

Report for: Full Council

Date of Meeting:	1 November 2023
Subject:	Governance Briefing Note
Cabinet Member:	Cllr Luke Taylor, Leader
Responsible Officer:	Maria de Leburne – District Solicitor and Monitoring Officer
Exempt:	N/A
Wards Affected:	All
Enclosures:	None

Section 1 – Summary and Recommendation(s)

To provide Members with an update on the work carried out so far on the proposed change to the governance system.

Recommendation(s):

- 1. To note the update. Also, Full Council to give the Monitoring Officer a steer on the options available within the report so further work can be carried out.**

Section 2 – Report

1.0 Introduction

1.1 Motion 591:

That this Council recognises that in order for the taxpayers to have faith in the ability of the Mid Devon District Council to make effective and transparent decisions that there has to be a fundamental change in the decision making process.

That this Council also acknowledges that in a mature democracy there is a need for inclusive government which enables all members to make a valuable contribution in the running of the Council.

Therefore this Council resolves to change from the Cabinet system of governance to a modernised Committee system to be implemented from the Annual Meeting of 2024.

This was approved at Full Council on the 22 February 2023. At this meeting the District Solicitor and Monitoring Officer stated to Full Council that if members indicated to go to a Committee system we would take this as a steer to go away and start preparing the governance framework for this type of system and that it would need to be brought back to Full Council for a final decision at some point in the future.

This report forms part of the journey of changing the council's system of governance.

2.0 Background

- 2.1 The previous administration on the 8 January 2020 resolved to set up a politically balanced working group to review the governance arrangements of the council. The group consisted of 12 members and carried out a comprehensive review of the council's governance arrangements with a view that any changes could take effect for the municipal year 2021/22.
- 2.2 The Local Government Association (LGA) assisted the working group and the wider membership of the council was also encouraged to be involved. External consultation was also carried out with a panel-led session in November 2020 which 6 members of the public registered to attend and 5 actually doing so. In January 2021 seven conclusions were agreed by Council and other themes were considered in March 2021.
- 2.3 The recommendations from the working group were put to an Extraordinary Full Council meeting held on 17 March 2021 and it was carried that in the absence of a clear mandate for change at this time, the council keeps the current executive governance arrangements; and also that they endorsed the continuation of the PDGs and in doing so, requests members and officers to find effective ways to support the groups future work programmes.

3.0 Options Available

- 3.1 The Local Government Act 2000 (as amended by the Localism Act 2011) sets out the governance models that must be operated by local authorities. These are:

- Executive - A mayor and cabinet or A leader and cabinet

- The committee system
 - Or other arrangements approved by the Secretary of State
- 3.2 Prior to 2000, all Local Authorities operated a committee structure whereby all statutory powers were given to the Council to allocate to committees and officers. In 2000, legislation was introduced whereby any Local Authority with a population in excess of 85,000 moved to an Executive model with a Leader and Cabinet. In 2007, legislation was introduced to change the Executive arrangements.
- 3.3 The Current system – Executive – Leader and Cabinet (albeit with some hybrid elements around our use of PDGs)
- 3.3.1 To date the Council has an Executive Leader/Cabinet system whereby the Council chooses its Leader, who then appoints other councillors to a Cabinet. Alongside the Cabinet is a Scrutiny Committee. There are also other Committees: Audit and Planning, and then Standards which has sub-committees, and Licensing and Regulatory Committees which again both have sub-committees. The Council also has an Appointments Panel and 4 Policy Development Groups (PDG): Community, Environment, Homes and Economy.
- 3.3.2 It may be that there members feel there is no need for a formal change in governance, and that any changes can be met by considering some amendments to the current system/processes.
- 3.4 Committee system
- 3.4.1 Full service committee system - This is a model in which individual service committees have the freedom to make decisions in the way that they like. Decisions which cut across more than one area will need to go to multiple committees for sign off.
- 3.4.2 Service committees but with strong Policy & Resources - It is common for these to have a policy and resources or strategy and resources committee – which has an overarching role in setting corporate policy. This committee may have the chairs of other committees sitting on it, and it may also set the agendas for the other committees. It normally will deal with major cross-cutting issues itself.
- 3.4.3 Streamlined – this is only a couple of service committees, a strategy and resources committee and a separate scrutiny committee.
- 3.5 Hybrid system
- 3.5.1 Legally the leader-cabinet system but with features of the committee system. 2 basic forms are.

- 3.5.1.1 A model where committees – which legally are scrutiny committees – actually act as de facto decision-making committees
- 3.5.1.2 A model where politically balanced Cabinet advisory committees or other such bodies exist as sub-committees of Cabinet, with overview and scrutiny remaining a distinct function.
- 3.5.2 For example, an executive arrangement may include committees which develop, scrutinise and support the decision-making process. At Mid Devon District Council, the Leader and Cabinet are supported by four policy development groups – groups which then recommend policy to the Cabinet.
- 3.5.3 Moving to a hybrid form of governance does not require any of the formal governance change rules that are found in legislation. Discussion of the change and some amendments to the constitution are however likely to be necessary.
- 3.6 The Centre for Governance and Scrutiny (CfGS) and the Local Government Association (LGA) suggested and revised a set of steps for councils to take in deciding whether to change governance option, and acting on that decision.
 - 3.6.1 Step 1 is before starting initiating the work to Plan your approach, and assess your current position. This involves assessing where you are now and establishing what change you need to deliver.
 - 3.6.2 Step 2 is Agree design principles which involves taking from an initial assessment a sense of the current governance strengths and weaknesses and using them to develop some design principles.
 - 3.6.3 Step 3 Think of ways to meet these objectives and put a plan in place which involves exploring different ways of working, deciding on the overall structural needs and planning for the change, and where necessary laying a motion for a resolution to that effect at full council.
 - 3.6.4 Step 4 is making the change i.e. the necessary legal steps altering the constitution and constructing the new structure etc.
 - 3.6.5 Step 5 Return to the issue after a year and review how things have gone.
 - 3.6.6 Steps 1-3 are ones that can be carried out by a cross party working group as the previous administration undertook in 2020.

4.0 Next Steps

- 4.1 That council decide the way they wish to proceed so that the Monitoring Officer can then start to review the required changes that will be required to the governance i.e. the Constitution, which will also affect policies etc.
- 4.2 The options available are:

- a) a further cross party working group with the assistance of, for example, the LGA – with terms of reference to be set
- b) do nothing and keep the executive leader and cabinet system as is
- c) review possible amendments to the current leader and cabinet system
- d) move to a more robust implementation of the hybrid system, utilising the PDGs for active scrutiny as well as policy development
- e) move to a committee system and if so which style

Financial Implications

There will be a cost in terms of council and officer time in addressing any constitutional or procedural changes arising from the recommendations. There may also be a cost if external legal assistance is required. The CfGS suggested costs range from £70,000 to 250,000 (in practice this would cover 'legal costs' in making changes to the councils constitution and wider governance framework and 'other costs' convening member meetings to oversee the change – with resource implication for members and officers and redesigning financial systems and procedures to accommodate the change and liaising with parties to discuss and agree how business with outside bodies will be transacted.

Legal Implications

Should Council decide that it wishes to change to a committee structure, such a change would only take effect at the annual meeting following the resolution, or such future annual meeting as the resolution specifies. If Council wishes to direct that changes be made to the Constitution which it would do if it changes to a committee structure, these should be considered by the Standards Committee first.

Risk Assessment

There is a clear risk that making a change to governance arrangements or making no change will be perceived as unsatisfactory, depending on any individual viewpoint. The key will be in how the Council then goes about making the arrangement work and/or work better. The Council has to decide as a collective, what it considers to be the best way forward.

Impact on Climate Change

None

Equalities Impact Assessment

None directly arising from this report, but impacts must be considered carefully in any decisions which result in a change to current practices affecting those with protected characteristics.

Relationship to Corporate Plan

Our values and priorities – equally important to the ‘what’ we are trying to achieve, is the ‘how’ the organisation operates and conducts itself.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151

Date: 24 October 2023

Statutory Officer: Maria De Leburne

Agreed on behalf of the Monitoring Officer

Date: 24 October 2023

Chief Officer: Stephen Walford

Agreed by or on behalf of the Chief Executive/Corporate Director

Date: 24 October 2023

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers

Contact: Maria de Leburne, District Solicitor and Monitoring Officer

Email: mdeleburne@middevon.gov.uk

Telephone: 01884 255255

Background papers: None