and governance committee as part of their work programme.

Consultees

21. None

Appendices

Appendix 1: "Rethinking Governance: Practical steps for councils considering changes to their governance arrangements" published by the Local Government Association and Centre for Public Scrutiny.

Appendix 2: Proposed timetable.

Background papers

None identified.

Glossary of terms, abbreviations and acronyms used in this report

CfPS – Centre for Public Scrutiny