

## **REPORT OF THE LEADER OF THE COUNCIL**

### **CHANGE TO COUNCIL GOVERNANCE ARRANGEMENTS**

#### **Purpose of the Report**

1. To seek approval to develop proposals to change the Council's governance arrangements from a committee system of governance to the executive system (Leader and Cabinet model).
2. To authorise the Chief Executive to develop proposals for how a change to an executive system of governance could operate in practice and to allocate appropriate officer resources to undertake that work with appropriate budgetary provision. During this time the Council will develop detailed proposals to place before Council at a later date.
3. To approve a member working group to work with officers to develop plans for later consideration by Council.
4. To inform the public and partners as appropriate of the Council's intentions.

#### **Information and Advice**

##### **Background**

5. From the year 2000, all but very small councils were required by the Local Government Act 2000 to operate as a Leader and cabinet model, which the County Council did until May 2012. At that time, the Localism Act 2011 gave all local authorities the power to decide for themselves which governance model best suited their local circumstances. The Council adopted a Committee system in May 2012, as the most appropriate governance arrangement at the time, and has continued with this governance model to date. Further background about the different systems of governance and the legislative requirements is set out in the Appendix to the report.
6. Most dual hatted Councillors within Nottinghamshire (i.e. those who are councillors at both County and District/Borough Councils) will be very familiar with executive arrangements. Of the 7 Nottinghamshire District and Borough Councils, all but Broxtowe and Newark and Sherwood District Councils operate that system of governance, as does the City Council. Interestingly, Newark and Sherwood resolved to return to executive arrangements in May of this year and expect the new arrangements to take effect in May 2022.

7. When executive forms of governance were first introduced, they were seen as a more appropriate mechanism to deliver identifiable, accountable corporate leadership for a local authority and the community it serves, together with efficient, transparent, and accountable decision making. Nationally, evidence suggests that the vast majority of Councils believe that executive arrangements under the Leader and Cabinet model are the most effective for local government, as most councils choose this as their form of governance. As far as the Council is aware there are relatively few upper tier authorities operating the Committee system in two tier areas. Other than Nottinghamshire it is understood that only Cambridgeshire has a committee system, Norfolk County Council having moved to Executive arrangements in May 2019 when it moved to a Leader and Cabinet system.
8. Comments were made as part of the LGA Peer Review in 2019 about the operation of the Committee arrangements in Nottinghamshire, including the time taken to make decisions, a lack of agility in the Committee structure to effectively drive and manage the process of change, insufficient time given to debating and scrutinising issues, unnecessary duplication with reports going to multiple committees and lack of opportunities for effective overview and scrutiny.
9. All governance systems have relative merits and flaws. The important thing is to choose a system of governance which most effectively meets the needs of the Council, its functions, and the public whom it serves and is appropriate for the circumstances of the time. Since May, when the new administration was returned following the County elections, the Council has been reconsidering how it does business, with an emphasis on efficiency and effectiveness of decision making. This moment is an ideal time to consider the Council's system of governance to ensure that it will enable the Council to deliver its key priorities.

### **Rationale/case for change**

10. On 15 July 2021, the Prime Minister set out the Government's plan for a further round of devolution to local areas, as part of the Government's "levelling up" agenda. In his speech, the Prime Minister made reference to the Government's intention to "rewrite the (devolution) rule book with new deals for the counties". Also, on 15 July, the Secretary of State for Housing, Communities and Local Government, Robert Jenrick, wrote to all Local Authority Leaders and Chief Executives, saying that Government wants to "widen devolution beyond cities and provide strong local leadership for all of our places". The Secretary of State went on to say "counties, towns and villages are an essential part of the nation and should neither be excluded from the devolution enjoyed by many cities and suburbs, nor forced to wear a model which can seem ill-fitting".
11. In his letter of 15 July, the Secretary of State set out some key principles which will guide County Deals:
  - Strong local leadership, including models other than directly elected individual leaders. In the case of a County such as Nottinghamshire, from discussions with Civil Servants it is understood that powers would be devolved directly to the County Council, providing the test of "strong leadership" is met (see paragraph 12).
  - County devolution should operate on a sensible economic geography of a suitable scale and one based on local identity, bringing partners together and with powers

exercised at the right level to make a difference for local communities. Government will be looking to do county devolution, for example, with the county council and its nearby unitary, working with its districts as appropriate, or with the county council and its districts. In Nottinghamshire, civil servants advise the optimum configuration as the County Council, Nottingham City Council and our District and Borough Councils. As per the guiding principles, other configurations of Councils are available but early discussions (see paragraph 15) have erred towards the inclusion, if possible, of all councils.

- The nature and appropriateness of proposed governance structures will impact on the nature of the deal and the types of powers and flexibilities provided in the deal. Government will expect demonstrable improvements in governance, efficiency and local service join-up as part of the deal. In Nottinghamshire, we have our Economic Prosperity Committee (EPC), a formal joint committee established under local government legislation. The EPC brings all councils across Nottingham and Nottinghamshire together in pursuit of joint working. Initial discussions indicate the EPC is considered an appropriate vehicle for the partnership governance elements of a county deal, although it would be necessary to review its operating arrangements, subject to the eventual details of a deal. The current constitution for the EPC can be found here [EPC Constitution \(Revised Mar 2019\)](#)
  - Government expects deals to include significant reform proposals, including ways to achieve greater financial efficiency, administrative streamlining and/or more joined up services. This does not mean local government reorganisation is a prerequisite to participation. In Nottinghamshire, the EPC is considered an appropriate forum through which to drive and coordinate public service reform proposals, in areas such as waste and energy, housing, transport, use of the public estate, climate change, community safety and cohesion, and a programme of general efficiencies.
12. Since the publication of the Secretary of State's letter, there have been discussions with Civil Servants, so as to understand the details of county deals. Whilst the full details are likely to emerge in the weeks leading up to the publication of the Levelling Up White Paper, some clear guidance has been received in respect of the principles set out in paragraph 11 above, specifically in relation to the notion of "strong leadership" and "appropriate governance". In this regard, Civil Servants have made it clear that Government does not regard the County Council's current committee system as representing strong leadership and considers the leader and cabinet model to be a pre-requisite of the devolution of powers to a County Council. In essence, this means unless the Council changes its model of governance, it will be unable to negotiate a county deal under the terms of the emerging new model.
13. In other parts of the Country, devolution deals have brought significant new powers and resources. Most current devolution deals have a consistent core set of themes and priorities, built around the following powers:
- Economic development and regeneration powers
  - Transport powers
  - Finance powers
  - Planning and housing powers
  - Skills powers
  - Environment powers

- Health powers
- Culture powers
- Public safety powers

Whilst it is not yet known if all these powers are available (or desirable) in county deals, advice received so far is that they will not be available to a council operating the committee system.

14. In addition to powers, current devolution deals attract resources. For example, according to the Ministry of Housing Communities and Local Government (MHCLG), the devolution deal agreed with West Yorkshire in January 2021 will offer access to £1.1 billion investment into the region. Whilst it is not yet known if county deals will offer access to comparable investment, it seems clear they will not be available to councils with the committee system.
15. Locally, since the Secretary of State's letter, there have been meetings with all Nottingham and Nottinghamshire council leaders and chief executives, to begin discussions about a county deal. Agreement in principle has been reached on holding without prejudice discussions with Government officials and a meeting took place with civil servants on Tuesday 7 September, involving the Mayor of Mansfield, and the Leaders of Newark and Sherwood, Nottingham City and Nottinghamshire County Councils. At this meeting, Government officials reiterated they did not consider the County Council's committee system as representing strong leadership under the terms of the guiding principles for county deals.

### **Proposed approach and timelines**

16. As members will know, under a Committee system, with the exception of day to day operational matters and some specific delegations, decisions are made by Committees comprised of councillors from all political groups to reflect the political balance of the Council. Under executive arrangements following the Leader and Cabinet model, a leader is elected by the Council for a term determined by the Council itself. Under this model some types of decision must be taken by Council, other decisions are taken by the Cabinet or individual cabinet members. Officers are also authorised to take a range of decisions.
17. However, under executive arrangements there must be overview and scrutiny arrangements put in place to enable effective scrutiny of decisions made by the executive. In addition to the above, it is usual under executive arrangements for a number of Committees to remain to discharge duties which cannot be undertaken by the executive. These usually cover things like Planning and Licensing functions, Pension Fund decisions, Audit functions, Standards and Ethics functions.
18. A change in formal governance arrangements must occur at a specified "change time" which is at the Council's annual meeting. Prior to the change time, the Council needs to have resolved formally to make the governance change and as soon as practicable after that resolution it must publish a notice and make documents available for inspection by the public which set out how the change will be brought into effect.
19. The documentation required will be detailed and will effectively need to set out the revisions to the Council's Constitution which would bring the new system of governance into effect. There are many detailed provisions requiring careful consideration with regard to how the executive arrangements may work and to ensure adequate provision for overview and scrutiny. These will result in the need for substantial work in reviewing and changing the

Council's Constitution and procedures and would depend on how the Council wanted to configure any new governance arrangements.

20. Issues requiring review within the Constitution would include such things as:
  - a. Responsibility for Functions – this would need to show clear distinctions between those matters which are executive functions and those which must be undertaken by Council or Committees such as for audit and planning/licensing, pensions etc.
  - b. Procedure rules for meetings of the executive and any sub-committees of the executive, and overview and scrutiny Committees.
  - c. Scheme of delegation for officers which will need changes to reflect the nature and scope of the executive arrangements.
  - d. Financial Regulations to link financial decision making to the executive where appropriate, whilst reserving budget setting to the Council.
  - e. A thorough review of all other aspects to ensure all cross referencing and detailed provisions are both legally compliant and reflect the desired governance model.
  - f. A risk and issues log to ensure that any risks/issues are captured, managed, and mitigated.
  
21. In order to develop proposals for consideration, a dedicated officer project team will be established which will comprise the following core members:
  - a. Monitoring Officer (Project Sponsor and Lead)
  - b. Group Manager, Legal, Democratic and Information Governance (Lead advice and drafting)
  - c. Advanced Democratic Services Officer (for detailed changes to the Constitution)
  - d. Senior Solicitor (Governance)
  - e. Project Manager
  - f. Finance Officer (Financial Regulations and scheme of delegation)

Further input will be provided by the Team Manager Democratic Services and other members of Democratic and Legal Services as necessary. As they develop, proposals will be shared with senior officers to ensure relevant issues affecting their service areas have been considered and addressed.

22. The project team, led by the Monitoring Officer, will work with members to understand the preferred approach, and begin detailed work on the design and development of all necessary documentation to effect a change of governance. Good practice recommends that a cross party member working group consider proposals once developed with the aim of achieving a broad consensus as to the way forward. It is recommended that this work be led by the Chair of Governance and Ethics Committee working through a cross party Governance Review Group.
  
23. Governance changes would also require training and development for both members and officers involved in the decision-making process to ensure understanding of and compliance with the relevant legal requirements as well as embedding cultural change in respect of the revised approach. This will need to be developed and delivered in parallel

with the new form of governance in order to ensure the revised model can be implemented directly after the changes have been agreed.

24. In order to ensure that both the public and other partners and stakeholders are aware of the proposals, an article will be placed on the Council's website informing the public of the intention to move to the executive system of governance and providing a mechanism to submit comments. Letters will also be sent to each of the District and Borough Councils in the County, the City Council, and other partners such as Health and the Police to inform them.
25. Once detailed proposals have been developed, a future meeting of Council (likely to be March 2022) would then be able to consider them and any views submitted and vote on whether to change to the executive system of governance.
26. If Council resolves to make a change, the system would then come into effect at the Council's annual meeting in May 2022.

### **Other Options Considered**

27. A Mayor and Cabinet form of Executive is also available but that would involve significant costs of arranging elections to elect a Mayor and if required by the Secretary of State could involve the need for a referendum and would not appear to provide any additional benefits. The Council could decide that it wishes to retain the current model of governance but that would prevent the Council from accessing a County Devolution Deal and would not address the issues raised in the report.

### **Reason/s for Recommendation/s**

28. The principles for a county deal as set out by the Minister for Housing, Communities and Local Government and subsequent discussions with civil servants have clarified that the existing Committee system would not meet the Government's test of strong leadership. In order to meet this test and enable powers to be devolved directly to the County Council, the Council will require a strong form of executive governance such as a Leader and Cabinet model.
29. In addition, an executive system of governance would bring the County Council into line with all except one of the other councils across Nottinghamshire thereby creating greater consistency and ease of operation. It would also bring the Council more into line with the national picture for other upper tier authorities. The perceived benefits of the executive system are that it allows swifter and more decisive decision making, allocates clear lines of responsibility and accountability to identified lead members and collectively to an executive cabinet and that there are appropriate mechanisms to ensure transparency and to scrutinise decisions.

### **Statutory and Policy Implications**

30. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human

rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below.

### **Data Protection and Information Governance Implications**

31. None currently identified.

### **Financial Implications**

32. It is envisaged that some backfilling of roles within Legal and Democratic Services will be required to free up officer time to undertake the work required to explore and develop proposals for change within the identified timescales. Where possible, this will be met from existing Chief Executive Departmental budgets. Any additional costs beyond current Departmental budgets are estimated at a maximum of up to £100k which will be met from reserves if required. This will include backfill to release existing staff to focus on developing the new proposals, additional specialist input and external legal advice to provide external challenge and review as necessary.
33. At this stage it is not envisaged that any change to the system of governance would create additional governance costs for the arrangements once implemented and the proposal is to effect change which is broadly cost neutral.
34. If the Council's governance arrangements were to be changed then it would be necessary to review Councillors' remuneration once more against those new arrangements. This would involve appointing and convening a meeting of the Independent Remuneration Panel (IRP) whose role it is to make recommendations to the Council on proposed remuneration, for consideration by the Council.
35. The IRP would focus on how many roles were eligible for SRAs in the same way as they have done recently for the revised Committee structure introduced after the May 2021 elections. The number of roles which may be likely to attract SRAs would depend on the design of the Executive arrangements but is envisaged that the design of the arrangements would create a similar number of eligible roles to the current position and would work within the existing cost envelope.
36. In addition to powers, current devolution deals have attracted significant additional resources as illustrated in the body of the report. It is difficult to say at this point what scale of additional investment county deals will attract.

### **Human Resources Implications**

37. These are set out in paragraph 21 above and given the timescales and the current issues with the recruitment market it is envisaged these some of these roles and cover arrangements will be filled via agency/locum roles sourced via the Council's managed service arrangement with Reed recruitment. The longer-term implications of the proposed changes are not expected to alter the level of support required from colleagues in Democratic Services.

## **Public Sector Equality Duty implications**

38. At this stage it is not envisaged that changes to the Council's governance arrangements would have a disproportionate impact on any particular individuals or groups. Accessibility arrangements for information about Council decision making would be largely the same as under current arrangements albeit within the new governance framework.

## **Smarter Working Implications**

39. Council, Cabinet and Committee meetings would continue to be held in public and hybrid systems for broadcasting meetings could continue as appropriate under any system of governance.

## **Safeguarding of Children and Adults at Risk Implications**

40. None currently identified.

## **Implications for Service Users**

41. Any system of Council governance will continue to put the people the Council serves at its heart. The services which service users receive should be unaffected by any change in governance model that may be approved. Service users are more likely to benefit from swifter, clearer decision making with clear accountabilities.

## **Implications for Sustainability and the Environment**

42. None currently identified.

## **RECOMMENDATION/S**

- 1) That Council approves in principle the proposal to change the Council's governance arrangements from a committee system of governance to the executive system (Leader and Cabinet model) subject to the development of detailed proposals for consideration at a future Council meeting.
- 2) That the Chief Executive be authorised to develop proposals for how a change to an executive system of governance could operate in practice and to allocate appropriate officer resources and budgetary provision to undertake that work as set out in the report.
- 3) That a cross party member Governance Review Group be established to work with officers to develop detailed plans and proposals to place before Council for consideration at a later date with a view to implementation of any approved change at the Council's annual meeting in May 2022.
- 4) To inform the public and partners as appropriate of the Council's intentions by carrying out the public engagement as set out in the report.

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**Leader of the Council**

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### **Constitutional Comments (HD 9/9/21)**

43. Council has the authority to consider the recommendations set out in the report. The report sets out the broad legal requirements required for a change in governance arrangements, although at this stage the approval is to develop detailed proposals for later consideration. At the next stage, a formal resolution of the Council is required to effect a change in governance arrangements and such a report must be accompanied by relevant details regarding how the change would be brought into effect.
45. Appropriate engagement will take place by notifying the public and other stakeholders of the Council's intentions and inviting comments via the Council's website. Appropriate advice will be provided at each stage as the proposals are developed.

### **Financial Comments (NS 9/9/21)**

44. The report indicates that any additional costs above that which can be contained within existing budgets will be met from reserves.

### **HR Comments (GME 9/9/21)]**

45. The resources required for the dedicated officer project team will be met by existing employees initially with any required backfill sourced in accordance with agreed recruitment practices. There are no other HR implications arising from the contents of the report.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- City of Nottingham and Nottinghamshire Economic Prosperity Committee Constitution(published)

### **Electoral Division(s) and Member(s) Affected**

- All