

BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL

From: Deputy Chief Executive (in consultation with the incoming Chief Executive)	Report Number: C/101/16
To: Babergh District Council Mid Suffolk District Council	Date of meeting: 20 December 2016 22 December 2016

CHANGE OF GOVERNANCE: ADOPTING THE CABINET - LEADER MODEL

1. Purpose of Report

- 1.1 To consider and determine the Councils' governance arrangements, and proposed programme of work to implement any change in such governance.

2. Recommendations to Council

- 2.1 Adopt the 'leader-cabinet' form of governance, effective from the May 2017 Annual Council meeting of the Council, in accordance with the provisions of the Localism Act 2011.
- 2.2 Approve the suggested implementation and approach as set out in Paragraph 6.1 - 6.8, the subsequent wider cultural change and new ways of working, in advance of the May 2017 Annual Council meetings.

3. Links to Joint Strategic Plan

- 3.1 Good governance is at the core of an enabled and efficient organisation. Adopting the "leader-cabinet" model will deliver a number of key objectives. In particular, it is noted that both Councils have adopted the desire, through their Joint Strategic Plan, to be smaller, smarter, and swifter; with the right people, doing the right things, in the right way, at the right time and for the right reasons. It is the Councils' responsibility to have in place clear and effective governance and be able to demonstrate successful outcomes of the Joint Strategic Plan.
- 3.2 This decision is also closely linked to the current work being undertaken by the two Councils with the Local Government Boundary Commission for England ('LGBCE'). As part of these electoral reviews the Councils will need to provide details of their governance arrangements to the LGBCE as part of each Council's 'council size' submission.

4. Background and Key Information

- 4.1 In Autumn 2016 the Leaders of both Councils set out their intention to pursue a move to the 'leader-cabinet' governance system.

4.2 Since then the Councils' well established joint cross-party 'Strengthening Governance' Task and Finish Group has convened on three occasions to consider this decision and its broader implications. The Task and Finish Group was originally established as part of the on-going Strengthening Governance work. The following Councillors are members of the Task and Finish Group:

BDC	MSDC
Jennie Jenkins	Nick Gowrley
Simon Barrett	Derrick Haley
Clive Arthey	Andrew Stringer
Sue Carpendale	Penny Otton
Margaret Maybury	John Levantis

4.3 The Centre for Public Scrutiny ('CfPS') has been providing the Councils, and their Councillors, with support to consider moving to a cabinet – leader governance model. The CfPS is a charity whose objectives are to promote and support good governance within public bodies. The CfPS receives funding from the Local Government Association (LGA), which it uses to provide support and advice to councils on corporate governance issues. The CfPS holds no brief for any particular governance system or approach over any other.

4.4 This support has been provided alongside assistance from the University Birmingham's Institute of Local Government Studies (INLOGOV).

Main Features of the Leader-Cabinet Model

4.5 The 'leader-cabinet' system involves decision-making powers being vested in up to a maximum of ten councillors who form a Cabinet. They are appointed by a Leader. Cabinet does not need to be politically proportionate. Cabinet may take decisions collectively, or individual members of cabinet may be empowered to make decisions themselves.

4.6 All decisions of cabinet (including decisions made by cabinet members individually) are subject to the usual local government requirements of being published five clear days before the decision is made. Notification of forthcoming cabinet key decisions is required to be published (on a 3 month rolling basis) at least twenty-eight days before a decision can be made, in a 'forward plan'. When any cabinet decision has been made, other councillors can, within a certain period, call that decision in for further discussion by an overview and scrutiny committee before the decision can be implemented. In some councils many key decisions will also be considered by the overview and scrutiny committee first, before coming to cabinet for decision. Collectively these systems are intended to provide a check and balance to the cabinet decision-making process.

4.7 Some councils with cabinets also supplement those bodies with informal bodies which assist with policy development. These bodies are often informal and do not meet in public, and can be called 'Cabinet Advisory Panels' or 'Policy Development Groups,' or similar. The choice available to councils on governance is not therefore a binary one, between committee and cabinet. There are hybrid models and also other governance models such as the mayoral system.

- 4.8 A selection of regulatory and quasi-judicial committees meet to decide issues such as planning, licensing and audit under both systems. The operation of these committees remains the same irrespective of the governance option adopted, as they operate under different legislation.

Rationale for change

- 4.9 By way of background, currently both Councils operate a committee system mode of governance. The committee system involves decisions being made by cross-party groups of councillors, by consensus and/or through the use of votes both in committee and council meetings. Where decisions cut across the terms of reference of more than one body or committee, they will often be passed to multiple bodies before the council formally decides to take action.
- 4.10 The Councils are proposing in May 2017, to move to the 'leader-cabinet' system (key features of such a governance model are set out above in paragraphs 4.5 to 4.8).
- 4.11 On 10 November 2016, the Strengthening Governance Task and Finish Group and the two Joint Scrutiny Chairs (Cllrs Eburne and Newman), attended a session facilitated by CfPS. The session focused on the development of design principles and a common understanding of the outcomes of any governance change. Members were invited to talk about what those design principles might be in practice, before considering what the barriers might be to the use and implementation of those principles.
- 4.12 The adoption of a 'leader-cabinet' model will deliver a number of the Councils' Joint Strategic objectives - it will achieve this in a number of ways, including:
- A more consistent, clearer, proportionate and efficient mechanism for decision making, ensuring increased officer and Councillor capacity for delivery;
 - Greater levels of openness, transparency and collaboration through a stronger Scrutiny Committee function, with legally enshrined mechanisms e.g. 'Key Decision' thresholds and 'Call-ins'
 - Increased responsibility, separation, and clarification of functions leading to increased accountability to Council and the electorate;
 - Parity and flexibility for the leaders and cabinets to represent and influence within the 'Suffolk system' through wider partnership working, particularly in the context of Devolution within Suffolk.

The development of design principles

- 4.13 The above rationale and objectives for change was not the view of all Councillors. In particular, for some, there are concerns that a cabinet system may lead to a decrease in consensus decision-making and an emphasis on speed over the quality of decision-making.

4.14 In order to avoid such a situation, CfPS recommended that the Councils agree a set of clear design principles to guide the development of the more detailed governance structures and cultures that support the 'leader-cabinet' model. The Strengthening Governance Task and Finish Group has therefore developed the following initial design principles:

- Streamlined. Any system needs to be focused, to allow for swift decision-making, to be easily understandable and to be proportionate (in terms of what is what is expected of both Councillors and Officers);
- Communication. This is about Councillors understanding the reasons for proposed decisions, and Councillors having plenty of notice of things happening so that they are in a position to influence decisions – formally or informally. More effective Member input into policy development could form part of this. This also incorporates the need for the Councils to engage in more depth with the public.
- A clear strategy / operations division. Whilst recognising that an absolute and pure division is impossible, Councillors will focus predominantly on strategy. Although sometimes it is right for Councillors to step into operational matters (particularly where they relate to issues of political controversy) a governance system will need to be designed to empower staff to act in accordance with the policy framework given to them by Councillors.
- Cultural Change. The kinds of cultural attitudes necessary to embed these design principles are ones of trust, openness, mutual positive challenge and the ability to be 'self-servicing' (for Councillors, this might mean taking additional responsibility for keeping up to speed on issues with fewer face to face officer briefings).

4.15 Councillors will have the opportunity to discuss these principles in more depth as part of the design and implementation phases of the cabinet-leader governance model. The suggested implementation process is set out in paragraphs 11.1-11.3 below.

5. Financial Implications

5.1 The decision will have financial implications associated with the resource that officers will need to put in place to manage the formal transition to a new governance option. Any additional one-off costs will be funded from the Transformation Fund.

5.2 In other local authorities, a key criterion for changing to different governance arrangements has been that they cost the same, or are cheaper, than the existing model. There is no evidence to suggest that any one form of governance option ('leader-cabinet', committee system, Mayor and cabinet) is intrinsically more or less expensive to operate than any other, but there are different ways of working within each of these systems that may well have such implications.

5.3 No on-going additional costs are anticipated as a result of adopting the 'leader-cabinet' model of governance. As set out in the report such a change will be designed to drive further efficiency and increase the officer capacity available to all Councillors.

6. Legal Implications

- 6.1 The Local Government Act 2000 put in place provision for the establishment of so-called “executive arrangements” for the operation of the majority of local authorities in England and Wales.
- 6.2 The 2000 Act required most councils to move from the committee system of governance, then universally used in local government, to one of three new governance options – the “leader-cabinet” option, the “mayor and cabinet” option, and the “mayor and council manager option” (the third of which was removed by subsequent legislation).
- 6.3 Following the introduction of executive arrangements, only district councils with a population of less than 85,000 retained the committee system method of decision-making. The Council retained the committee system by virtue of the size of the population being below 85,000.
- 6.4 The Localism Act 2011 introduced new legislation making it easier for local authorities in England to change their governance arrangements.
- 6.5 A local authority may change its governance arrangements to a different type however a resolution of the Council is required before a local authority is able to do so. A notice must also be published informing the public:
- That the local authority intends to change its governance arrangements and a council resolution has been passed in support of this.
 - The date that it intends to change the governance arrangements.
 - What the main feature of the change will be.
 - Where copies of any documents detailing the changes can be found, this should be at the local authority’s principal office and the address of its principal office should be provided.
- 6.6 The relevant legislation details the timeframe in which the governance changes must be made. This is called the ‘relevant change time’. A change in formal governance arrangements must occur at a specified ‘change time,’ which is at the Council’s Annual Meeting (May 2017). Prior to the change time, the Council needs to have resolved formally to make a governance change. There is no minimum period of time between resolution and the change time.
- 6.7 Alongside these legal requirements, the Council should consider any other practical issues. Some of these are set out in the Local Government Association and CfPS publication ‘Rethinking governance’ (2014), which is a ‘thinking tool kit’ which reflects the experiences of those councils which have undergone a governance change under the 2011 regime. They include:
- Although there is no statutory duty or formal requirement to carry out formal consultation with the public either in advance or following the Councils’ resolutions (other than to publish a notice as set out above in paragraph 6.5), the Councils may choose to carry out a form of consultation or engagement locally on the key features of the new governance arrangements;

- Changes to the Council’s constitution. This will include not only the changes necessary to reflect a move to cabinet governance (changes to committee structures and terms of reference), but also more detailed considerations such as the scheme of officer delegations;
- Changes to the Council’s financial procedures. A move to or from cabinet decision-making involves a shift in the way that major financial decisions are developed and agreed by officers and members;
- Relationships with partners. The way that the Council makes decisions are different under different governance arrangements. This has particular relevance both for formal and informal partnerships, and particularly for any further plans for devolution within Suffolk;
- Scrutiny. The ‘leader-cabinet’ system is designed to have robust and effective scrutiny at its heart. Thinking about what these systems will entail will be an important element of members’ discussions.

6.8 Once a local authority has passed a resolution to change its governance arrangements then it is prevented from doing so again for the next five years (unless a second resolution is approved following a referendum). However, this does not prevent the Council from reviewing and make further changes as necessary to its governance arrangements, such as a reconsideration of committee structures and delegations.

7. Risk Management

7.1 This report is most closely linked with the Council’s Significant Business Risk No. 5c – Failure to develop clear governance arrangements that enable the right decisions to be taken that are appropriate for the environment that we are operating in.

The key risk is set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
Lose the opportunity to assess the effectiveness of our decisions making arrangements and the procedures we follow to meet the challenges facing our communities.	Unlikely	Bad	Councillors and officers working groups formed to develop design principles and support implementation of cabinet leader model.

8. Consultation

- 8.1 As stated in paragraph 6.7 above councils are not required to formally consult on any new governance arrangements but they may choose to carry out some form of engagement on the main features of the governance change.
- 8.2 The joint cross-party Strengthening Governance Task and Finish Group has been regularly consulted.

9. Equality Analysis

- 9.1 It is important that any decision-making and governance system be designed to take account of the needs of different individuals and groups, to engage with democracy and the decision-making process. An initial Equality Impact Assessment screening has been completed and is attached to the report at Appendix 1.

10. Shared Service / Partnership Implications

- 10.1 It is the stated view of the Leaders of the Babergh and Mid Suffolk Administrations, that the adoption of the 'leader-cabinet' governance option will strengthen local democracy, and make it more effective and efficient for the Councils to transact business.

11. Timescale for Implementation and suggested approach

- 11.1 It is recommended for reasons of time and capacity, that the implementation is divided into two elements.
- 11.2 Firstly, for the Council to agree those matters which must be in place prior to the formal change of governance arrangements (i.e. by May 2017). Which are :
- To make a formal resolution that the Council intends to change its governance arrangements (recommendation 2.1 of this report), and
 - To approve the following legal framework and approach (recommendation 2.2) that needs to be in place for the Council to be able to formally move from one governance option to another *i.e. from a committee structure to a cabinet-leader model at the Council's annual meeting in May 2017.*
 - Which are : the need to design and draft a new committee structure, financial procedures, the scheme of delegation, and any associated constitutional amendments that will be necessary to satisfy the terms of the Local Government Acts and to ensure that the Council is able to make decisions, under the 'leader-cabinet' governance option, in accordance with the law.
 - These will include a design in accordance with the rational and design principles as set out this report with the joint cross-party Strengthening Governance Task and Finish group taking the lead.
 - Wider Councillor engagement will also take place.

- 11.3 The second element is for continued discussion and agreement of the wider opportunities for governance reform and new ways of working beyond May 2017. Some of these have also been highlighted in this report and, although not discussed in detail, a significant factor in any governance change is that of cultural change and ensuring the continuation of fully open, transparent, and accountable ways of working.
- 11.4 This reflects advice that CfPS has given to other local authorities embarking on review and change of their governance arrangements. This approach will allow different methods and systems for decision-making to be discussed and experimented with, modified and refined over time.

12. Appendices

Title	Location
Appendix 1 Initial EIA screening	Attached.

13. Background Documents

None

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