Options for Governance arrangements

1   Introduction

1.1   This report summarises the work of the group to date and seeks instructions on the next steps. It sets out the various governance models available.

1.2   It is useful to look at the resolution of the Council establishing the working group. This reads:-

"RESOLVED:

That this Council believes that all Councillors should have the ability to participate fully in decision-making and that a range of governance options are available. This council believes that a cross party working group of all group leaders should be set up to consider the issues of moving to a committee system, or an alternative system, at the earliest opportunity reporting back to council." Council 25 September 2019 (minute 43.2).

2   Activity since the resolution

2.1   The cabinet (or executive of the Council) now consists of councillors of more than one party and an invitation has also been sent to the Labour Group to join the cabinet. The Group has decided not to take up the invitation. The executive is therefore cross – party. More information is given in appendix 1.

2.2   The governance working group has met on three occasions. Copies of the minutes of the various meetings are available within the mod.gov system. In response to the work of the Group changes have been made to the Overview and Scrutiny function to make it more effective. Appendix 1 sets out the progress against the 'Goals for change in Governance', produced by the Centre for Governance and Scrutiny, and approved by the working Group at the meeting held in February 2020.

2.3   At the last meeting of the working group it was agreed:-
"That a site visit/briefing be arranged for both Devon and Tewkesbury Councils."

2.4   However because of the present situation it has not been possible to arrange such a visit and it will probably not be possible in the short to medium term.

2.5   Given the above the working group needs to decide whether any further action is necessary or whether it is now in a position to report back to Council in accordance with the resolution.

2.6   In order for the group to consider what, if any other action is required, it is considered that it would be helpful to set out the various governance options available.

3   Governance Options

3.1   Below are the governance options which follow the executive model and the committee system.

3.2   Executive model

    a.   A leader-cabinet system with collective and individual cabinet member decision-making (as seen in most English authorities) is the standard approach which the majority of councils currently operate and which is the approached used in this council.

    b.   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.

    c.   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.*

    d.   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 leader 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.

    *A hybrid *system is legally a modified version of the leader/cabinet system hence it is included under the executive model heading*.

3.3   Committee model

    •   A traditional committee system which will have a relatively large number of service committees which will often align fairly closely with council 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.

    •   A streamlined committee system will consist of two or three service committees, which may or may not be supplemented by one or more overview and scrutiny committees.

3.4   The Centre for Governance and Scrutiny has provided a short comparative paper providing a snapshot and highlights key considerations on how business is managed and overseen in district councils operating a committee system of governance. This is their independent view and the document can be found at appendix 2.

3.5   The options available to the Council are relatively limited therefore, in addition it is important for councillors to understand key aspects of the models.

3.6 As councillors are aware under the committee model all the powers of the council are vested in the full council. The council decides how it will discharge the functions. It can discharge them:-

- By decision in full Council – these are the main decisions;
- By committees or sub – committees; or
- By officers.

3.7 Committees and sub – committees must be politically balanced.

3.8 In the executive model the powers of the council are divided into executive and non – executive functions. This is a distinction which does not appear in the committee system.

3.9 Major decisions, e.g. the budget, continue to be made by full council. Non – executive functions are vested in the full council and it decides how to discharge them as above.

3.10 Executive functions are vested in the leader of the council or the elected mayor. One of the main distinctions between the two is the method of election, a leader is a councillor chosen by the full council, and an elected mayor is elected directly by the electors of the district.

3.11 The leader / mayor must appoint a cabinet of not less two or more than 9 councillors one of whom must be a deputy.

3.12 It is up to the leader / mayor how the executive functions are discharged and he / she has the following options:-
- By the cabinet;
- By a committee of the cabinet;
- By an individual cabinet member; or
- By officers.

3.13 Except in the limited case of area committees, delegation of executive powers outside cabinet members or officers is not permitted.

3.14 The Council cannot instruct the leader / mayor in how to discharge the executive functions, including who to have on his / her cabinet, the number and functions of individual cabinet members – these are all decisions of the leader / cabinet. Ultimately if the Council is unhappy with a leader's actions the Council can dismiss him or her. An elected mayor cannot, of course, be removed by the Council.

3.15 Consequently the hybrid model, or a model with cabinet only collective decision making, depends on the decision of the leader. It is not something that can be made a permanent feature of decision making. As noted above it is essentially a variation of the executive model.

4 **Next Steps**

4.1   The legislation provides for the lawful governance models for Councils. It is for the members of the Council to decide by resolution in full Council whether they wish to change the Council's present model or continue with the leader / cabinet model. Both models can and are successfully used by different authorities but which is most suitable for a particular authority is probably more influenced by the makeup and history of that authority rather than the merits or otherwise of the models themselves.

4.2   It is difficult to assess whether there would be any financial implications in moving to another model until it is decided what any new model would look like in detail. In particular a model that leads to an increase in the overall number of meetings is likely to have resource implications.

4.3   Mindful of the Council's instructions the working group's views are now requested.   Specifically:-

- Is the Working Group in a position to make a recommendation to full Council; and
- If not what further work does the Group wish to be undertaken?

Background papers
The minutes of the working group can be found at the links shown below.

Minutes of the meeting held on 5 Nov 2019 11.00 am
Minutes of the meeting held on 25 Nov 2019 3.30 pm
Minutes of the meeting held on 27 Feb 2020 2.00 pm

Appendices
Appendix 1 – progress against the Goals for Change
Appendix 2 – committee system research