

# EXTRAORDINARY MEETING OF THE COUNCIL

21 NOVEMBER 2018

## REPORT OF LEADER OF THE COUNCIL

### REVIEW OF GOVERNANCE ARRANGEMENTS

#### 1.0 PURPOSE OF REPORT

- 1.1 To consider and determine the Council's governance arrangements.
- 1.2 To consider implementation and necessary transitional arrangements to support a change in governance arrangements.
- 1.3 To consider updating and reviewing the constitution to meet the Council's aspirations.

#### 2.0 RECOMMENDATIONS

- 2.1 **To note and acknowledge the work undertaken by the Governance Development Group and accept the Governance Review recommendations as set out at Appendix A and in so doing to:**
  - 2.1a **Cease to operate the current 'Committee System' governance arrangements from the May 2019 Annual Council meeting.**
  - 2.1b **Change governance arrangements to 'Executive Arrangements' effective from the May 2019 Annual Council meeting in accordance with the provisions of the Localism Act 2011**
  - 2.1c **Adopt the Leader and Cabinet form of 'Executive Arrangements', effective from the May 2019 Annual Council meeting, in accordance with the provisions of the Localism Act 2011**
  - 2.1d **Approve the Action Plan as set out in Appendix C which sets out the Council's transitional arrangements in advance of the May 2019 Annual Council meeting.**
  - 2.1e **Delegate authority to the Chief Executive to approve the necessary structural changes to the Legal and Democratic Services structure so as to most effectively support the new governance arrangements including the use of the Corporate Priorities Reserve should this be necessary to meet any one off costs resulting from the associated staffing changes.**
- 2.2 **Approve the continuation of the 'Governance Development Group' to continue operating as an informal working group responsible for developing proposals regarding the required constitutional reform and the group be requested to make recommendations to the Governance Committee and Council in due course.**
- 2.3 **To ask the Leader of the Council to nominate up to 5 members to work with him and officers within the 'Governance Development Group'.**

## 2.4 **To convene an Independent Remuneration Panel to review and provide advice on the Council's Members' Allowance Scheme.**

## 3.0 **KEY ISSUES**

### 3.1 **Background**

- (a) Following the LGA Peer Challenge held in December 2017 a report and list of recommendations together with an Action Plan was accepted by Council on 22 February 2018. One of the recommendations was to improve the Council's governance and decision making arrangements.
- (b) The Local Government Association carried out a further review of this aspect between 12 and 14 March 2018, and the LGA report was considered by the Governance Committee at its meeting on 27 March 2018. At that meeting the Governance Committee supported the establishment of an informal member/officer group, subsequently named the 'Governance Development Group' and tasked it with bringing forward proposals to both strengthen and streamline the current committee structure whilst also providing a clearer route for policy development.
- (c) Following the feedback from the LGA Governance Review held in March 2018, and the subsequent work of the Governance Development Group, on 8 May 2018, Council approved the first phase of proposals which sought to streamline and improve the Council's governance arrangements.
- (d) At the same meeting, members also approved the continuation of the Governance Development Group and the second phase of the review to consider the merits of alternative governance models and report to the Governance Committee and subsequently the Council in due course.
- (e) The decision to consider alternative governance models was taken alongside the adoption of the Corporate Delivery Plan which sought to refresh the Council's priorities to better reflect the required focus in the coming years. A key priority of this Plan was "becoming a more agile and commercial council".
- (f) In establishing this priority the Council recently approved a Commercial Strategy which set out a statement of intent on how the Council will move from commercial ambition to delivery. Becoming more commercial is a key aspect of the Council's Budget Management Strategy and imperative to become more financially sustainable.
- (g) A key component of realising the Council's commercial and wider ambitions is to have quick and efficient decision making processes. Without the right governance arrangements in place to support members approved direction, the Council will be at risk of not being able to deliver against its stated objective and at a time when resources continue to be under considerable strain it is imperative that all processes are as streamlined and efficient as possible.

### 3.2 **Findings of the Governance Development Group**

- (a) Since May the Governance Development Group has met regularly and undertook extensive research and consultation on the principles of good

governance and potential decision-making structures. The Group concluded its review of alternative governance models in October 2018 and produced a report of their findings attached at Appendix A.

- (b) The Group concluded that the current Committee system does not provide the Council with the right structure to achieve our strategic vision and commercial aspirations. This conclusion was based upon a thorough assessment of the alternative governance options and consideration of how best to meet the following objectives:
- To ensure public accountability with clearly identified responsibilities for members
  - To increase engagement with stakeholders and the public in policy development and decisions that affect their area
  - To ensure that there is effective review and challenge of our decisions
  - To make quicker decisions when needed so as to fulfil our aspirations to be more agile and commercial.
- (c) The group concluded that the best way of improving decision making was to adopt the Leader and Cabinet model, whilst also taking measures to improve decision making processes, inclusiveness, and involvement of ward councillors. The conclusions were based not only on the finding that the Committee system is not the right model to achieve the Council's aspirations but also on the results of a public survey, stakeholder engagement and talking to a number of other Councils. The results of the public survey are attached as Appendix B.
- (d) Although there are legislative requirements which govern how the Council must carry out its functions within its chosen governance model, there is still some discretion within it which allows Councils to ensure that it is fit for purpose depending on the size and culture of the organisation.
- (e) If members decide to adopt a Leader and Cabinet model, a revised constitution will be drafted which reflects both legislative requirements and provisions which will be appropriate for Melton Borough Council's approach and aspirations. These will be the subject of further reports to Council over the coming months.
- (f) An Action Plan of proposed constitutional work to be undertaken prior to May 2019 is attached at Appendix C. The revised constitution would be based on the following proposals as to how it envisages the Council would operate the proposed governance model.

### **3.3 Leader and Cabinet**

- (a) The current policy committees (Place, People and Corporate) make decisions on policy matters within the Budget and Policy Framework approved by Council and these would be replaced by Cabinet who would undertake those same policy decisions within the Framework instead. This would ensure decisions are always taken in the context of all related issues rather than in a more fragmented way which is significantly more likely under a committee system. It would ensure members of Cabinet (and the Scrutiny Committee created concurrently and discussed later) have exposure to all policy decisions rather than only being involved in those policy decisions affecting the Committees they are members of.

- (b) The Council's Cabinet must consist of a Leader appointed by the Council. The size of the Cabinet would need to reflect the size of the organisation and consideration about how best to represent the various agendas being pursued by the Council. By legislation the Leader must appoint between 2 and 9 members on the Council's Cabinet. For Melton it is anticipated an appropriate number of members to form a Cabinet would be six or seven including the Leader and alignment will be sought between the portfolios and directorate structure to maximise efficiency and ensure effective working between members and officers. There would be no change to the appointment of the Mayor and Deputy Mayor; however these must not be a member of Cabinet. The Statutory/Regulatory Committee Chairs and Vice Chairs would not normally form part of Cabinet however the Chair and members of the Scrutiny Committee cannot be members of Cabinet. It should be noted that Cabinet will not need to be politically balanced.
- (c) Cabinet Procedure Rules will be drafted as part of the Action Plan and will be approved by Council. They will include provision for the Leader to determine the size of the Cabinet and portfolios for those members, and appoint a member of the Cabinet to be Deputy Leader. Further they will provide the rules for electing and removing a Leader.
- (d) It is proposed that there would be 10 Cabinet meetings in an annual calendar to ensure that formal decisions can be made in a timely manner, something which can sometimes be an issue under the current Committee system. Taken in conjunction with the proposed Scrutiny Committee meetings this would not result in any more meetings than are currently held under the Committee system.
- (e) It is proposed that there would be increased consultation with ward members about decisions which would significantly affect their wards to what is undertaken under the current Committee System. In addition, all members and the public could observe open Cabinet meetings and would be notified in advance of any planned key decisions through the Forward Plan.

### 3.4 Overview and Scrutiny Function

- (a) Effective scrutiny is a vital part of a Council's wider system of checks and balances and is essential to an effective democratic process. The Council is moving forward on key projects and will need to make important decisions on commercial opportunities in the coming years to ensure that the Council's ambitious agenda is delivered in a financially sustainable way. The adoption of a Leader and Cabinet model requires the establishment of a formal scrutiny function which will need to be strong and effective to support these decisions. It is appropriate that significant decisions are fully considered and competing viewpoints heard. If significant decisions are made without the necessary checks and balances the council could fail to identify the best course of action and be vulnerable to challenges and a perception from the public that it does not have the mechanisms in place to challenge decision makers.
- (b) The Leader and Cabinet model is designed to have robust and effective scrutiny at its heart. If members move towards a change in governance arrangements, it is proposed that one Scrutiny Committee would be established which would allow members of that committee to focus on

important issues across the whole remit of the council, contribute to budget preparation and hold decision makers to account. It would allow scrutiny committee members to have the opportunity to contribute to and have oversight of all policy decisions rather than only those decisions within the remit of the Committees they are members of. The Committee would be politically balanced.

- (c) Scrutiny Procedure Rules will be drafted as part of the Action Plan and will be approved by Council. They will include provision for the Scrutiny Committee to review or scrutinise decisions or actions taken by Cabinet, provide reports on Cabinet functions, non Cabinet functions and on matters which affect the Melton borough or inhabitants of it. Furthermore they will include the ability to 'call in' and review decisions which have been taken but not yet implemented and they will have the ability to appoint sub committees/ task and finish groups to focus on specific topics or corporate agendas.

### **3.5 Statutory/ Regulatory Committees and existing advisory groups**

- (a) Existing Statutory/Regulatory Committees and the existing advisory groups (Joint Staff Working Group and Planning Policy Task Group) would remain established in the same format as they are in the current model of governance although terms of reference will be further reviewed and any revisions submitted for consideration and approval by Council.

### **3.6 Constitutional Reform**

- (a) A change in governance would necessitate a rewrite of much of the constitution. It is proposed that the established Governance Development Group will report regularly to the Governance Committee on progress.
- (b) A move to Cabinet decision-making would involve a shift in the way that major financial decisions are developed and agreed by officers and members. Financial Procedure Rules would therefore be rewritten and agreed by Council.
- (c) Although a change to the Leader and Cabinet model would support the Council's Commercial Strategy, a revised Schemes of Delegation would also be essential for delivery of the Councils aspirations and to meet the objectives of the governance review for more timely and commercial decision making.
- (d) One of the significant benefits of adopting a Leader and Cabinet model is that it enables decisions to be delegated to councillors; something which is not possible under the committee system; where only officers (albeit sometimes in consultation with elected members) are empowered to make decisions outside of a formal meeting. There is a risk that this creates the perception of a Council being 'officer-led' and therefore the adoption of Leader and Cabinet model and an associated Executive Scheme of Delegation would enable members of the Cabinet to take decisions outside of the formal meeting structures where appropriate. These decisions would still be subject to the same requirements for transparency, publication and scrutiny through the 'call in' process. The Executive Scheme of Delegation would be published to ensure transparency and clarity for all members of the Council, members of the public and officers in respect of the discharge of Cabinet functions. This would be accompanied by "key decision" thresholds which would be

determined by Council.

- (e) Members have also identified that the constitution is unnecessarily large and that it needs to be reviewed and updated in light of the Council's renewed ambitions. Updating and streamlining the constitution will therefore be carried out in the coming months.

### 3.7 **Member Allowances**

- (a) An Independent Remuneration Panel (IRP) will need to review any change in governance arrangements and make proposals for changes to Special Responsibility Allowances. Although it is a matter for the IRP to propose any changes in Special Responsibility Allowances to Council, initial benchmarking has been undertaken with Leicestershire Councils already operating Leader and Cabinet arrangements and it is unlikely that there will be significant changes in allowances.

### 3.8 **Expected Timescale for implementation of a change in governance arrangements**

- (a) Should members support the option to operate a Leader and Cabinet system of governance, the following implementation timetable would apply:

<b>Date</b>	<b>Action</b>
26 <sup>th</sup> November 2019	Public notified of the change by public notice
5 <sup>th</sup> February 2019- Governance Committee	Update on constitutional reform
27 <sup>th</sup> February 2019- Council	Report on draft constitution to take effect from the Annual Council Meeting
26 <sup>th</sup> March 2019- Governance Committee	Update on constitutional reform
17 <sup>th</sup> April 2019- Council	Report on draft constitution to take effect from the Annual Council Meeting
16 <sup>th</sup> May 2019- Annual Council Meeting	New governance arrangements would commence

### 4.0 **POLICY AND CORPORATE IMPLICATIONS**

- 4.1 Ensuring effective governance is a key component to making the best use of resources and ensuring the effective delivery against the Council's Corporate vision and objectives. The Council's Corporate Delivery Plan includes a specific commitment to become a "more agile and commercial council."

### 5.0 **FINANCIAL AND OTHER RESOURCE IMPLICATIONS**

- 5.1 The decision will have financial implications associated with the resource that officers will need to put in place to manage the formal transition to a new governance option. This will be met from within existing resources but could have implications for the delivery of other projects which will be managed.
- 5.2 The proposed governance arrangements will require a Scrutiny Officer post to be created and recruited to. Until such time as a job description and job evaluation process is completed the actual costs of the role will not be known. It is

anticipated that the majority of any costs associated with creating this role will be re-directed from existing resources. It is however likely that there will be a small budget growth requirement (c £15k) submitted as part of the budget proposals for 2019/20 to accommodate required governance improvements. It should be noted that it is likely the council would still need to incur some costs in this area even if it did not proceed with the proposed new governance framework as the absence of effective scrutiny of decisions is an issue for the council to address irrespective of which governance approach is adopted. The necessary staffing changes could result in one off costs which if not able to be covered from existing budgets would need to be met from the Corporate Priorities Reserve.

5.3 The proposed governance arrangements will not result in any additional formal meetings and therefore it is unlikely that there will be any additional cost in administering it. There will however be efficiency gains in improved productivity, more effective use of officer time and ability to make more timely decisions.

5.4 It is not known what the financial implications of the review of members allowances will be however as mentioned earlier in the report it is considered unlikely that this result in an increase in the overall base budget.

## 6.0 LEGAL IMPLICATIONS/POWERS

6.1 (a) The Local Government Act 2000 put in place provision for the establishment of so called “executive arrangements” for the operation of the majority of local authorities in England and Wales.

(b) The 2000 Act required most councils to move from the committee system of governance, then universally used in local government, to one of three new governance options – the “Leader and Cabinet” option, the “Mayor and Cabinet” option, and the “Mayor and council manager option” (the third of which was removed by subsequent legislation).

(c) Following the introduction of executive arrangements, only district councils such as Melton Borough Council with a population of less than 85,000 were given the option to retain the committee system method of decision making. The Council chose to retain the committee system.

(d) The Localism Act 2011 introduced new legislation making it easier for local authorities in England to change their governance arrangements.

(e) A local authority may change its governance arrangements to a different type however a resolution of the Council is required before a local authority is able to do so. A notice must also be published informing the public:

- That the local authority has resolved to change its governance arrangements.
- The date that it intends to change the governance arrangements.
- What the main features of the change will be.
- Where copies of any documents detailing the changes can be found, this should be at the local authority’s principal office and the address of its principal office should be provided.

(f) The relevant legislation details the timeframe in which the governance changes must be made. This is called the ‘relevant change time’. A change in

formal governance arrangements must occur at a specified 'change time,' which is at the Council's Annual Meeting (May 2019). Prior to the change time, the Council needs to have resolved formally to make a governance change. There is no minimum period of time between resolution and the change time.

(g) Once a local authority has passed a resolution to change its governance arrangements then it is prevented from doing so again for the next five years (unless a second resolution is approved following a referendum). However, this does not prevent the Council from reviewing and make further changes as necessary to its governance arrangements, such as a reconsideration of committee structures and delegations.

(h) The IRP will be convened under The Local Authorities (Members' Allowances) (England) Regulations 2003 (SI 1021) (the 2003 Regulations). These regulations, arising out of the relevant provisions in the Local Government Act 2000, require all local authorities to maintain an IRP to review and provide advice on the Councils' Members' Allowance Scheme. All Councils are required to convene their Independent Remuneration Panel and seek its advice before they make any changes or amendments to their allowances scheme and they must 'pay regard' to the Panel's recommendations before setting a new or amended Members' Allowances Scheme. Council retain powers of determination regarding Members' allowances.

## 7.0 COMMUNITY SAFETY

7.1 The Local Government Act 2000 includes crime and disorder scrutiny as one of the functions the council must ensure its scrutiny arrangements cover. The specifics of the duty are set out in the Police and Justice Act 2006. The proposed Scrutiny Committee would carry out the functions of reviewing and scrutinising decisions and actions in respect of the discharge of crime and disorder functions.

## 8.0 EQUALITIES

8.1 An Equality Impact Assessment has been completed.

## 9.0 RISKS

9.1

<b>L I K E L I H O O D</b>	<b>A</b>	<b>Very High</b>				
	<b>B</b>	<b>High</b>				
	<b>C</b>	<b>Significant</b>				
	<b>D</b>	<b>Low</b>		2	1	
	<b>E</b>	<b>Very Low</b>				
	<b>F</b>	<b>Almost Impossible</b>				



		<b>Negligible 1</b>	<b>Marginal 2</b>	<b>Critical 3</b>	<b>Catastrophic 4</b>

### IMPACT

9.2	Risk No	Risk Description
	<b>1</b>	The Council has made a commitment to become more agile and commercial. Retaining the current committee system will make this more challenging and inhibit the council's ability to achieve these ambitions.
	<b>2</b>	Changing to a new governance arrangement will require a period of adjustment and training for existing councillors and officers. There is a risk of uncertainty during this time. This will be mitigated through a comprehensive support package provided by the council's Democratic Services team

### 10.0 CLIMATE CHANGE

10.1 There are no direct climate change implications

### 11.0 CONSULTATION

11.1 All members have been invited to briefings on alternative governance models and the legislative requirements of the Leader and Cabinet model to ensure that they understand the impact of governance changes and its potential effect on decision making with the Council.

### 12.0 WARDS AFFECTED

12.1 All wards are indirectly affected by this report.

Contact Officer: Adele Wylie  
Date: November 2018  
Appendices: Appendix A : Review of Governance Arrangements by Governance Development Group  
Appendix B : Results of public survey  
Appendix C : Action Plan  
Background Papers: Peer Challenge Review – December 2017,  
LGA Governance Review – March 2018  
Extraordinary Council decisions – 8 May 2018  
Reference : X : Committees – Full Council – 2018 19 – 21-11-2018- Governance Review Update