

ARUN DISTRICT COUNCIL

REPORT TO THE FULL COUNCIL MEETING ON 18 SEPTEMBER 2019

SUBJECT: Review of Governance Arrangements

REPORT AUTHOR: Nigel Lynn, Chief Executive

DATE: August 2019

EXTN: 01903 737601

EXECUTIVE SUMMARY:

The report is being submitted at the request of the Cabinet Member for Corporate Support, Councillor Francis Oppler. It seeks the Council's views on conducting a review of governance arrangements moving from the current Cabinet arrangement to a Committee style structure. The report highlights the scope for a review process and how this could be taken forward.

RECOMMENDATIONS:

It is recommended that the Council:

- (1) Agrees to a review of governance arrangements being conducted;
- (2) Subject to agreement to (1), establishes a Governance Working Party to undertake this review based on the following terms:

Terms of reference	(i) To conduct a review of the Council's governance arrangements exploring the advantages and disadvantages of moving to a Committee system. (ii) The review to work to the Local Government Association and Centre for Public Scrutiny's guidance "Rethinking governance – practical steps for councils considering changes to their governance arrangements" and to take account of experience in other district and borough local authorities.
Size of the Working Party	11 Members with seats allocated based on the political balance of the Council as follows: <ul style="list-style-type: none">• Liberal Democrats x 4• Conservatives x 4• Independents x 1• Green x 1• Labour x 0• Other Independents x 1
Nominations to the seats	To be made by the relevant Group Leader and confirmed at the Council meeting on 18 September 2019

Vacancies to seats	To be for the relevant Group Leader to fill the vacant seat and report this for information to the next Council meeting
Timescale for the work to be undertaken	To consult with the Audit and Governance Committee before Full Council and by 15 January 2020 To report back to Full Council on proposals to: (i) Agree the formal resolution for any change to governance arrangements; and (ii) Instruct officers to take forward the work to re-design rules and procedures

(3) Requests a report back from the Working Party to its next meeting.

1.0 BACKGROUND

- 1.1 The current governance arrangement of a Leader and Cabinet was introduced by the Council in May 2001 in response to the requirements of the Local Government Act 2000. Prior to then a Committee style structure had been in existence.
- 1.2 The Localism Act 2011 expanded the number of decision-making systems that councils could adopt from the previous arrangements determined by the Local Government Act 2000. These provisions include allowing councils to make most decisions in Committees, which are made up of a mix of Councillors from all political parties. These arrangements can include having one or more Overview and Scrutiny Committees, however, this is not a legal requirement.
- 1.3 The Leader of the Council, Councillor James Walsh announced in his acceptance speech at the Annual Council meeting on 22 May 2019 that it was the intention of the Liberal Democrat Group to disband the existing Cabinet system and return to a Committee system where all Members would be involved in decision making. The Cabinet Member for Corporate Support, Councillor Francis Oppler, will lead in taking forward this proposal, and the first stage is to seek the support of the Council to a review.

2.0 SCOPE OF A REVIEW PROCESS

- 2.1 The review needs to work within the provisions of the Localism Act 2011 set out at Schedule 2, Part 1A, paragraph 9B. These confirm that a local authority in England must operate one of the following permitted forms of governance:
- a) Executive Arrangements (a Cabinet style);
 - b) A Committee system; or
 - c) Prescribed arrangements
- 2.2 An Executive Arrangement must either be based on an:
- a) Elected Mayor and Cabinet; or
 - b) An Executive Leader and Cabinet.

The Executive Leader and Cabinet is the status quo for the Council.

- 2.3 A Committee system would be based on a model of executive decision-making by service Committees on which all political groups would be represented based on the political balance of the Council. This would end the current separation between executive and non-executive functions made under the Local Government Act 2000. In adopting this form of governance, the Council would no longer be under a statutory duty to establish one or more Overview and Scrutiny Committees to scrutinise its executive, however, it could still retain this function to scrutinise its alternative governance arrangements.
- 2.4 'Prescribed arrangements' involve agreeing a form of governance arrangements with the Secretary of State. The conditions to be met include demonstrating that:
- (i) the proposed arrangements would be an improvement on current arrangements;
 - (ii) the operation of the new structure would be likely to ensure that the decisions of the authority are taken in an efficient, transparent and accountable way; and
 - (iii) the arrangements would be appropriate for all local authorities, or for any particular description of local authority, to consider.
- 2.5 A change of governance arrangements would require the following steps:
- (i) a resolution of Full Council, by a simple majority, confirming what the new arrangements will look like and when they will be introduced;
 - (ii) a public notice advertising the decision to change the authority's governance arrangements.
- 2.6 There is no requirement to consult formally on the resolution, or to consider any responses received from the public notice, although officers propose internal consultation with the Audit and Governance Committee prior to the Full Council report.
- 2.7 Any decision taken through this process cannot be changed for five years, unless the change is triggered by a referendum following a public petition.
- 2.8 Once the Council has passed the necessary resolution, the new form of governance would start from the first Annual Meeting to be held after the resolution has been passed (unless the resolution specifies a later Annual Meeting). It cannot start during a municipal year (2019/20).

3.0 PROPOSED WAY FORWARD

- 3.1 The Council's Constitution confirms at Article 4, paragraph 2(m) that the Full Council is responsible for the exercise of any function relating to changing governance arrangements. It is therefore for the Council to decide how it wishes to take forward a governance review.
- 3.2 The Cabinet Member for Corporate Support has proposed that a Working Party is established for this specific task in accordance with Rule 7.0 at Part 3 - Responsibility for Functions. It is therefore proposed that a Governance Working Party is established on the following terms:

Terms of reference	<p>(i) To conduct a review of the Council's governance arrangements exploring the advantages and disadvantages of moving to a Committee system.</p> <p>(ii) The review to work to the Local Government Association and Centre for Public Scrutiny's guidance "Rethinking governance – practical steps for councils considering changes to their governance arrangements" and to take account of experience in other district and borough local authorities.</p>
Size of the Working Party	<p>11 Members with seats allocated based on the political balance of the Council as follows:</p> <ul style="list-style-type: none"> • Liberal Democrats x 4 • Conservatives x 4 • Independents x 1 • Green x 1 • Labour x 0 • Other Independents x 1
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Vacancies to seats	To be for the relevant Group Leader to fill the vacant seat and report this for information to the next Council meeting
Timescale for the work to be undertaken	<p>To consult with Audit and Governance before Full Council and by 15 January 2020</p> <p>To report back to Full Council on proposals to:</p> <p>(iii) Agree the formal resolution for any change to governance arrangements; and</p> <p>(iv) Instruct officers to take forward the work to re-design rules and procedures</p>

3.3 If established the Working Party can then:

- a) review these terms of reference at its first meeting and recommend any change back to Full Council;
- b) consult with the Audit and Governance Committee
- c) make any recommendations to Full Council based on the terms of reference – it would have no decision-making authority; and
- d) meet in private unless it agrees that it will work to the Meeting Procedure Rules at Part 5 of the Council's Constitution

3.4 If the Council makes the formal resolution for a change to governance arrangements in January 2020, then the following actions would still be required:

- (i) a public notice must be published, based on statutory requirements;
- (ii) Full Council on 18 March 2020 will need to review any public reaction to the resolution and notice;
- (iii) The Audit & Governance Committee will need to commission a review of the Members Allowances Scheme by the Independent Remuneration Panel so this can be reported back to a Council Meeting in April 2020; and

(iv) the Constitution Working Party will need to review the required changes to the Constitution and make recommendations for change to a Council Meeting in April 2020.

3.5 The effective date for any new governance arrangements would then be the Annual Council Meeting on 20 May 2020.

4.0 OPTIONS:

1. To support the recommendations as presented.
2. To not support the recommendation to conduct a review of governance arrangements.
3. To propose alternative arrangements for taking forward the review.

4.0 CONSULTATION:

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		✓
Relevant District Ward Councillors		✓
Other groups/persons (please specify) <ul style="list-style-type: none"> • Deputy Leader and Cabinet Member for Corporate Support • Group Leaders have all agreed that the review will form a target for this administration (assuming Full Council supports on 13 November 2019). 	✓	
5.0 ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail below)	YES	NO
Financial	✓	
Legal	✓	
Human Rights/Equality Impact Assessment		✓
Community Safety including Section 17 of Crime & Disorder Act		✓
Sustainability		✓
Asset Management/Property/Land		✓
Technology		✓
Other (please explain)		✓

6.0 IMPLICATIONS:

6.1 There is considerable work involved with a review of this nature and a short timescale to complete this in based on the proposal that a new Committee system is introduced from May 2020.

6.2 There are currently limited resources within the Group Head of Council Advice and Group Head of Policy's teams to provide dedicated support to this review – both for research in the exploratory phase and in delivering the outcomes of the review, including a re-write of the Constitution.

- 6.3 The Council either needs to accept that resources will be identified as priorities allow, which could impact on the delivery date; or decide to allocate funding to procure specialist support. No action has been taken to review the potential costs for this until the Council determines that it wishes this review to proceed.
- 6.4 Subject to finances being available (through the Council's Strategic Targets report to Full Council on 13 November 2019) consultancy support will be sought from the Local Government Association to assist officers with this work.

7.0 REASON FOR THE DECISION:

To respond to the request of the Cabinet Member for Corporate Support.

8.0 BACKGROUND PAPERS:

Localism Act 2011, Schedule 2

<http://www.legislation.gov.uk/ukpga/2011/20/schedule/2/enacted>

Local Government Association and Centre for Public Scrutiny guidance

<https://www.cfps.org.uk/wp-content/uploads/Rethinking-Governance.pdf>