

Subject: **COMMITTEE SYSTEM OF GOVERNANCE**

Report to: **SCRUTINY COMMITTEE – 4 DECEMBER 2014**
CABINET – 10 DECEMBER 2014
COUNCIL – 13 JANUARY 2015

Report by: **CHIEF EXECUTIVE OFFICER**

SUBJECT MATTER/RECOMMENDATIONS

To consider changing to a Committee Form of Governance for Great Yarmouth Borough Council.

1. INTRODUCTION

Members will recall that Council at its meeting on the 23 September 2014 agreed the following:

“To consider a change to the Council’s form of Governance in accordance with Section 915 and 9 KC of the Local Government Act 2000 to a committee form of governance as provided in Section 9 B (i) (B) of that Act, but that the implications of the costs and requirements of introducing a committee form of governance which is already included in the Scrutiny Committee Work Programme for 2014/15, be fully considered by the Scrutiny Committee, Cabinet and full Council before a final decision is made”.

2. BACKGROUND

A local authority’s structure and decision making processes are governed by the statutory framework contained in the various Local Government Acts and the regulations made under those acts.

The division is largely into “executive” and “committee system”. An executive is somewhat equivalent to a board of directors of a company and the leader of the council or the elected mayor (depending upon the type of executive chosen) could be seen as equivalent to an Executive Chairman.

In the committee system there is a less focused more collegiate form of decision taking. Further differences between each are explained in more detail in this report. GYBC has operated a Leader and Executive system since 2001. In 2010 a petition was presented to the Council calling for a referendum on a change from leader and Executive to Elected Mayor. This referendum was held in May 2011 and the result was that the Elected Mayor proposal was rejected and the fall back position of Leader and Executive retained. The fact that there was a referendum may be significant in any future decision. Further legal advice and possibly counsel’s opinion

is being sought on whether a referendum is mandatory in our current circumstances before any change to the governance arrangements is implemented.

3. EXECUTIVE ARRANGEMENTS

Executive arrangements can take one of two forms:-

- Strong Leader and Cabinet, or
- Elected Mayor and Cabinet

The main features of executive systems of governance are as follows:

A local authority which has adopted executive arrangements must ensure that its executive takes the form specified in section 9C (2) of the Local Government Act 2000. An executive is responsible for certain functions of a local authority and executive arrangements require a division between the making of a decision and the scrutiny of that decision.

An Executive can be either a:

Mayor and Cabinet Executive (an Elected Mayor of the authority and two or more Councillors of a local authority appointed by the Elected Mayor).

Or

A Leader and Cabinet Executive - a Councillor of the authority (Executive Leader) elected as Leader of the Executive by full Council and two or more Councillors of the authority appointed by the Executive Leader.

A local authority Executive can only have up to a maximum of ten members unless an alternative number has been specified by the Secretary of State in regulations.

An Executive does not have to be politically balanced – it can be a single party body if the Leader so chooses. Under the Constitution, the Leader has the authority to appoint the Executive.

The Executive is responsible for most day to day management of the authority's functions. It may take those decisions collectively as a Cabinet, by delegating to a Cabinet Committee, to a Cabinet Member or to an officer.

The Full Council sets the budget and major policy framework. These matters are 'reserved' for the Full Council in the Local Government Act. Some statutory functions of a planning and licensing must also be exercised in Committees which cannot involve members of the executive.

A Scrutiny Committee must be established and non executive Councillors appointed to it. Its role is to hold the Executive to account. It can challenge and request the

Executive to re-consider decisions and under certain circumstances delay the implementation of Executive decisions but it cannot overturn them. Many Councils establish more than one Scrutiny Committee.

4. A COMMITTEE SYSTEM

The main features of this system are as follows:-

- There is no “Executive” set up to carry out day to day management of the authority.
- The Full Council sets up committees to deal with different functions and delegates decision making to these committees and / or to officers.
- There is therefore no split between Executive and non-Executive functions – all functions are council functions.
- Under the committee system no delegations to individual Councillors are possible.

- Each committee and sub-committee must be politically balanced unless the Council decides “nem con” otherwise.
- There is no legal requirement to set up a Scrutiny Committee although the Council may if it wishes set up a committee with scrutiny type or similar functions.
- If Council resolves to move to a committee system of Governance, then detailed work will need to be undertaken on changes to the Constitution, which will be brought to Council for consideration, with a view to any new form of governance coming into effect from the AGM in May 2015.
- In passing a resolution to move to a committee system of governance, it is open to full Council to specify in the resolution that the change will take place at a later annual meeting than the next scheduled one. If it does not specify this, the change must be at the next annual meeting.

5. TYPE OF COMMITTEE

Committees will comprise of Councillors, reflecting the political balance of the Council unless the Council decided “nem con” (i.e. with no member voting against) that it should not do so. The decision to be taken on a committee system will need to reflect the needs of the approach the Council wishes to take to governance, (i.e the form (structure, processes etc, will need to reflect the function).

In terms of configuring the structure, there are a number of options:

- (a) Thematic (i.e. Committee, that cut across services)
- (b) Programme/Service based (i.e. aligned to Directorates or covering specific areas of activity)
- (c) Other model that may be appropriate for local circumstances, e.g to reflect the Council’s strategic ambitions (priorities)

One option would be to align the committees to the current structure, at least initially. This would give a decision-making committee system that might look like:

- Strategic
- Resources
- Tourism and Business Services
- Communities
- Environment
- Transformation and Regeneration

Another option would be to configure the structure on a thematic basis, so that the committees could address cross-cutting issues such as “People Services”, “Place”, “The Environment”, “Economy”. This could allow greater join up and may also be more facilitative of partnership working. It might also address the danger of silos developing.

There are a number of ways of structuring such a system and it could be aligned to the priorities set out in “Putting People First” or any other cross-cutting strategic objectives.

Once a committee system of governance is in place, the precise structure of the system could be changed by the Council at any time in the future.

- (d) In addition to whatever structure is decided upon for the main committees, there is an option to have a Policy and Resources Committee sitting above or in addition to them.

A Policy Committee could have responsibility for taking decisions on the following issues:-

- Policy development and approval except on matters reserved for the full Council
- Review of performance
- Review of day to day operational matters taken by officers
- Approving staffing structures

It could also be responsible for deciding specified issues that cut across service committees. Where it is not clear which is the most appropriate committee to consider an issue, the report is discussed and determined by the Policy Committee. Therefore the Policy Committee takes most policy decisions and considers cross-cutting issues.

6. ROLE OF FULL COUNCIL AND BALANCE OF RESPONSIBILITIES BETWEEN COUNCIL AND COMMITTEES

Members need to consider the role of the full Council and the balance of responsibilities between Council and its service committees.

One option is to have a “Strong Council”, which in addition to the functions reserved to it by statute, would retain responsibility for approving a Policy Framework, as currently happens.

If members decide not to have a Policy and Resources Committee, the Council would also be responsible for cross-cutting functions. The service committees would be responsible for taking day to day decisions for the area for which they are responsible, other than any decisions delegated to officers.

Another option is to have “Strong Committees”. In this system, the service committees would approve service related policies and strategies, including financial decisions, as well as taking day to day decisions. The full Council would only be responsible for its statutory functions.

7. FREQUENCY OF MEETINGS

Members need to consider what frequency of meetings a committee system would require. Members may take the view that whilst any new system of governance should allow improved member engagement, it must also seek to retain as far as possible the efficient decision-making which was the intention underlying the Cabinet system.

Currently, the Cabinet meets and takes its decisions on a monthly basis. There is of course the possibility that its decisions are Called In for Scrutiny but, for the most part, the vast majority of Cabinet’s decisions can be implemented very soon after they are made. If that benefit is to be retained in a new system in which service committees take the decisions currently taken by Cabinet, members may consider that there would be a need for each Committee to have scheduled monthly meetings. It may be the case that some of the meetings can be cancelled if on occasions there is no business that requires decisions to be taken.

Under the current arrangements, Cabinet meets on a monthly basis, whilst the regulatory Committees and Scrutiny currently meet on a six weekly basis. Council meetings take place every eight weeks. Other meetings that are serviced by the Member Services Team currently meet on a mixture of frequency, some monthly, quarterly and bi annually for example.

Obviously if Council was minded to change to a monthly frequency of meetings under a committee system this would result in a significant increase in the number of meetings to be serviced by the Member Services Team, and also senior officers who are required to attend these meetings.

Members will need to consider the relative merits of different sized committees. At present the representation on the committees is as follows:-

- Cabinet - 6
- Scrutiny - 13
- Audit and Risk - 9
- Housing Appeals - 13
- Development Control - 13

- Licensing - 13
- Appeals - 5

Members will need to consider the relative merits of different sized committees. It may be that a range of between 8 to 10 members is a reasonable size for a decision-making committee to operate speedily and effectively. However, the representation on committees of that size of each party group needs to be examined - larger committees will have all the political groups represented if that is the authority's aim.

As well as striking a balance between being politically fair and being functional, any system of governance must be designed principally so that the Council can function effectively.

8. WHETHER OR NOT THERE SHOULD BE A SCRUTINY FUNCTION

Members need to consider overview and scrutiny and whether there is a role for it in a committee system of governance. The purpose of scrutiny in the existing system of governance is to hold to account the Executive, which has a high level of autonomy in terms of its decision making role. The Cabinet is responsible for the overwhelming majority of decision-making and Council does not have the power to overrule the Cabinet. Consequently, there is a need to have a strong system to hold the Cabinet to account and that is the role carried out by the Scrutiny Committee.

In a committee system, the committees will have decision-making powers, but derive all those powers from the full Council, which will have the authority to take those powers back if it considers they are being misused. Nevertheless, members may consider that there ought to be some mechanism whereby committees can be challenged and held to account for their decisions.

9. CONTESTED BUSINESS

Members will need to consider whether a committee system of governance should have some facility and process for committee decisions to be contested and referred to the full Council for determination. Naturally, such a facility could be abused and decisions might be contested and delayed for inappropriate reasons. It may be possible to design a process that sets out very clear and reasonable criteria by which committee decisions can be contested and that the criteria could ensure that no abuse of the system is possible. The criteria might also limit the number of occasions on which decisions can be contested.

10. URGENT BUSINESS

Whatever system of governance is in place, there will be times when, for reasons of urgency, there will need to be a process for taking account of the need for a decision to be taken quickly.

The Chief Executive Officer may be given the power to act in cases of urgency. Or, a small urgent business sub-committee might be set up to meet for this purpose.

11. ARRANGEMENT FOR DELEGATION TO OFFICERS

Any system of governance must recognise that it will not be possible for all decisions to be taken by committees. It must also be noted that in a committee system, unlike the current system, it is not legally possible to delegate decisions to individual members of the Council. Consequently, any system needs to set the level of delegation to officers at an appropriate level. Too much delegation to officers could negate the reason to implement a committee system whereas too little risks agendas having to be packed with operational matters.

If the Council were minded to agree to introduce a committee form of governance it may be appropriate, at least for the initial stage of a new committee system, to continue with the present delegation arrangements as set out in the Constitution.

12. GYBC – VISION FOR THE FUTURE

GYBC is an ambitious and striking Council which has already experienced an extensive period of turbulence and uncertainty. The Council is now facing further changes as it deals with on-going reductions in the level of central government funding that it receives. GYBC has embarked on 'Our Council' a programme of organisational development and changes which is designed to deliver savings to meet the budget deficit and to improve services.

Members will be aware of the work currently being progressed through the Transformation Programme and the likely decisions that will need to be made which could affect how the Council works and operates in the future.

In considering the option of implementing a committee system of governance, Members may wish to consider how they perceive that GYBC structure will be in the future, and whether, in fact, changing its current form of governance will fit into the way forward for the Council.

13. COSTS/STAFFING IMPLICATIONS

Whether or not and the extent to which a committee system will lead to additional costs mainly depends upon the effect on the number of meetings that will take place.

It is extremely likely that changing to a committee system will result in additional committee meetings from those currently being held under the present system, and also by the nature of a committee system form of governance, to meetings being held on a more frequent basis.

This will result in the need to increase the staffing level in Member Services by at least one additional officer (estimated cost being £31,145, which includes on costs). There will also be costs from nplaw in their involvement to amend the Council's Constitution, portering costs for an increase in evening meetings, and extra Member costs associated with attending additional meetings. Extra costs will also be incurred by senior officers being required to attend more meetings, and as a consequence taking them these staff away from service delivery.

14. REFLECTIONS ON PAST PRACTICE AND EXPERIENCE

(a) Cabinet System

Advantages

- Provides clarity on who is responsible for what
- As a result of higher public profile for Leader and Cabinet members, the agenda is often driven to be more focused on external issues
- Strategic decisions can be taken in a swifter and more coordinated way
- Easier for partnership organisations to work with a Cabinet rather than a number of committees
- Portfolio holders offer a clear point of contact with the Council. This is a mechanism through which partners can access and navigate the organisation and its information

Disadvantages

- The political balance on Scrutiny Committees can favour the majority party (unless the Council chooses to do otherwise)
- Councillors not on the Cabinet can feel disengaged with the decision making process
- Great deal of authority in the hands of a few

(b) Committee Systems

Advantages

- The Committee system can allow more Councillors to feel directly involved in making decisions
- Allows a wider range of Members to be involved in discussions prior to decisions

Disadvantages

- There was a tendency for decisions to be made in silos and cross cutting issues were difficult to address
- Considered to be slow in decision making and overly focused on operational matters rather than policy, results and community impact

- This system can require a greater amount of Officer time to provide briefings and support than has generally been experienced under most executive systems
- A conservative approach to strategy and community leadership
- Difficulty for Councils in taking difficult decisions
- A tendency for member discussions to be inward focused

15. CONCLUSIONS

- (a) Members should be aware that any proposal to change the Council's form of governance will result in a significant change in the way the democratic process will operate.
- (b) A change to a committee form of governance will lead to, in all probability, an increase in the number of, and frequency, of meetings to be serviced, which will result in additional costs as identified in this report.
- (c) As a result of (b) above there will be a significant cost to the Council to change its form of governance.

FINANCIAL IMPLICATIONS:

As detailed in the report.

LEGAL IMPLICATIONS:

As detailed in the report.

EXECUTIVE BOARD OR DIRECTOR CONSULTATION:

EMT – 20 November 2014

RECOMMENDATIONS

Does this report raise any legal, financial, sustainability, equality, crime and disorder or human rights issues and, if so, have they been considered?	Issues	
	Legal	Yes
	Financial	Yes
	Risk	Yes
	Sustainability	Yes
	Equality	No
	Crime and Disorder	No
	Human Rights	No
	Every Child Matters	No