

PLEASE NOTE START TIME

JOINT MEETING OF GENERAL PURPOSES AND CONSTITUTION COMMITTEE AGENDA



Thursday 12 July 2012

at 9.30 am

in Committee Room C

MEMBERS: JOINT GENERAL PURPOSES AND CONSTITUTION COMMITTEE:

The Mayor, Stuart Drummond
Councillors C Akers-Belcher, S Akers-Belcher, Cranney, Cook, Fisher, James,
G Lilley, Richardson, Simmons, Sirs and Wells.

- 1. APOLOGIES FOR ABSENCE**
- 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
- 3. ITEMS REQUIRING DECISION**
 - 3.1 Governance Options – Chief Solicitor**
- 4. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

JOINT MEETING OF GENERAL PURPOSES AND CONSTITUTION COMMITTEES

12 July 2012



Report of: Chief Solicitor

Subject: GOVERNANCE ARRANGEMENTS

1. PURPOSE OF REPORT

- 1.1 Following a report to a meeting of Council on 21st June, 2012, there was further consideration upon the authority's governance arrangements at the meeting of the General Purposes Committee (with colleagues from the Constitution Committee) on 25th June, 2012. From those discussions it was requested that a report be brought back on the permissible forms of governance as now prescribed under the Localism Act, 2011. That report was also to give some background as to those local authorities, who were able to move to a change in their governance arrangements at their annual meeting in accordance with this legislation and accompanying regulations.

2. BACKGROUND

- 2.1 As previously reported, the Localism Act allows for certain permissible forms of governance, which are as follows;

- (i) Executive arrangements,
- (ii) A Committee system, or
- (iii) Prescribed arrangements.

Executive arrangements were first introduced under the provisions of the Local Government Act, 2000, and presently provide for the following;

- (A) An Elected Mayor of the authority, and
Two or more Councillors of the authority appointed to the Executive by the Elected Mayor.
- (B) A Councillor of the authority (the Executive Leader) elected as Leader of the Executive by the authority, and

Two or more Councillors of the authority appointed to the Executive by one of the following –

- (i) The Executive Leader, or
- (ii) The authority.

In this “Leader and Cabinet Executive” model a local authority Executive may not include the Chairman or Vice-Chairman of the authority. Further, the number of Members of either a Mayor and Cabinet Executive or that relating to a Leader and Cabinet Executive, may not exceed 10.

2.2 The Localism Act, 2011, provides for the operation of an additional form of governance namely that relating to a Committee system of governance. This is now underpinned through The Local Authorities (Committee System) (England) Regulations, 2012. However, within both the Executive arrangements and a Committee based system, there are certain common features, in that matters relating to the budget and the policy framework of an authority, remain the preserve of Council. The Regulations relating to the operation of a Committee based system therefore specifically state those functions which cannot be delegated to a Committee of the local authority, those functions are as follows;

- The approval or adoption of certain plans and strategies for example, the Annual Library Plan, the Crime and Disorder Reduction Strategy, Development Plan documents, Licensing Authority Policy Statement, Local Transport Plan, plans and alterations which comprise the Development Plan, the Sustainable Community Strategy, the Youth Justice Plan.
- The approval or adoption of a plan or a strategy for control of the authority's borrowing, investments or capital expenditure, or for determining the authority's minimum revenue provisions, this includes approval for the purpose of permission from the Secretary of State or any Minister of the Crown.
- The making, amending, revoking or replacing a Members allowance scheme.
- The determination of the amount of any allowance payable and the Chairman's or Vice-Chairman's expenses under the provisions of the Local Government Act, 1972 and the Local Government Housing Act, 1989.
- The making of a request to the Local Government Boundary Commission for England for single Member electoral areas.
- The passing of a resolution to change a scheme for elections under the Local Government and Public Involvement and Health Act, 2007.
- The making of an Order giving effect to recommendations made in a community governance review.

- The function of permitting a Co-opted Member of an Overview and Scrutiny Committee of the authority to vote at meetings of the Committee.

2.3 The Localism Act, 2011, makes reference to so called “prescribed arrangements”, the same would require the approval of the Secretary of State through his regulation making powers and therefore will be based upon local authorities proposals which must also satisfy the following statutory conditions;

- That the operation of the proposed arrangements would be an improvement on the Council’s current arrangements;
- That the operation of the proposed arrangements would be likely to ensure that decisions are taken in an efficient, transparent and accountable way, and
- That the proposed arrangements would be appropriate for all Council’s or any particular description of Council.

3. SCRUTINY ARRANGEMENTS

3.1 The Local Authorities (Committee System) (England) Regulations, 2012, which were introduced on 4th May, 2012, also introduced requirements which would apply where a local authority resolved to appoint one or more Overview and Scrutiny Committees. Section 21 of the Local Government Act, 2000, provides that where an authority operates “Executive arrangements”, those arrangements must include provision for the appointment by the authority of “one or more Committees of the authority (referred to as Overview and Scrutiny Committees)”. Broadly, such committees have the power to review or scrutinise decisions made or actions taken and to make reports and/or recommendations to the authority or the Executive with respect to the discharge of any functions of a local authority (both Executive and non-Executive) and on matters which affects the authority’s area or the inhabitants of that area. This is not a mandatory requirement should an authority operate a Committee based system of governance, but where an authority chooses to operate an Overview and Scrutiny Committee, then this must be in compliance with the regulations. According, where a local authority establishes an Overview and Scrutiny Committee or any such joint arrangements, the said Committee must also have power to review or scrutinise the decisions and actions of the authority. Provision must also be made to ensure that any Member of an Overview and Scrutiny Committee can refer matters relevant to that Committee’s or Sub-Committee’s functions. The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order, 2012, does contain certain prohibitions upon a reference by a Councillor namely matters relating to the regulatory business of a local authority for example a planning or licensing decision or where a person has a right of a course to a review or right of

appeal conferred by or under any enactment. The Regulations also impose duties on a local authority and relevant partner authorities to respond to reports and recommendations of an Overview and Scrutiny Committee. There is also provision for a local authority to make a scheme to permit Co-opted Members of an Overview and Scrutiny to vote at meetings of the Committee and the local authority must publish such a scheme and make copies available for public inspection. The Regulations also make a specific provision relating to the membership of Overview and Scrutiny Committees.

4. A COMMITTEE SYSTEM OF GOVERNANCE

- 4.1 The Centre for Public Scrutiny, in a report entitled “Practical Issues for Local Authorities in moving to a Committee System” indicated as part of its key findings, that four Councils were moving from a Leader-Cabinet system to that of a Committee based system at their annual meetings in May, 2012. Of these authorities, two were ‘unitary’ based authorities, one was a county and one was a shire district. This report therefore concentrates upon those Councils which have resolved to change their governance arrangements, with the emphasis upon a particular unitary based authority, so that Members can have some appreciation of how such a change in governance has been shaped and developed. It was also indicated that some authorities were considering so called “hybrid” arrangements, which clearly would require the Secretary of State to exercise his regulation making powers, as mentioned above. Whilst some Councils are able to move to change their governance arrangements following a full Council resolution to take effect at their annual general meeting, other Councils including Hartlepool, are mandated, in that any change in governance would need approval through a referendum. Once governance arrangements have changed, Councils will ordinarily be unable to initiate any further change for a period of five years, with this period extended to 10 years, where such a change was required through a referendum.
- 4.2 For the most part, authorities have simply moved their Executive Portfolios across to comparable themed Committees. One Council on their website have simply indicated “Cabinet Member meetings had become Committees”. Nottinghamshire County Council who moved to a Committee based system from 17th May, 2012, have adopted a structure based upon their previous Executive arrangements as follows;

- Finance and Property Committee
- Environment and Sustainability Committee
- Community Safety Committee
- Adult Social Care and Health Committee
- Transport and Highways Committee
- Children and Young Peoples Committee

In addition, Nottinghamshire County Council have an Audit Committee, Administration Committee, Personnel Committee, Appeals Committee, Policy Committee (covering grant aid), Planning and Licensing Committee,

Economic Development Committee, Rights of Way Committee, Culture Committee, Standards Committee, Pension Investment Sub-Committee, Corporate Parenting Sub-Committee, Early Years and Young People Sub-Committee, a Health Scrutiny as well as a Shadow Health and Wellbeing Board. Further, there is also a variety of Joint Committees and area based forums/panels.

- 4.3 In comparison South Gloucestershire Council who approved a change in their governance on 23rd May, 2012, place emphasis on the role of Council for budget and policy framework matters, as well as the regulatory nature of the Council's functions which cover, for example, licensing, planning, rights of way, commons registration as well as having certain area forums and topic forums ie Waste Management, Environment and an overarching Strategic Partnership. In addition they have the following Committee based structure;

- Policy and Resources Committee
- Planning, Transportation and Strategic Environment Committee
- Communities Committees
- Adult and Housing Committee
- Development Control
- Public Health and Health Scrutiny

- 4.4 In December, 2011, Brighton and Hove City Council resolved, in principle to move to a Committee based system. The development of proposals were referred to their Governance Committee (who in turn through a 'New Constitution Member Working Group') reported back to Council to formally resolve and approve the adoption of a Committee based system of governance. This system became effective from 17th May, 2012. It is of interest, in the report which proceeded from the Governance Committee, the commentary *"for most local authorities, governance is a dry subject and not of much interest. Not so in Brighton and Hove! Over the last 10 years, the Council has been at the cutting edge of innovation when it comes to governance"*. In anticipation of the new models of government to be introduced under the Local Government Act, 2000, Brighton and Hove City Council introduced an "Executive Board in Waiting" for the period 1998-2001. On 18th October, 2001, they held a referendum on an Elected Mayor proposal and as this proposal was rejected the Council proceeded with their "fallback" arrangement, which was a committee based system with scrutiny. This system operated over the period 2002-2008, but following changes introduced through the Local Government Public Involvement in Health Act, 2007, the authority were required to move to a Leader and Cabinet based system from 2008. In referring to their Governance Committee, and in order to ensure that their new constitutional arrangements were seen to be as "effective as possible" certain 'design principles' were established, incorporating the following factors;

- (i) Openness and transparency
- (ii) Accountability

- (iii) Efficiency
- (iv) Soundness
- (v) Affordability
- (vi) A third Way, and
- (vii) Forward looking

4.5 Primarily, in looking at their proposed Committee Structure Brighton and Hove wanted a system that would above all be streamlined and cost effective. Consequently, this has seen a movement from a Leader and Cabinet based system with 24 decision making bodies to a Committee system with 19. The system operated by Brighton and Hove Council is therefore as follows;

- Health and Wellbeing Board (shadow arrangements in place) with responsibility for preparing the Joint Strategic Needs Assessment, a Health and Wellbeing Strategy and encouraging co-operation in joint working in the provision of health and social care services.
- Adult Care and Health and Joint Commissioning Board – a joint arrangement with their PCT (Section 75) relating to provision of adult social care and health services.
- Children and Young Peoples Trust Board – operating for the purposes of the Children Act, 2004 (subject to review).
- Economic Development and Culture Committee
- Housing and Housing Management Consultative Sub-Committee
- Policy and Resources Committee – responsible for decisions which have corporate budgetary or policy implications. Also including the acquisition or disposal of land and a remit responsible for equalities, communities, strategy, partnerships, human resources and that relating to the General Purposes Committee. The Committee has two Sub-Committees dealing with appeals and also a Corporate Parenting Sub-Committee.
- Environment and Sustainability Committee
- Transport Committee
- Planning and Licensing Committee
- Audit and Standards Committee
- Overview and Scrutiny Committee – comprising a Health and Wellbeing Overview and Scrutiny Committee (dealing with scrutiny of health, children's services and adult social care). All other scrutiny functions, including overall responsibility for co-ordinating work programmes and reviewing will be done through an Overview and Scrutiny Committee.

That Overview and Scrutiny Committee will also be the designated Crime and Disorder Committee as required by the Police and Justice Act, 2006, as well as other statutory functions eg., “flood risk” (lead authority) as required. There is also the operation of Scrutiny Review Panels

- Police and Crime Panel – this has the status of a Joint Committee, discharging the functions of the Police Reform and Social Responsibility Act, 2011.
- Advisory bodies – for example, Arts and Creative Industries Commission

4.6 In addition to the above, it is noted, that day to day operational business of the Council should proceed through Officer delegations. Incidental matters also cover the role and composition of Committees, co-options, revisions to Council Procedure Rules and elements of community engagement and consultation.

5. RECOMMENDATIONS

For Members to note and discuss.



Help Shape Your Council



Referendum on how the Council is run

Hartlepool Borough Council has decided that it would like to ask the people of Hartlepool how they would like their Council to be run in the future.



We currently have a directly-elected Mayor and Cabinet system and the Council would like to know whether this should be changed.

This booklet will explain all about the referendum, what you will be voting for, and how you can take part.

Use your Vote on 15th November

What is a referendum and why are we having one?

A referendum is a vote, but instead of voting for a candidate you will be asked a question. Hartlepool Borough Council has decided that it would like to give voters in Hartlepool the opportunity on Thursday **15th November** 2012 to decide how the Council is run in the future.

What is the question that will be on the ballot paper?

How would you like Hartlepool Borough Council to be run?

- By a **Mayor** who is elected by voters. This is how the Council is run now.
- By one or more **committees** made up of elected Councillors. This would be a change from how the Council is run now.

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What is the difference between a Mayor and a Committee System?

Mayor and Cabinet	One or more Committees
The Mayor would be elected by Hartlepool voters.	Committees would be made up from the 33 elected Councillors. A Council Leader would also be elected.
The Mayor will be in addition to the 33 Councillors.	Committee members and the Council Leader would come from the 33 elected Councillors.
The Mayor would hold office for 4 years and cannot be removed by the Council.	Committee members would be re-appointed every year at the Annual Council meeting after local elections.
The Mayor would appoint a Cabinet, including at least two and up to nine of the 33 elected Councillors, one would be appointed as Deputy Mayor.	There may be an overseeing committee, such as a Policy and Resources Committee, but this would not have the same power as a Cabinet.
The Mayor would decide the size of the Cabinet and the responsibilities of each Cabinet member.	The number of Committees and their functions would be agreed by the Council.
Some decisions would be taken by the elected Mayor themselves, by Cabinet or a committee of Cabinet or by individual members of Cabinet.	Some decisions would be made by politically balanced committees in key policy areas, such as education, social services, and environment rather than by individual members of a Cabinet.

Whichever system is chosen, some things would still require the approval of Council including setting the budget and agreeing key strategies and plans for the Borough.



Use your Vote

Help Shape Your Council

How can I vote?

To take part in the referendum you will need to be registered to vote. There are three different ways you can cast your vote: **in person, by postal vote, or by proxy vote**. How you vote is up to you. It may depend on what you find easiest or the most convenient method.

How do I vote in person?

You can vote in person at a polling station between 7am in the morning and 10pm at night on the day of the referendum. You show your choice by putting a cross (X) in the box next to the option you want. Vote only once. Put no other mark on the Ballot paper, or your vote may not be counted. It is straightforward but a member of staff will be able to help if you are not sure what to do.

You will receive a polling card telling you where your polling station is - if you do not receive one by 26th October 2012 please contact the Elections Office on 01429 523088 or by emailing elections@hartlepool.gov.uk

How do I get a postal vote?

You can apply to vote by post. If you are not already registered to vote by post, you will need to fill in an application form and send it to the Elections Office, Civic Centre, Victoria Road, Hartlepool, TS24 8AY. You can download the form on the Council website http://www.hartlepool.gov.uk/downloads/file/7522/postal_vote_application_form. We can send a postal ballot to your home or any other address that you give.

To be able to vote by post in the referendum, completed applications must be received by the Elections Office by 5pm on 31st October 2012.

How can I arrange for a proxy vote?

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To be able to have a proxy vote in the referendum, completed applications must be received by the Elections Office by 5pm on 7th November 2012.



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If you are not on the electoral register currently you will need to complete a voter registration form. You can download the form on the Council website: http://www.hartlepool.gov.uk/downloads/file/7010/voter_registration_form. All forms are to be returned to the Elections Office, Civic Centre, Victoria Road, Hartlepool, TS24 8AY.

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Am I eligible to vote?

You can vote in a referendum if you are:

- A British citizen
- A qualifying Commonwealth citizen
- A citizen of the European Union
- A citizen of the Irish Republic

British citizens living overseas cannot vote in the referendum

What will happen after the votes have been cast?

Following the close of the polling stations at 10pm on 15th November 2012 the votes will be counted. The results of the referendum will be announced on Friday 16th November 2012.

If the majority of votes are to retain the Mayoral system then the existing arrangements will continue and a Mayoral election will be held in May 2013. Another referendum to change the system will not be able to be held for another 10 years.

If the majority of votes are to change to the Committee system then a resolution will need to be passed by Council at a specially convened meeting by mid-December 2012. The change will then be introduced in May 2013, when the current Mayor's 4 year term will come to an end. At the Annual Council meeting in May 2013 Committee members will be elected from the existing 33 Councillors.



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Help Shape Your Council



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Referendum on how the Council is run

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The Mayor will be in addition to the 33 Councillors.	The Leader will be one of the 33 Councillors.
The Mayor would hold office for 4 years and cannot be removed by the Council.	The leader would be elected for up to 4 years but could be removed and replaced by the Council during that time.

Both a Leader and an Elected Mayor would:

Appoint a Cabinet with between 2 and 9 elected Councillors, one of whom would be appointed as Deputy Leader or Deputy Mayor as appropriate.

Decide who could take certain types of decisions:

- By a Leader or an elected Mayor taking decisions themselves
- By the Cabinet or a committee of the Cabinet
- By individual members of the Cabinet
- By Council Officers

Whichever system is chosen, the Council will still have a range of committees, including Planning, Licensing, and Scrutiny, as the law requires that some important decisions (such as planning applications) will continue to be taken independently of either a Leader or an elected Mayor.



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