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Committee: Constitution Working Group

Agenda Item

Date: 14th June 2010

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Title: Report on Consultation returns

Author: John Mitchell

Item for decision

Summary

1. Full Council, at its meeting of December 2009, received the recommendation of this Working Group and resolved as follows:
 - i. the merits of changing the Council's constitutional arrangements be explored with a view to introducing an executive format based on an executive leader and cabinet model from May 2011;
 - ii. appropriate consultation be carried out with potentially affected parties such as parish and town councils, LSP partners and community forums;
 - iii. a timetable be agreed for introducing executive arrangements from May 2011, allowing for consultation from January to April 2010, consideration of the responses by the Constitution Working Group between April and June 2010, with a report submitted to Council for final determination of the functions and decision making structure being recommended in July 2010; and
 - iv. appropriate benchmarking be carried

This report sets out the outcome of the consultation. It is emphasised that this is not the time to make a final decision but to decide whether or not to proceed in principle.

Recommendations

- 1 That the working group considers the detail of this report and makes recommendations to the Council on the merits of changing the Council's constitutional arrangements, with a view to introducing an executive format;
- 2.

Background Papers

3. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

Impact

4.

Communication/Consultation	This is a report on the consultation outcome
Community Safety	None
Equalities	Should the Council decide to proceed with an executive model then an equality Impact assessment will be required
Finance	Financial implications would need to be assessed if the proposal is taken further.
Health and Safety	None
Human Rights/Legal Implications	There are statutory procedures to be followed. Unless the legislation changes, (and it is in the Conservative party manifesto), whilst it will be possible to switch back to committees the Council could not do so until 2015. Similarly, if the Council decides not to move to a cabinet system now there will not be another opportunity until 2015.
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	There will be implications for staff training and management procedures

Situation

5. Consultation started on 4 March 2010 with a press release and advert in local newspapers. A leaflet was produced and sent to partner organisations and parish councils with a letter asking them to comment. The leaflet included a link to information on the Council's website, and also included a telephone number and dedicated email address for those wishing to comment. An invitation to comment was sent to every household via Uttlesford Life, and invitations to comment were also made at the Community Forums. The consultation period ended on 31st May but comments received after then were also taken into account.
6. The consultation essentially sought views on three options: 1) an executive model with a cabinet and leader, 2) a mayor with cabinet and 3) staying with the Committee system. In all 49 responses were received, 23 from partnership organisations and parish councils and 26 from individuals. This

may be compared with the consultation responses to the previous changes to the constitution in 2005 when a total of 13 responses were received. Either way the number of replies is very small.

7. There was no support for a mayor. The cabinet option had the support of 11 respondents, 30 proposed retention of the Committee system and 8 sought further information.
8. Few comments were made by those supporting option 1 other than for the reasons set out in the supporting information and subject to no costs increase.
9. By contrast there were many objections to the cabinet model put forward by those wishing to keep things as they are. These include the concentration of power on too few hands, the sidelining of independents, less accountability and transparency, less democracy, inadequate scrutiny, less influence of town and parish councils, lack of debate and a comparison with East Herts. Positive comments regarding the Committee system include that it brings the best talent in the Council to the consideration of policy regardless of political affiliation, a wide range of councillors have influence and debates can be influential. All the responses are appended.
10. Despite the inclusion of every household and parish council in the consultation process the small number of responses indicates that there is little widespread interest in how the council makes its decisions. This does not mean that the points raised may be disregarded.
11. Members also had the opportunity to visit two Councils who have a cabinet model: Braintree and Chelmsford. Each Council adapts the model to suit local circumstances, although the principles are the same. Both Councils consider that decision making has improved since the Committee system. Both also agree that importance must be given to the needs of Members who are not Cabinet members to remain involved in Council business and to feel involved and influential in council decision making. Members from both Councils advised that they would not revert to a Committee system. It would appear from both visits that transparent safeguards, checks and balances are a vital ingredient. Members will no doubt have their own comments on their experiences.
12. Officer Comment There is no support for a mayor model, and this may be discarded. The basic operation of the cabinet and leader model was set out in a previous report to this Group and is appended. If the model is accepted then there will need to be extensive Member involvement in its constitution and this will be done by a series of workshops over the summer months. The following two tables set out firstly the pros and cons of the Cabinet and Committee systems arising from the consultation exercise and the visits, and secondly suggests how the perceived shortcomings of the cabinet system may be addressed.

Advantages Cabinet	Advantages Committee
<p>More responsive to changing events</p> <p>More responsibility for portfolio holders to drive policy and direction by presentation of reports</p> <p>More checks and balances through enhanced scrutiny and review</p> <p>Meetings held in public</p> <p>Opportunities for other Members and guests to inform debate</p> <p>Better foundation for shared service working with other councils who share the same model</p> <p>Greater confidence for portfolio holders</p> <p>Key issues such as budgets, corporate policy and Planning policy will continue to be determined by full Council</p> <p>Regulation such as development control and licensing will continue as they are now in Committees</p>	<p>Has the advantage of familiarity</p> <p>All Members are involved in the decision making process</p> <p>Meetings held in public</p> <p>Opportunities for other members and guests to inform debate</p> <p>Officers present reports</p> <p>Delegation to officers enabling Committees to concentrate on major items</p> <p>Key issues such as budgets, corporate policy and Planning policy will continue to be determined by full Council</p> <p>Regulation such as development control and licensing are in Committees</p>
Shortcomings Cabinet	Shortcomings Committee
<p>Finding a role for backbenchers</p> <p>Perception of decisions behind closed doors</p> <p>Concentration of power</p> <p>Not accountable</p> <p>Not transparent</p> <p>Less of a role for town and parish councils</p> <p>Less scrutiny of decisions</p> <p>Lack of opportunity for debate</p>	<p>Slow system that cannot respond to a changing world</p> <p>Few councils operate a committee system and it is not easy to interpret government policy which is predicated around a cabinet model</p> <p>Need to refer to other committees slows process and can inhibit policy direction</p> <p>Not an obvious role for town and parish councils in current structure other than DC</p> <p>Weak scrutiny because Committees think they provide their own</p> <p>Officer-led</p>

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Cabinet shortcomings	How they may be addressed
Finding a role for backbenchers	Regulatory committees will continue as will scrutiny, the role of which will of necessity be enhanced. Working and Task Groups will continue. The role of the area forums could be enhanced
Perception of decisions behind closed doors	Cabinets are held in public. Fears that decisions could be open to whipping are equally applicable to the committee system. Elected Members will have a far greater role in the formulation and presentation of policy. Cabinet may invite members and guests to participate in debate.
Concentration of power	Checks and balances will be built into the system. "pre-scrutiny" of initiatives will increase of necessity, allowing for community engagement in decision making
Not accountable	All Members will remain accountable to their electorates and will engage during their terms of office as they see fit
Not transparent	As above. Transparency of decision is not necessarily built in to the committee system and this is a cultural issue. Failure to make transparent decisions will have ultimate sanction in the courts, through the inspection of the planning process and the Ombudsman and Audit Commission, as it does now.
Less of a role for town and parish councils	The involvement of town and parish councils would continue as at present. Most engagement takes place through the DC Committee and the area forums. Enhancement of that involvement is an issue whichever route the Council takes
Less scrutiny of decisions	Scrutiny would be enhanced
Lack of opportunity for debate	All major decisions would continue to be dealt with by full Council, and the

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	regulatory committees (which regularly attract the highest numbers of members of the public) would continue.
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The above are suggestions which members may wish to consider and embellish. It is the Chief Executive's opinion that if a cabinet system is not favoured than a radical review of the current system will need to be put in place – it cannot be right for example that the decision making process of the council offers effectively shuts down between June and September as is now the case.

Next Steps

If Members agree the principle then it is recommended that a series of workshops takes place over the summer and in the run up to the December meeting so that the scheme may developed to suit Uttlesford values and behaviours, and be understood by all Members. If the Council agrees to proceed then the decision will be binding on the Council after the May 2011 elections. It will not be possible to revert to a Committee system until the 2015 elections, unless the legislation changes in the meantime.

Risk Analysis

13.

Risk	Likelihood	Impact	Mitigating actions
Failure to comply with statutory requirements.	1 – there is an awareness of statutory requirements	2 – could render the decision making process ultra vires	Through the Council's Monitoring Officer, ensure that the necessary procedures are followed.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

Appendices

Report to CWG Dec 2009

Summary of comments

List of respondents