

Meeting:	Audit and governance committee
Meeting date:	Friday 25 September 2020
Title of report:	Re-thinking governance
Report by:	Solicitor to the Council

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To recommend a governance model for Herefordshire Council

Recommendation(s)

That:

- (a) having regard to the work undertaken by the Re thinking Governance working group, a hybrid cabinet model of governance be recommended to full Council with implementation with effect from annual council in May 2021**

Alternative options

1. The committee could ask the working group to continue the review and not make a recommendation at this time. This is not recommended as the resolution at full council on 11 October 2019 asked for a recommendation from this committee by no later than October 2020 and the working group have now completed their work.
2. The committee could resolve to recommend a different model of governance but that is not recommended based upon the evidence reviewed by the working group.

Key considerations

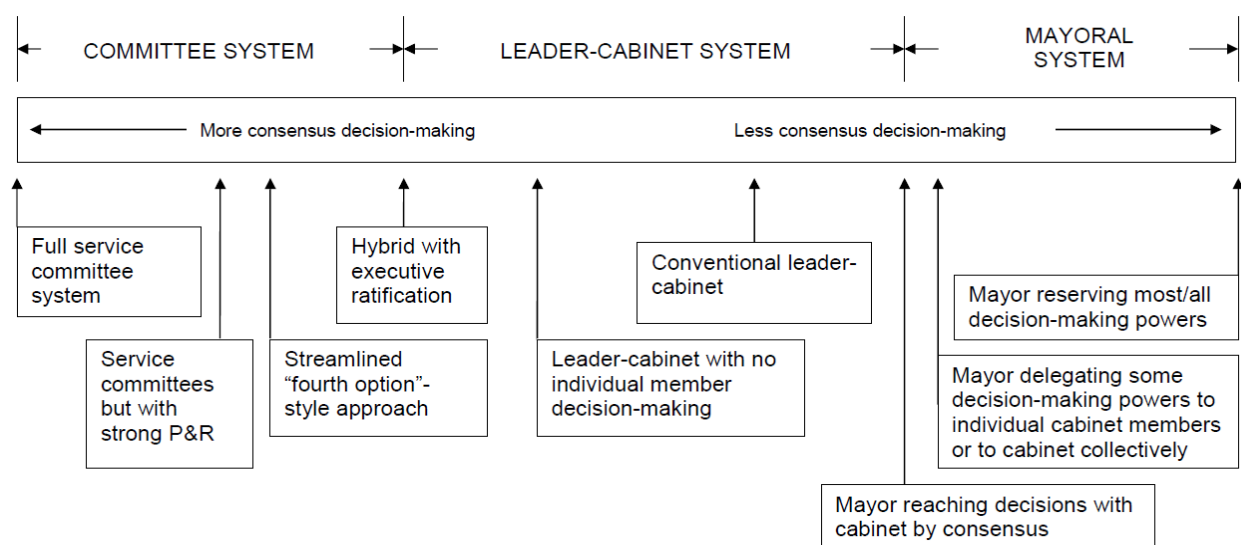
Section 1 - Methodology and approach

3. On 11 October 2019, the council resolved to review its governance arrangements to investigate and explore options for the future. The following guiding principles were set by the council:
- To maximise member engagement and participation in decision-making.
 - To ensure decision-making is informed, transparent and efficient.
 - To welcome public engagement.
 - To enable member and officers to perform effectively in clearly defined functions and roles.
 - To assess any resource implications for any proposed changes.
4. The review was undertaken by a cross-party working group the current membership of which is:

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 Seldon	Councillor Harvey	It's Our County (Herefordshire)	Cabinet
Councillor James	Councillor Andrews	Liberal Democrats	Employment Panel
Councillor Hunt	Councillor Matthews	True Independents	Scrutiny

5. The Centre for Public Scrutiny (now known as the Centre for Governance and Scrutiny) ("CfGS") was engaged to provide assistance to the working group, and to the wider membership of the council, as they considered their options. CfGS has carried out significant national research on governance change, and has provided direct support to around two dozen councils on the subject since powers became available in the Localism Act 2010 to effect such a change. CfGS has also provided assistance to a number of councils which have chosen to explore and implement hybrid models of governance. CfGS has no "preferred" model for governance and considers that there are no clear "pros and cons" of any one given system – culture, behaviour and attitudes tend to be more important than structure.

6. The working group met on 10 occasions (27 January, 7 February, 18 March, 7 May, 20 May, 26 May, 10 July, 14 August, 21 August, 7 September and 10 September) to progress their deliberations. Those discussions plus the feedback from the Member workshops (22-23 April 2020) and the All-Members Questionnaire (June 2020) has enabled the working group to identify the following concerns with the current governance model at Herefordshire council. These are:
- insufficient communication with the public, engagement and promotion of current issues;
 - political proportionality not always making the best use of members skills & experience;
 - process for input into forthcoming decisions could be improved and could be more informative including the use of political group consultations;
 - improvements could be made to the forward plan to make it easier to find, navigate and understand;
 - lack of a cross party think tank or policy development panel/committee;
 - lack of a collaborative culture;
 - scrutiny function could be improved and strengthened;
 - balance of council work with outside employment responsibilities heavily impacts the level of members involvement;
 - member development could be improved as a result of the complexity of rules and experience of members; and
 - members feel uninformed and find it difficult to shape new policies and decisions.
7. These concerns have been the foundation for the working group's discussion on which model would best meet the needs of Herefordshire council.
8. The working group also reviewed the governance change approaches taken by a number of other councils, in particular those councils which have chosen to adopt either the committee system or a hybrid model of governance. The working group found that while several formal governance "options" exist, governance approaches are a spectrum, from systems which concentrate decision-making power in a single individual at one end, to those where decision-making responsibility is far more distributed. The diagram below illustrates this breadth.



Section 2 - Main findings

9. The working group suggest that the Council adopt a hybrid model of governance, allowing for a greater degree of councillor involvement in policy development, decision-making and oversight without a break from the legal structure of the Cabinet system. It is the view of the working group that an improved cabinet system can address all of the issues raised by members over the current cabinet system whilst taking into account members different interests and time commitments during their term in office.
10. Time that members could devote to council business was identified as a significant barrier to good governance and members overall appetite gained from the survey and discussions in groups does not support a model where more meetings would be required. It was highlighted that many task and finish groups of scrutiny which are open to all members, struggle to attract a membership, although it is recognised that this work is not additionally remunerated. In addition, some members wished to focus more time on direct support to their constituents, possibly to the exclusion of “formal” business in committee, whilst others wanted to take roles in either oversight (through the audit or scrutiny process), leadership in licensing or planning or contribute to policy development. The hybrid model provides members with the opportunity for involvement commensurate to their availability and interests, recognising that there is likely to be more involvement in higher profile/contentious decisions.
11. Adopting a hybrid model does not require the Council to embark on a formal, legal process for governance change. A formal change (to the committee system, for example) would lock the Council in to a new form of governance for five years. The hybrid approach provides the council with the opportunity to make changes within the current system with no ridge timescales. To help ensure timely and effective implementation, the working group suggests that any proposed changes be reviewed, and altered if necessary, after one year of operation.
12. Many of the concerns with the current governance could be overcome with a change in culture, and improved behaviour, attitudes and values. The working group believe that improvements can be made to the current model including improved communication, member training and development, to give members the capacity, confidence and expertise they need to play an active role within the political environment.
13. The hybrid model is recommended as the working group believe it can achieve the following outcomes which will meet the concerns identified in Section 1 above.
 - Enhanced opportunities, regardless of proportionality, for councillors to be directly involved in influencing decisions on high profile/contentious matters.
 - Improved provision of information to councillors, through the Forward Plan and forthcoming decision process and through a better approach to member briefing.
 - Refreshed member and officer training and development to reflect the cultural change required for working in a political environment.
 - Clear demarcation between members’ and officers’ roles for the smooth running of the authority.
 - Creation of activities carried out in formal, and informal, spaces. Including opportunities for the creation of more informal spaces for member dialogue.
 - A more active role for councillors in policy development.
 - Improved understanding how and where delegated decisions are made and overseen.
 - Resetting of councillors roles in review and scrutiny of council services.

- Build a more targeted role for scrutiny on performance and risk management alongside its other, external, statutory roles – such as those relating to health and community safety matters.
 - Increase the awareness of activities relating to oversight, decision-making and policy development.
 - Improved layout, accessibility and understanding of the constitution and the processes and systems in it to support good decision-making.
 - More regular and systematic member briefings.
 - Improved ability for the public to be involved.
14. This paper sets out the basic framework for what a hybrid model would address. Should the Audit & Governance Committee recommend to proceed with the implementation of such a system, the working group will continue to refine and add detail to this framework with a view to a new constitution being presented to this committee for recommendation to council in May 2021.
15. The working group have recognised that suggestions to put in place new systems have the potential to raise the resourcing required by democratic services. This will be reviewed and taken into account when designing the new model.

Community impact

16. 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.
17. 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.

Environmental Impact

18. The development of a revised governance model will seek to minimise any adverse environmental impact and will actively seek opportunities to improve and enhance environmental performance.

Equality duty

19. 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.
20. 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

21. The review is being undertaken using existing resources. As agreed by committee external support from CfGS has been sought and payment is within the approved £6,000 budget.

Legal implications

22. The council is required to have a constitution. The proposed model will provide the basis for changes to the current constitution to be adopted and implemented at the next annual council meeting.

Risk management

23. 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. There is currently sufficient time to review the constitution, consult and make the necessary proposed changes.
24. There is also a risk that all members are not engaged in the process and their views are not made known to the working group. The establishment of a cross party working group was aimed to address this but given mixed attendance additional steps may be necessary to ensure all members are aware of the work being undertaken in the group.

Consultees

25. All elected members were invited to provide their views in the survey monkey and attend the workshops. All political groups are represented in the working group. The non aligned member declined to participate in the working group.

Appendices

Appendix 1 feedback from workshops which helped to inform the survey

Appendix 2 analysis of survey monkey as circulated to members on 18 August 2020

Appendix 3 revised timetable

Background papers

None.