

Report sponsor: Strategic Director of Corporate Resources
Report author: Acting Head of Democracy

Review of Derby City Council Governance System

Purpose

- 1.1 In May 2018, Council agreed to establish a Committee System Working Group tasked with 'reviewing and considering proposals' relating to the Council's governance arrangements, with representation from all political groups and relevant officers.

The outcome of that work was presented on 27 February 2019, when Council resolved to authorise the Strategic Director of Corporate Resources to develop a committee system of governance based on seven working principles.

- 1.2 Following the recommendation from the cross-party Committee System Working Group, Council approved the following working principles as a basis for the development of a committee system:
- achieve greater councillor engagement in decision-making;
 - no increase in the number of meetings;
 - no increase in costs;
 - avoid unnecessary delays in decision-making so that any change is at least comparable to the Leader and Cabinet model;
 - including call-in within the functions of the new committee structure;
 - to allow all councillors to put items on the agenda of committees;
 - fit for purpose officer delegation scheme, with councillor involvement only in significant officer decisions.
- 1.3 Since May 2018, officers have undertaken a review of the working principles against meetings and decision data collected throughout the 2018/19 municipal year to develop a draft committee structure and determine the organisational capacity required to support a committee system of governance.
- 1.4 The Committee System Working Group has been provided with updates on the work undertaken to date. These update reports are provided at Appendix 1 and 2, and have been used to form the basis of the recommendations contained in this report.

Recommendation

- 2.1 To note that it has not been possible to develop a committee system of governance that meets all of the seven working principles.

- 2.2 Given recommendation 2.1, to recommend that no further steps are taken to implement a committee system of governance, for the reasons set out in paragraph 3.2 and 3.3.

Reasons

- 3.1 This report does not seek to re-examine the relative merits of either a committee system or the existing Leader and Cabinet model of governance. These matters were previously explored by the Working Group, and Council has delegated to officers the task of developing a workable committee system, within the framework of the working principles. However, work to date has concluded that it is not currently possible to develop a committee system that meets the working principles.
- 3.2 A successful committee system model could be adopted in Derby; there are numerous examples of other local authorities that have done so in recent years. However, the analysis contained at Appendix 1 and 2 indicates that it is not possible to implement such a model within the constraints established by the working principles.

On the basis of the evidence collated, it is felt that the working principles are mutually incompatible and do not provide officers with sufficient scope to develop a workable model.

- 3.3 The next stages in the development of a committee system would be to draft a revised Council Constitution; request that the Independent Remuneration Panel prepare a scheme of allowances and to conduct a public consultation exercise. It is not considered an efficient use of resources to undertake these significant pieces of work without a resolution confirming that the Council wishes to move to a committee system.

Given that the proposed model does not meet the Working Principles, it is therefore recommended that no further work is undertaken on the development of a committee system.

Supporting information

4.1 Methodology

A proposed committee model was developed in Summer 2019, from which it was possible to determine the decision-making capacity necessary to effectively operate a committee system, based on the working principles.

- 4.2 This exercise included mapping all executive business considered by Council Cabinet and individual Council Cabinet Members during the 2018/19 municipal year to the proposed committee model. This allowed an analysis of the volume and frequency of meetings which would be required and a subsequent assessment of resourcing requirements. This information was presented to the Committee System Working Group in October 2019 and is available in Appendix 1.
- 4.3 At this meeting, members of the Working Group requested that a benchmarking exercise was carried out to examine practice at other unitary or upper-tier authorities

operating a committee system, in particular in relation to the level of special responsibility allowances typically payable to councillors under a committee system. This information is provided at Appendix 2.

- 4.4 A summary of progress to date against each working principle is provided at 4.5 to 4.33.

4.5 **Working Principle 1: Achieve greater councillor engagement in decision making**

A Committee System by its very nature involves a greater level of direct councillor involvement in decision making in comparison to the Leader and Cabinet model.

Whereas under current arrangements executive decision making is confined to eight members of the Council Cabinet, under the proposed committee model attached at Appendix 3 these decisions would be distributed across at least eight service committees and sub-committees, where the majority of councillors could expect to be represented.

- 4.6 However, in order to manage the volume of decisions and frequency of meetings, the Working Group has suggested altering the threshold for officer decisions so that matters currently reserved to individual Cabinet Members are delegated to officers (£100k-£250k), with chairs able to request that these decisions are brought before committees on an exception basis.

Whilst this offers a pragmatic solution to avoiding unnecessary delays under a committee system (Working Principle 4), altering the threshold at which councillors become involved with decision making is not consistent with Working Principle 1.

- 4.7 The analysis contained in Appendix 1 also highlights the potential for greater use of urgency provisions under a Committee System.

Research shows that a variety of practice exists for managing urgent decision making under a committee system (see Appendix 2), however they all result in the concentration of decision making in a relatively smaller pool of Committee Chairs, Group Leaders or Senior Officers. This may not be consistent with Working Principle 1.

The specific nature of any urgency mechanism has yet to be determined and would form part of work to develop a revised set of Committee Procedure Rules, if Council was to recommend the continued development of a committee system.

- 4.8 Notwithstanding paragraphs 4.6 and 4.7, on balance it is likely that the Committee System presented at Appendix 3 would achieve greater councillor engagement in decision making and is therefore consistent with Working Principle 1.

4.9 **Working Principle 2: No increase in the number of meetings**

The analysis included in Appendix 1 demonstrates a broadly comparable number of meetings under existing executive arrangements compared to the proposed committee model (see Appendix 1, Tables 3 and 4):

- total number of meetings under current Leader and Cabinet model (2018/19):

- estimated meetings under proposed committee system: 113

Following the removal of the additional Overview and Scrutiny Committee at the suggestion of the Working Group, the estimated number of meetings under the proposed committee system would fall to 107.

- 4.10 It should however be noted that the analysis in Appendix 1 of the cumulative time taken to make and scrutinise executive decisions under the Leader and Cabinet model suggests that the duration of meetings would increase under a committee system, therefore significantly increasing the amount of officer and councillors time spent in meetings.
- 4.11 Whereas under the current Leader and Cabinet model decisions with a financial impact of between £100k and £250k are taken at individual Cabinet Member meetings, these decisions would be taken by a service committee and would therefore likely generate a greater level of scrutiny from councillors.

The Working Group has indicated that these decisions could be delegated to officers in an effort to limit the frequency of meetings; however, this may not be consistent with Working Principle 1 (see 4.6).

- 4.12 To achieve a comparable level of scrutiny of decision-making to the existing model, Appendix 1 estimates that each decision should be afforded approximately 50 minutes of committee time. This in turn limits the committee to a maximum of four key items of business per meeting to stay within the current four hour limit on meetings included in the Committee Procedure Rules.
- 4.13 The inclusion of Working Principle 6, allowing all councillors to place items on the agenda of any committee may also lead to an unquantifiable increase to the volume of committee business, which consequentially may lead to an increase in the number of meetings.
- 4.14 However, based on the evidence currently available, it is estimated that the committee system presented at Appendix 3 would not lead to an increase in the number of meetings and is therefore broadly consistent with Working Principle 2.
- 4.15 **Working Principle 3: No increase in costs**

Appendix 1 provides an assessment of both the direct and indirect costs likely to be associated with the implementation of a committee system. Appendix 2 considers these issues in the context of practice at other authorities operating a committee system.

- 4.16 *Direct officer support to Committees*

Appendix 1 and 2 provides an analysis of the additional level of direct officer support required to operate a Committee System and considers a number of complexities in relation to identifying the additional staffing resource that may be necessary.

In summary, in order to create the capacity for the appropriate level of advice to be provided at decision-making committees and to support the more complex

constitutional and administrative requirements of a Committee System, it is estimated that the following additional posts are required:

- X1 FTE Democratic Services Officer (£38,744 including on-costs)
- X1 FTE Lawyer (£54,207 including on-costs)
- X1 FTE Accountancy Officer (£34,289 including on-costs)

- 4.7 A benchmarking exercise conducted at the request of the Working Group (see Appendix 2) revealed no consistent practice in terms of support from Finance and Legal officers at authorities operating a committee system.

It is therefore a matter for local agreement as to the appropriate level of support required to support a change in governance system; it is for statutory officers and councillors to determine the level of support necessary to ensure the Council makes legally and financially robust decisions. It is the view of the Monitoring Officer and the S151 Officer that, at least in the initial years of operating a committee system model, it would be necessary for suitably qualified and experienced Legal and Finance Officers to be in attendance at committee meetings, to advise on the legality, risk and financial implications of amendments and proposals raised by committee members.

4.18 *Indirect officer support to Committees*

Appendix 1 details a number of considerations in relation to the indirect support and organisational capacity required to operate a Committee System. This includes an unquantifiable opportunity cost of additional officer time spent in committee meetings and in the preparation of reports to service committees with decision making powers.

Whilst it is not possible to quantify the true impact of these considerations, it is essential that they are taken into account when determining whether a committee system is appropriate for the Council in its current circumstances.

4.19 *Councillors' Allowances*

In the original analysis included at Appendix 1, Councillors' Allowances were identified as an area where savings could be achieved to counteract the cost of any additional staffing resource required to operate a committee system.

At the request of the Working Group, a benchmarking exercise was carried out examining the level of allowances payable at other unitary and upper-tier authorities operating a committee system. This exercise revealed that the sum-total of allowances payable under a committee system had been significantly underestimated in the initial update report.

When the average level of allowance was applied to the draft committee structure, it suggested that the net total of allowances payable under the proposed committee system would be fractionally more than under the existing Leader and Cabinet model (see Appendix 2 – Tables 1 and 2), negating the saving that was originally identified.

4.20 *Summary of Financial Impact*

Any decision to adopt a committee system should be considered in the context of the

significant reduction in headcount at Derby City Council over the last ten years. The evidence suggests that the Council currently lacks the organisational capacity to support a committee system, without the allocation of additional resources. Moreover, it is clear that a committee system would have a wider organisational impact, beyond the services that provide direct support to committees.

Although the amount of dedicated support provided to committees could be reduced over time as the new governance structure is embedded and better understood, adopting a committee system without robust support in place from the outset is not recommended.

- 4.21 On this basis, the Committee System detailed at Appendix 3 would lead to an increase in costs and is therefore not compatible with Working Principle 3. Moreover, based on the evidence collated to date this conflict may be irreconcilable.

4.22 **Working Principle 4: Avoid unnecessary delays in decision-making so that any change is at least comparable to the Leader and Cabinet model**

The analysis included in Appendix 1 indicates that decisions could be taken more quickly under a committee system, as there is no statutory requirement for the inclusion of key decisions in a Forward Plan. However, in practice, it is likely that the timeline for decision-making will be more complex.

- 4.23 Whilst straightforward decisions under the remit of one committee could be taken more quickly, certain decisions will require sign-off by multiple committees which may lead to delays if the scheduling of meetings does not align.

The Working Group has suggested arrangements for establishing Joint Committees in these circumstances (see Appendix 2), which would be finalised in the development of revised Committee Procedure Rules.

- 4.24 Subject to the operation of call-in procedures (Working Principle 5) and the finalisation of arrangements for Joint Committees, the Committee System proposed at Appendix 3 would avoid unnecessary delays in decision making and is therefore consistent with Working Principle 4.

4.25 **Working Principle 5: Including call-in within the functions of the new committee structure**

Under the initial committee structure proposed in Appendix 1, it was recommended that a single Overview and Scrutiny Committee would fulfil statutory scrutiny responsibilities for health; crime and disorder and flood prevention, as well as responsibility for consideration of decisions that had been 'called in'.

- 4.26 To limit the volume of meetings, the Working Group suggested that an additional Overview and Scrutiny committee was not necessary and that statutory scrutiny responsibilities could be fulfilled by named service committees, which is permitted under relevant legislation.

Consideration of decisions that had been called-in would also need to be carried out by a designated committee. These arrangements have yet to be determined, but

could be fulfilled by the overarching Policy and Resources Committee.

- 4.27 Subject to the agreement of an appropriate mechanism, the inclusion of call-in within the functions of the new committee structure does not present a fundamental conflict with the other Working Principles.

4.28 **Working Principle 6: To allow all councillors to put items on the agenda of committees**

As detailed under 4.13, inclusion of this entitlement may lead to an increase in the volume of meetings, depending on the extent to which it is utilised by councillors.

The Working Group has suggested that in order to ensure this process is managed appropriately, a standing item would be included at the conclusion of all committee agendas, allowing councillors to raise any items they or any members of their political group wish to be considered for the next meeting. Whilst this would allow officers sufficient opportunity to prepare a report in advance of the next meeting, it would also contribute to the indirect costs outlined at 4.18.

- 4.29 Whilst inclusion of this entitlement in revised Committee Procedure Rules would be straightforward, it is not possible to ascertain whether it would conflict with other working principles (namely Working Principle 2) at this point in time.

4.30 **Working Principle 7: Fit for purpose officer delegation scheme, with councillor involvement only in significant officer decisions**

The development of a fit for purpose officer delegation scheme will form part of a larger project to re-draft the Council's Constitution should a final decision be made to move to a committee system.

It is intended that a review of the Council's Scheme of Delegations, including delegations to officers, is conducted regardless of whether a committee system of governance is implemented.

- 4.31 Throughout the project to develop a workable committee system, it has been assumed that the level of delegation to officers would remain at similar levels to the existing Leader and Cabinet model, so as not to conflict with Working Principle 1 (greater councillor engagement in decision making). However, the Working Group has suggested that matters currently reserved to individual Cabinet Members are delegated to officers under a Committee System (see 4.6).
- 4.32 Nevertheless, the development of a fit for purpose officer delegation scheme, with councillor involvement only in significant officer decisions, does not present any significant conflicts with the other working principles.

4.33 **Other practical considerations**

Appendix 1 presents a range of other practical considerations that should be taken into account in determining whether the Council is able to support a committee system. These include:

- possible difficulties in identifying sufficient candidates under Widdicombe principles to fill all committee places and appointments to outside bodies, given

- vacancies under the existing model, which requires fewer appointments.
- Timings of meetings – it may be necessary to move to more day time meetings.
- access to sufficient suitable publically accessible meeting rooms in the Council House.

4.34 Conclusion

As the work to develop a committee system has progressed, it has become increasingly apparent that a number of the Working Principles are inherently incompatible or present conflicts that are irreconcilable. Furthermore, not all of the Working Principles can be objectively assessed prior to a Committee System being implemented:

For example, achieving 'greater councillor engagement' is highly subjective; it could be the case that under a committee system a greater number of councillors are involved in decision making, whilst simultaneously a larger proportion of decisions are delegated to officers in order to manage the volume of business coming before committees. Whether this constitutes greater councillor engagement is a matter for Council to determine.

It remains the case that a committee system could be implemented in Derby, as has been the case with other councils that have reverted to this model of governance since the Localism Act was introduced. However, any decision to do so should be considered in the context of the operational capacity of the organisation to support such a system.

Based on the evidence available, it is not possible to state with any degree of certainty that the proposed committee system will meet each of the seven working principles. In accordance with the resolution of Council on 27 February 2019, it is therefore recommended that no further work is undertaken to develop a committee system of governance for Derby City Council.

Public/stakeholder engagement

- 5.1 The Committee System Working Group met on 3 October 2019 to discuss the report attached at Appendix 1. Further to a number of questions raised at that meeting, a further report was circulated to members of the Working Group on 9 January 2020.
- 5.2 Council agreed on 27 February 2019 that local electors would be consulted prior to any decision on the adoption of a committee system being made, in accordance with Article 15 of the Council Constitution.

Other options

- 6.1 To seek amendment to the Working Principles to allow further development of a committee system of governance. This option has been discounted on the basis that significant officer resource has been dedicated to the project to date and a final determination is required as to whether the Council should seek to move to a committee system of governance before any further steps are taken.

6.2 Should Council recommend to proceed with the adoption of a committee system on the basis of the evidence provided in this report, the following actions are required:

- To request that the Strategic Director of Corporate Resources make arrangements for local electors to be consulted on the adoption of a Committee System of governance.
- To request that the Strategic Director of Corporate Resources prepare a draft constitution for a Committee System of governance, to include a Scheme of Delegations based on the committee structure attached at Appendix 3.
- To request that the Independent Remuneration Panel prepare a scheme of allowances for a Committee System of governance based on the committee structure attached at Appendix 3.

Financial and value for money issues

7.1 The financial implications of adopting a Committee System of Governance are set out in Appendix 1 and 2.

Legal implications

8.1 The Council may change its governance model by majority vote. Upon adopting a change in governance model, the Localism Act 2011 precludes any further change for a period of five years without a referendum.

Other significant implications

9.1 As detailed in Appendix 1 and 2.

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal		
Finance		
Service Director(s)	Emily Feenan, Director of Legal, Procurement and Democratic Services, and Monitoring Officer	14 January 2020
Report sponsor	Paul Simpson, Strategic Director of Corporate Resources	16 January 2020
Other(s)		

Background papers:	Review of Derby City Council Governance System, Council, Council, 27 February 2019
List of appendices:	Appendix 1 – Update provided to the Committee System Working Group on 3 October 2019 Appendix 2 – Update provided to the Committee System Working Group on 9 January 2020 Appendix 3 – Proposed Committee Structure