

Committee: Constitution Working Group

Agenda Item

Date: 1 July 2014

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Title: Review of the working of the cabinet system

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Item for decision

Summary

1. The Working Group is tasked with establishing whether the Cabinet or the Committee system makes for better and more inclusive decision making. This report looks at the types of governance available to the Council, what is happening elsewhere, recollections of the committee system, the Scrutiny Committee review of 2012 and concludes with a general analysis.

Recommendations

2. That the options are considered in accordance with the guidance in para 23 and a recommendation to full council is agreed

Financial Implications

3. Not costed at this stage. There is no analysis of changes to Member allowances consequent upon any change of governance. Any such work would fall to be considered at a later stage.

Background Papers

4. 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.
Terms of reference (attached)

Impact

5.

Communication/Consultation	Any change in governance will require a structured programme of consultation
Community Safety	None
Equalities	An impact assessment will be necessary
Health and Safety	None
Human Rights/Legal Implications	A new constitution will be required

Sustainability	None
Ward-specific impacts	All
Workforce/Workplace	Considerable impact on sections of the workforce

Situation

6. The options available for types of governance fall into the following categories:
- A leader-cabinet system with individual cabinet member decision-making** (as seen in most English authorities) is the standard approach which the majority of councils currently operate.
 - A mayor, with various different approaches to cabinet autonomy** - different mayors take different approaches to the appointment of their cabinets, and the amount of powers those cabinets have.
 - A traditional committee system** which will have a relatively large number of service committees which will often align fairly closely with the council's departments. There may or may not be a coordinating policy and resources committee to knit together work programmes. This approach will usually require frequent meetings to deal with cross-cutting issues and, hence, careful planning by officers.
 - A streamlined committee system** (as operated by UDC until 2011) which consists of two or three service committees, and may be supplemented by one or more overview and scrutiny committees.
 - A hybrid system** whereby a cabinet ratifies decisions made by a number of cabinet committees. This requires a political assurance by the leadership that such ratification will happen, and leaves appointment to the committees in the hands of the leader.
 - A leader-cabinet system with collective cabinet decision-making** has collective decision-making at cabinet, with a leader who chooses to act accordingly. Under this model the cabinet does not delegate power to individual cabinet members to make decisions, although delegated decision-making by senior officers will still happen in consultation with lead members. This is how the UDC cabinet system operates in practice although it is within the scope of the constitution to operate as option 1 above.
 - An executive of the Council with cabinet authority and political balance** – this is an interim model sometimes adopted by Councils moving from Committee to cabinet but seldom as a permanent model of governance because of the difficulties arising when distributing portfolios.

The Position Elsewhere

7. Several Councils (not many it is true) are reverting to the Committee system after 13 years' experience of cabinet governance. They are of all types:

London Boroughs, Districts, Counties and Unitary Councils. They include: Barnet, Kingston-upon-Thames, Sutton, Cambridgeshire, Norfolk and Nottinghamshire; and several other large authorities including Hartlepool BC, Brighton & Hove City Council and Reading BC. Among District Councils are Fylde, Newark and Stroud. These are Councils of every political persuasion. It is a trickle not a flood.

8. It is too early to draw any conclusions from how these constitutional changes have affected decision making in these Councils. However, because Uttlesford operated the Committee system until as recently as 2011 most officers and members are familiar with how it works and ought to be able to make that assessment without too much background research.

Recollections of the Committee System

9. In assessing options members can do worse than be guided by the report to Council on 10 November 2010. This sets out the pros and cons of the committee and cabinet system, based on the information and experience at the time. The hopes and fears expressed in that report are broadly reflected in the Scrutiny review outcomes of 2012, so the 2010 report remains a reasonable guide. The Council operated a streamlined committee system at the time as some members will recall – a Finance and Admin Committee, an Environment Committee and a Housing and Health Committee. This was underscored by scrutiny and performance committees. Routine decision making was a long process, with each Committee having its own budget and budget reporting process, and considerable cross referral between committees, which needed careful coordinating and allowed any one committee to introduce delays and/or amendments which then needed to be reconsidered. When confronted with challenging decisions this proved to be a wildly circuitous process – for example in 2007/8 the Council's financial challenges were considered simultaneously (and at times competitively) by two Committees as well as by full council.
10. In the past members have excluded mayoral government and it is assumed this will continue. It is also reasonable to assume, having adopted it in the recent past, that the streamlined committee system is preferable to the traditional system with a Committee for every service. Members also need to be mindful that there will be five fewer of them from May 2015, which will make a traditional committee system difficult to populate.
11. Analysis shows that the average number of all types of meetings per year has decreased from 128 per year in 2007-11 to 107 in 2011-14. Under the Committee system there were 101 seats on Committees and 55 seats on working groups, whereas under the cabinet system there are 66 seats on cabinet and committees and 71 seats on working groups. The difference of 19 is not significant. While everyone had at least 1 seat on a committee under the current system there are 5 members who, by personal choice, sit on nothing but full Council. This equates with the reduction in membership from 2015. Most members will remember how the Committee system worked. Therefore, the extent to which detailed analysis is necessary is a matter of judgment.

The Scrutiny Review 2012

12. The Scrutiny Committee asked all Members for their attitude to the cabinet. 28 Members responded (64%), of whom 17 did not consider themselves to be part of the administration group. This means that at least 7 Members of the Conservative group did not think they were part of the administration. Overall respondents were evenly split over their preference between cabinet and committee.

13. The shortfalls of the cabinet system perceived by members can be grouped as follows along with some of the comments made in the Scrutiny review:

Concentration of power: Some members of the Cabinet seem to think they are all powerful, with too few people making most of the decisions.

Not Communicating: Cabinet Members should individually report to all members on existing and proposed issues within their portfolios. Individual Cabinet Members could hold separate workshops at which items within their particular portfolios could be raised and discussed.

Not involving all Members: Reduce the portfolios to more manageable/member inclusive levels, Pre cabinet discussions are not open to the public, there should be more involvement from Councillors - information is not involvement, Cabinet ought not ignore others opinion in the decision process Members who are not in the Cabinet feel detached. Less interaction. Less democratic - few people making most of the decisions

Scrutiny function does not work: "Pre-scrutiny" takes place too close to cabinet meetings which doesn't allow time for meaningful challenge

Full Council is less important than it was previously. Full council always seems a rubber stamp job. Full council has become formulaic. Party system controls even more. Decisions seem to be made by a select few regardless. Full Council is now nothing more than a formality. Little or no involvement for opposition groups. It is less democratic, with members removed from the decision making process.

14. In its favour are:

Efficiency: The Council is now more business-like. Much less "grand-standing", and the advocacy has become much more focussed. Management of the Council appears to be more efficient and decisive. More management success though less democratic. The structure lends itself to offering an efficient decision-making process of Governance for both Councillors and the general public.

It could be improved: Dispense with current 'collective' approach to decision making by Cabinet members and give portfolio holders greater accountability and authority to make decisions in their areas of responsibility. Cabinet members should commission own working groups, strictly time limited and of short sharp duration

15. It is perhaps worth comparing these outcomes from the 2012 survey with the hopes and fears set out in the report to full Council in September 2010. It is

gratifying to note that there have been no new pros and cons identified. That aside, those who don't like the cabinet system still raise the same concerns.

Analysis

16. Underpinning all these arguments however it is officers' opinion that some Members perceive a disconnect between the executive and the ordinary Councillor. This has led to feelings of frustration that, outside the scrutiny and review functions, there is no structured engagement for back benchers in the formulation of policy etc. in the Constitution, and as a result inclusivity in the cabinet system appears to be far more reliant on the character of the individuals who comprise the executive than under the Committee system. Members' views on this assessment are invited.
17. If this analysis is right then Members should not expect that feelings of disengagement will be remedied by a simple change of governance. The opportunity to engage with and to challenge the executive – as well as to influence policy direction – is built in to the cabinet system and comes through the scrutiny and review process. It would be fair to say that these are not areas where Uttlesford is a strong performer, i.e. backbenchers who feel detached may not have fully risen to the challenge offered them.
18. It may be tempting to argue that the way the Council makes decisions has an impact on everything we do but there is a strong cultural element too. If Members feel politically disengaged under the cabinet system, then they are likely to feel that way under a committee structure as well. Members should not assume that being present when a formal decision is made means they have necessarily been able to influence it. Moreover, the Committee system does not mean that every member has the opportunity to influence every decision. Transparent, accountable, inclusive governance is as much about the attitudes, behaviours and values of councillors and officers as it is about the structures within which they operate.
19. Good governance therefore is not just about the internal workings of the council; it is also about the relationship between the Council, its elected members, partners and the public. Simply changing the constitution will not make the Council more democratic.
20. In short, it is most optimistic to think that good governance can be resolved by a discussion about the relative merits of cabinet and committee decision making.

Impact on Officers

21. Reversion to the Committee system will mean that the demands on officers will be very different. From an Officer viewpoint of the committee system gives officers much better exposure to members, and earlier in their careers. Portfolio holders present papers in the cabinet system, but in the committee system papers are presented by officers.
22. Junior officers will need to be able to present well, and be sufficiently politically aware to handle politically motivated questions. These are not skills which have been needed recently at junior level, and there would be a need for training and careful staff selection. The complexities of servicing a committee system will also require additional committee staff.

Conclusion and next steps

23. In conducting their deliberations Members ought to give consideration to improving the cabinet and overview/scrutiny system as well as reverting to committees. It may be, for example, that the impression of disengagement held by some backbenchers lies with the Council's approach to overview and scrutiny rather than with the system of governance.

The Working Group has four choices:

- a. To consider whether it wants to recommend a change back to the Committee System now, and if it does whether it should be traditional or streamlined
- b. To consider whether it want to recommend consideration of such a change to an incoming administration in May 2015
- c. To recommend changes to operation of the current cabinet system.
- d. To do nothing

24. Without doubt it is a matter for Members to decide on the form of governance which best suits them. Officers are of the view however that the cabinet system is relatively new for Uttlesford and is still bedding in.

25. In making any decision the Council, as previously, would need to engage a wide range of stakeholders in that decision-making process. Members will need to consider how this should be done.

26. The following background documents attached for information

- Appendix 1- Terms of reference.
- Appendix 2 – No of seats on committees and working groups 2010/11 and 2014/15.
- Appendix 3 – Extract from Scrutiny Members' attitude survey.
- Appendix 4 – Advantages and disadvantages of the Executive (extract from Council meeting 2010).
- Appendix 5 – Current council structure.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
The Council embarks on a change of governance which is reversed or altered by an incoming administration in 2015	1 – there is not enough time to change governance between now and the election	4 – reputational damage and procedural confusion	Follow due process

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.