

Subject: Proposed Change of Governance – from Committee to Cabinet System

Report to: Executive Leadership Team – 21 April 2022

Council – 12 May 2022

Report by: Head of Legal & Governance, Monitoring Officer

SUBJECT MATTER

To consider and determine the Council's future governance arrangements, and the proposed programme of work to implement any change in governance

RECOMMENDATIONS

That Council:

1. adopt the 'Leader-Cabinet' form of governance, to be effective from the Annual Meeting of Council in May 2023 in accordance with the provisions of the Localism Act 2011;
- and
2. approve the proposed structures and the approach to preparatory work as set out in this report.

1. INTRODUCTION

- 1.1 This issue is relevant to the Corporate Plan in that good governance is at the core of an "efficient and effective Council", this being one of the organisation's strategic priority areas. It is noted that one of the key outcomes under this priority is "to provide sound governance to enable key decisions and major projects to be progressed, using all the resources available to the Council in the most efficient and business-like way". Adopting the "leader-cabinet" model will help the Council to streamline the decision-making process and allow business to be progressed in a more efficient way, more swiftly, more easily understandable and proportionate to the nature of the business.
- 1.2 This issue will also be of relevance to the work which the Council has been asked to undertake with the Local Government Boundary Commission for England ('LGBCE'). As part of a periodic electoral review the Council will need to provide details of its governance arrangements to the LGBCE as part of its submission. In looking at the size of the authority, the Commission will look at the roles and responsibilities of Councillors.

2. BACKGROUND AND KEY INFORMATION

- 2.1 The Council's governance system changed from Cabinet-Leader to a Committee System in May 2016.

- 2.2 The current Administration has, since its manifesto pledge in the elections of 2019, set out its intention to pursue a move to the 'Leader-Cabinet' governance system.
- 2.3 Advice was given to Council in November 2018 that the authority was effectively "locked in" to the Committee system until May 2021 due to statutory restrictions, and would not be able to change system without a public referendum. It was therefore concluded that the decision should be deferred until after November 2020, when the lock-in period expired (although any change could not have been effected until May 2021).
- 2.4 At that meeting in November 2018 Council resolved to undertake a governance review and allocated the work to a Governance Review Task & Finish Group comprising officers and members. In December 2018 the Group participated in a workshop with a consultant from the Centre for Public Scrutiny (now known as the Centre for Governance & Scrutiny). The workshop examined the strengths and weaknesses of the current committee system, asking participants to reflect on existing system design, culture and practices and to identify actions to enhance the current arrangements. Following a report to Council in February 2020 on the outcomes from the workshop, some adjustments were made to streamline the Committee system, and make other improvements, pending any further consideration of system change.
- 2.5 At the same Council meeting in February 2020, it was advised that prior to the expiry of the lock-in period, the Task & Finish Group or Constitution Working Party (CWP) should further consider the rationale for system change, in preparation for a decision on change prior to May 2021. A separate report on the legal and procedural implications of the change, and the practical steps involved was intended to be taken to an all-member briefing in 2020, prior to CWP providing its views to Council on change. After discussion with Executive Leadership Team and the Leaders of the Labour and Conservative Groups, the briefing which had been contemplated to discuss the rationale for change ahead of expiry of the lock-in period was deferred due to COVID, and accordingly the CWP meeting to consider a potential change was not held at that time.
- 2.6 The CWP meeting which had been deferred due to COVID was held in January 2022. No consensus was reached at that meeting, and it was decided to proceed with the previously agreed all-member briefing which took place on 21 February 2022. As the status of the working group is consultative only, a clear decision to form a recommendation is not required from the group, but a key point of the group's feedback is represented at paragraph 4.1.

Main Features of a Leader-Cabinet Model

- 2.7 A '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, who is appointed by full Council. 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 as 'portfolio holders'.
- 2.8 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 in" that decision for further discussion by a Scrutiny committee before the decision can be implemented. In some councils some key decisions may also be considered by the Scrutiny committee first, before coming to Cabinet for decision. Collectively these measures are intended to provide a check and balance to the Cabinet decision-making process.

- 2.9 Some Councils with Cabinets also supplement the structure with informal bodies which assist with policy development and other matters. These bodies do not have to meet in public and can be called 'Advisory Panels' or 'Policy Development Groups,' or similar. Task and Finish groups may also exist to support or consult on particular projects.
- 2.10 As with the Committee system, under the Cabinet system a selection of regulatory committees is still required to make decisions on such issues as planning, licensing and audit. The operation of these committees remains the same irrespective of the governance option adopted, as they operate under different legislation.

3. The Proposal and the Supporting Rationale

- 3.1 Since coming into power, the Administration has been clear in its intention to revert to Cabinet system. The proposal now put forward by the Administration is to move the Council to the 'Leader-Cabinet' system from May 2023.
- 3.2 It is the view of the Administration that the adoption of the 'Leader-Cabinet' governance option will strengthen local democracy and make it more effective and efficient for the Council to transact business. The adoption of a 'Leader-Cabinet' model will help to deliver the Council's corporate priorities 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 strong 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 leader and Cabinet to represent the Borough of Great Yarmouth and secure its influence within Norfolk.
- 3.3 The design proposal put forward by the Administration for Cabinet is for six members, including portfolio holders who would make decisions within their respective remits:
- Leader
 - Deputy Leader & Portfolio Holder for Finance
 - Portfolio Holder for Health
 - Portfolio Holder for Housing & Communities
 - Portfolio Holder for Economic Development
 - Portfolio Holder for Environment & Sustainability

The role of portfolio holders would be collectively to:

- contribute to the development and implementation of the Council's policies, budget and strategies, and to take the lead as necessary at Cabinet meetings on items within their own portfolio
- take responsibility for a range of council functions which are delegated to the Cabinet
- make decisions on specific issues within the portfolios as permitted in the Scheme of Delegation and the Council's constitution
- be accountable to the Overview & Scrutiny Committee, the Council and the local community;

and within their area of responsibility, the portfolio holders would:

- act as spokespersons inside and outside the Council
- liaise with relevant Council officers
- ensure they have a clear understanding and knowledge of their portfolio
- ensure the Council has appropriate methods of consultation and communication in place
- attend the Scrutiny Committee, the Audit Committee, Major Projects Committee and advisory panels when required.

3.4 The design proposal includes the following Committees:

- Scrutiny
- Major Projects (supported by Task & Finish Groups/Advisory Panels)
- Licensing
- Development Management
- Audit, Risk & Standards
- Shareholder Committee

4. Discussion of New System Design

- 4.1 It is acknowledged that the above rationale and objectives for change are not the view of all Councillors, and this was reflected in discussions at the CWP meeting of February 2022. In particular, for some members, there were concerns that a Cabinet System might lead to a decrease in consensus decision-making and an emphasis on speed over the quality of decision-making.
- 4.2 In order to avoid such a situation, it is proposed that Councillors should meet at workshops to provide feedback on the development of the more detailed governance structures and cultures that support the 'Leader-Cabinet' model. These include, for example, the Constitution and Scheme of Delegation and Committee Terms of Reference which will be prepared by the Monitoring Officer.
- 4.3 Councillors will have the opportunity to discuss these principles in more depth as part of the design phase of the underlying structures for Cabinet-Leader governance model. The suggested process is set out in section 8 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, including any legal costs arising from the redesign of the Constitution and any other governance structures. Any one-off costs arising from the process will be funded from general reserves.
- 5.2 There is no evidence to suggest that any one form of governance option (Cabinet system, Committee system, Mayor & 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 this report any such change should be designed to drive further efficiency and increase officer capacity. For example, officers will have to spend less time in putting reports through multiple committees and will be able to increase focus on delivery. The administration associated with the holding of a high number of meetings will also decrease and free up both officer and member time to focus on pro-active service improvement. A Scrutiny Officer will be required, but this role is likely to be fulfilled by adding it to the remit of an existing post.

6. Legal Implications

- 6.1 A local authority may change its governance arrangements to a different type however a resolution of the Council is required before the 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.
- 6.2 The 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 2023). 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.
- 6.3 Alongside these legal requirements, the Council must consider any other practical issues. They include:
 - **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 Delegation to officers;

- **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;
- **Scrutiny.** The 'Leader-Cabinet' system is designed to have robust and effective scrutiny at its heart. Thinking about what this system will entail will be an important element of members' discussions.

6.4 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 adjustments as necessary to its new governance arrangements, such as a reconsideration of committee structures and delegations.

7. Risk Management

7.1 If the Council's governance system does not function effectively, there is a risk of:

- Difficulty in enabling the right decisions to be taken that are appropriate for the environment that we are operating in
- Waste of resource due to unwieldiness or general ineffectiveness of governance system.

8. Timescale for Implementation and suggested approach

8.1 Previous reports have outlined the potential elements to a governance system change:

- i) **Governance review** (which has now reached its final stage, i.e. direct decision on whether to change systems).
- ii) **Formulation of broad proposals** – the basic design of the Cabinet system and identification of key changes under the new arrangements
- iii) **Formal Council resolution** that the authority intends to change its governance arrangements
- iv) **Publication of resolution and key arrangements** in accordance with legal requirements
- v) **Preparation** by officers, workshops for members and ultimately, approval by members of the legal framework and practical changes which will enable the Council to be able to formally move from one governance option to another at the Council's 2023 Annual Meeting, e.g. the design and drafting new terms of reference, new financial procedures,

the scheme of delegation, and a Constitution that will be necessary to satisfy the requirements 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.

- vii) What is known as “**Relevant Change Time**” when the transition takes effect, must take place at the Council’s Annual Meeting (in May of any year).

8.2 The timetable below outlines the required steps to move to a Cabinet form of governance, should members decide on that course of action.

Step	Timetable
Council passes formal resolution to change to a Cabinet System of Governance – this is a binding decision to come into effect May 2023	May 2022
Information on resolution for change is published as per the requirements of the Localism Act (this must take place as soon as practicable after the resolution is passed)	May 2022
Member Workshop 1 – to consider design principles	June 2022
Formulation by officers of detailed proposals for change (background preparation for new Constitution, financial procedures, etc)	May – September 2022
Member Workshop 2 – to feed back on draft documents	September 2022
Detailed constitutional changes may be submitted to political groups and considered by CWP for any feedback. May be taken to P&R as necessary for recommendation to Council.	October - December 2022
Council to approve the Cabinet system design arrangements and proposed constitutional changes, following feedback from workshops/CWP and recommendations from P&R/Monitoring Officer as appropriate	January - March 2023
Implementation of new arrangements at Annual Meeting (aka “Relevant Change Time”)	May 2023

9. Appendices None

10. Background Documents None

Area for consideration	Comment
Monitoring Officer Consultation:	N/A
Section 151 Officer Consultation:	As part of the ELT process
Existing Council Policies:	None
Financial Implications (including VAT and tax):	As outlined in the report
Legal Implications (including human rights):	As outlined in the report
Risk Implications:	As outlined in report
Equality Issues/EQIA assessment:	None
Crime & Disorder:	None
Every Child Matters:	None