

Changing to a committee system in a new era

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Summary

This briefing looks at the experience of four councils that have changed to a committee system under the new provisions in the Localism Act 2011 which introduced a further form of local authority governance in addition to the leader and cabinet and mayor and cabinet models - all councils, and not just the smallest districts, were given the additional option of adopting a committee system.

The paper provides a background to the relevant legislation and a commentary on some of the key issues. It briefly considers perceived strengths and weaknesses of the new alternative system and how those councils believe that any weaknesses can be overcome and strengths realised. It looks at how a committee system now is influenced by the changes to local governance over the last two decades.

It is not a guide to how to carry out a review to change to a new system, nor does it consider different possible structures of committees and their advantages and disadvantages – these matters have been covered in a joint Local Government Association and Centre for Public Scrutiny paper [Rethinking governance](#).

This guide is not intended to nor does it constitute legal advice. Councillors and officers will need to obtain their own independent legal advice on any matters of a legal nature.

The briefing will be of specific interest to councillors and officers in councils considering changing to a committee system and to those that have already done so. It also raises general issues that could be of interest to all councils and their partners around governance arrangements, partnerships and engagement.

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I would also like to thank Andrew Coulson of the Institute of Local Government Studies, University of Birmingham and John Stewart, Emeritus Professor of Local

Government at the Institute, for their invaluable advice, additional information and comments on the draft.

Briefing in full

Background

Before the Local Government Act 2000, decisions in all English local authorities were taken by councillors who were elected to represent small geographical areas of those councils (wards). The detailed work in areas of council business was undertaken in committees of these ward councillors. The most common arrangement was that the decisions of these committees, expressed in their minutes, were then approved at the next meeting of the council, though in some councils, particularly in the larger authorities, the power to make those decisions was delegated to the committees themselves, and there were always special powers under which decisions that required urgent action could be taken by senior officials in collaboration with the chair of the committee. Detailed decisions could often be made by officers even when not urgent, so that committees were not overwhelmed by a huge number of decisions.

The committees were governed by Sections 101 and 102 of the Local Government Act 1972, and before that the Local Government Act 1933. Section 15 of the Local Government and Housing Act 1989 required committees that made decisions to be made up of councillors from all political groups in proportion to their strength on the council. This is still the statutory basis of committees set up under the Local Government Act 2000 to make “quasi-judicial” decisions as to whether or not planning or licensing applications should be approved, or whether councillors have failed to follow the standing orders of the council. The same requirement applies to overview and scrutiny committees which have powers to investigate decisions and hold the decision-makers to account. Committees may co-opt individuals with relevant experience onto committees (such as a representative of tenants onto a committee responsible for housing) though they may not vote. They had the power, and those that continue still have, powers to delegate their responsibilities to sub-committees or council officials. There are special arrangements for area committees, comprising all the councillors in a part of the council area, for which there is explicit provision in the Local Government Act 2000.

The Local Government Act 2000 introduced four governance options for councils – they could be governed by a leader working with a cabinet, a directly elected executive mayor, a council manager working with a directly elected mayor, or a streamlined committee system. This ‘fourth option’ was normally only open to shire districts with populations of less than 85,000. There was a degree of choice over the

relative powers of council and of the leader, so in a 'weak leader' model the council elected the leader (if a single political party held a majority of the seats on the council, this person would normally be the leader of that group). In a 'strong leader' model, the council elected the leader and then the leader appointed the cabinet, and the leader determined the degree of delegation of powers to individual cabinet members. In other models delegation would be determined by the cabinet and not by the leader alone.

It could be argued that the use of the term weak and strong leader is, however, misleading, as clearly a leader with greater powers may be a weaker leader than one with less. John Stewart points out that the choice is really between individual and collective leadership.

The 2000 Act also made it a statutory requirement for local authorities to appoint at least one cross-party overview and scrutiny committee.

Part 3 of the Local Government and Public Involvement in Health Act 2007 amended the 2000 legislation. The directly-elected mayor model was unchanged, but the mayor and council manager model was abolished and in England, Section 11 of the 2000 Act replaced the leader and cabinet executive model with the leader and cabinet executive (England) model which required councils operating this option to adopt the 'strong leader' model.

Under the 2000 Act, Brighton & Hove City Council held a referendum to decide whether they should have a directly elected mayor. Councils were permitted to have the "alternative arrangements" (the 'fourth option' system) as a fall back position if the elected mayor model was rejected, and this is what happened in Brighton & Hove.

However, the Local Government and Public Involvement in Health Act removed this option for councils with a population over 85,000. This meant Brighton & Hove had to adopt an executive system (see below).

The Localism Act 2011

The main change (Section 21) to governance arrangements relating to committees and structures was to introduce a further form of local authority governance in addition to the leader and cabinet and mayor and cabinet models. The 'fourth option' was removed but all councils, and not just the smallest districts, were given the additional option of adopting a committee system. The detail is set out in Schedule 2 Sections 9B and 9K of the Localism Act and in The Local Authorities (Committee System)(England) Regulations 2012.

Under the committee system, a local authority is able to decide how its functions, i.e. the powers given to it by central government, are delivered. It is possible for the full council to make all of its decisions. Or it can delegate certain responsibilities to a committee, sub-committee or an officer. In contrast to the former 'fourth option' arrangements, no limit to the number of committees that may be created is specified. Authorities are able to discharge their functions jointly with other authorities or to

decide that certain functions will be discharged by another authority. The legislation does not prescribe how local authorities adopting a committee system should structure themselves and allows them choice over whether they should have one or more overview and scrutiny committees.

[There are some functions](#) which must be delivered by the full council. In summary, these include:

- approval or adoption of key strategies, including development plans, crime and disorder reduction strategies, sustainable community strategy, and youth justice plan
- approval or adoption of council budgets
- approval of a scheme of allowances for elected councillors
- applications for changes in arrangements for elections, such as smaller numbers of councillors or a move from multi-member to single-member wards.

If local authorities operating the committee system decide to appoint one or more overview and scrutiny committees, these will have the same powers and functions as overview and scrutiny committees set up in an authority exercising executive arrangements. The statutory duty on the authority to scrutinise health, community safety, and flood prevention remains in place - under S244 of the National Health Service Act 2006; under S19 of the Police & Justice Act 2006; and under Section 9FH of the Local Government Act 2000 (as amended by Schedule 2 of the Localism Act 2011). Councils who choose not to have scrutiny committees must specify how these will be scrutinized, either by the full council or by one of its committees.

The Localism Act specifies that, in order to change from a cabinet system to a committee system, local authorities must:

- pass a resolution to change their governance arrangements
- as soon as practicable after passing the resolution, make the provisions of the new arrangements available for inspection
- publish in one or more newspapers circulating in the area a notice which describes the features of the new system and timescales for having passed a resolution and complied with the publicity requirements above.

Some councils have chosen to create versions of the leader/cabinet system (which means that they do not require a formal change under the Act) that include aspects of the committee system. The most common arrangement is to set up non-decision-making group of councillors, usually corresponding to cabinet portfolios, which examine papers and make recommendations about how decisions should be made. The decisions are subsequently made at meetings of the cabinet or by individual cabinet members, and may well follow the recommendations of the 'committees' although they are not legally required to do so. This is the basis of the arrangements in Kent County Council discussed in the paper [Rethinking governance](#).

The new provisions about changing forms of governance or executive arrangements took effect on 15 January 2012.

Current position

The LGA and the Centre for Public Scrutiny published '[Rethinking governance](#)' in January 2014 which provides 'practical steps for councils considering changes to their governance arrangements'. It includes a list of 9 councils that moved to a committee system in 2013 and in 2014 and a list of some of the councils who are considering changes to their governance arrangements.

This paper provides updates on the position in four councils which have made the change.

London Borough of Sutton

Sutton were one of the first councils to introduce a committee system. The majority Liberal Democrat group had considered the change before the Localism Act came into force and this led to a formal cross-party working group to begin the process (the Conservatives are the only opposition on the council). The Conservative group supported the principle. The council was ready to proceed as soon as the Act became law.

The leader of the council, Councillor Ruth Dombey, believes that the executive model never worked well for Sutton. The council is very member led and took decisions as collectively as possible even after the cabinet system was introduced. There were advisory committees in place to promote member participation beyond the cabinet.

Another factor was that there were quite a number of new councillors elected in 2010 from diverse backgrounds who after some time on the council wanted to have more involvement in decision-making.

Officers had been asked to look back at twelve months work – at cabinet meetings, scrutiny and advisory groups - to work out what it would have looked like under a committee system. They concluded that there had been be slightly fewer meetings than there would have been under the cabinet model.

Sutton's committees meet five times a year but there is a procedure where decisions can be made more quickly between meetings if necessary by the leader and chief executive. There was some concern that this would happen frequently but this procedure was not needed during the first twelve months of the new system.

Attendance allowance costs reduced slightly.

Sutton has five standing committees, including the Strategy and Resources Committee chaired by the leader. There are several regulatory committees, an audit committee and a scrutiny committee.

Any four members of the council have the right to 'requisition' (or 'call in') a decision of a committee (other than a regulatory committee) if they believe it is not in the wider interest. It will then be further considered either by the Strategy and Resources Committee or by the full council.

Councillor Dombey's view is that the new system is more democratic; more councillors are involved in making decisions, the opposition have more input, and far fewer items have to go to full council. Councillors generally have to take on more responsibility. The council provides member training so that all councillors can take an active role - so that, for example, there is training for councillors on the social care committee on issues like the Care Act, where before this would have been limited to a few councillors.

Officers also had to change – for example, to get better at forward planning, as the timelines are now longer than when there was a cabinet that met frequently and officers could take items to it at little notice.

The majority group had not wanted to just revert to the old pre 2000 committee system, but to use the opportunity of the Localism Act to shape the new system to their needs now. For example, they retained overview and scrutiny but with a single committee rather than several scrutiny committees. This focuses most on health scrutiny. There isn't much time for pre scrutiny work, but this wasn't happening much before either. However, the council has established task and finish groups that do similar work and which can include members from different committees and this helps to break down the usual silos.

Reading Borough Council

Reading is a unitary council.

Following a statutory process of public consultation, Reading adopted a Leader and Cabinet model in 2001. After the passing of the Local Government and Public Involvement in Health Act (see above) the council had to adopt the "Strong Leader" model. The Localism Act gave the council the option to move to a committee system.

The majority Labour group had wanted to involve more backbenchers in the work of the council and following informal meetings and reports to the other political parties there was cross-party agreement to proceed with the change. The committee system was brought in in May 2013.

The implementation was straightforward – possibly because there was no real dissent and the council was given advice by a former monitoring officer who had taken flexible retirement to work with councillors on the statutory processes.

The groups had not wanted the new system to increase the numbers of meetings. Like Sutton, therefore, the council calculated the number of public meetings scheduled for the current year 'with the objective of no extra meetings and no extra cost'.

Three service committees were set up: Adult Social Care, Children's Services and Education ("people"); Housing, Neighbourhoods and Leisure ("place" - including Community Safety); and Strategic Environment, Planning & Transport. These each meet three times a year. There is also a Policy Committee – meeting monthly - which has oversight of strategy, policy and budget, including overview of service performance and improvement across all council services. It can also take decisions on operational matters which have been delegated to other committees between cycles and on grounds of urgency. The previous regulatory committees continued under the new system, including audit and governance, personnel, planning and licensing committees, and a standards committee. The council also set up a health and wellbeing board.

There is no separate overview and scrutiny committee. The statutory overview and scrutiny functions of the authority are exercised by each committee with regard to their services, functions and partnerships, and by the Policy Committee in respect of overview or scrutiny across council services covered by more than one Committee. The statutory external scrutiny functions of the authority are exercised by the relevant service committees, so that, for example, health scrutiny by the Education, Children's Services, Adult Care Committee; and crime and disorder scrutiny by the Housing, Neighbourhoods and Leisure Committee. Each standing committee can also set up and appoint task-and-finish groups to undertake scrutiny reviews.

Brighton & Hove City Council

The position of Brighton & Hove Council up to 2007 has already been described. But after the Local Government and Public Involvement in Health Act (2007) was enacted it was no longer able to have a committee system.

The council was quick to take up the opportunity in the Localism Act to return to committee governance. The council had no party in overall control and there was cross-party agreement that a committee system was more democratic and accountable.

Like other councils choosing to adopt a committee system, Brighton & Hove set out principles for change, such as the new system should not cost more or have many new meetings and greater bureaucracy. They were clear that this wasn't about going back to the old committee system, but was about taking the best bits of the executive arrangements and shaping a new one that fitted the council. They retained separate scrutiny and overview arrangements, with two scrutiny committees. There is a health & wellbeing overview and scrutiny committee which carries out the statutory overview and scrutiny function in relation to the health. It also has a remit to scrutinise social care and education issues relating to both adults and children.

The objective was, however, to use scrutiny in a much more proactive way and to promote policy development; choosing a limited number of issues to consider, but in a more focused way than previously. Decisions can still be called in, but more members than previously are needed for this to happen.

There is a procedure for urgent decisions, where a director can make a decision in consultation with the chair, and this is reported back to the next meeting. This would be unusual however, and it is seen as preferable to take a late report to a committee if necessary.

The leader of the council, Councillor Jason Kitcat, believes that the contested nature of politics in a multi party council lends itself more to a committee system and that the public understands how the council works better than under the cabinet system, as committees are more transparent. Brighton has a daily and weekly newspaper and there is a lot of coverage of the council. More residents are coming to committees, perhaps because there is always the possibility of decisions going in a different way to that expected.

Members and officers have to be very disciplined about planning as it takes time to get papers through.

The system is reviewed each year.

Norfolk County Council

The county council elections in May 2013 resulted in a council with no overall control and six parties – Conservatives 40, UKIP 15, Labour 14, 10 Liberal Democrats, Greens 4 and Independent 1.

Following the election, the Liberal Democrats and Labour formed an alliance. A Labour leader was elected with the support of UKIP, the Liberal Democrats, the Greens and the Independent.

Bringing in a committee system had been in the manifestos of three of the non Conservative parties. The decision to bring in a committee system did not have agreement from all the parties on the council – the Conservatives opposed it.

The council set up a committee governance steering group to consider a new committee system. The county council voted in November 2013, by 41 to 35 with two abstentions, for a proposal to move away from the cabinet model in favour of a form of committee governance from May 2014. There will be a review of how the new structure is working starting in November this year.

Like other councils bringing in a committee system, the council wanted this to be cost neutral.

There are five committees – adult social care, children’s services, communities and environment, development and transport, and a policy and resources committee, chaired by the Labour leader of the council.

The P&R committee works alongside the service committees and has two main areas of responsibility: it leads the process for developing the County Council Plan and the medium term financial plan for approval by the Council and fulfils a co-ordinating role across all other service committees. It also provides a ‘whole-council’ view of performance, budget monitoring and risk. P&R has executive decision-making authority on some cross-cutting shared services, such as ICT and HR. It does not include chairs or vice chairs of other service committees.

Issues of significance can be referred to full council for decision, either because a committee has requested it, the leader of the council and the head of paid service (managing director) considers the issue to be of such significance that it should be made by full council, or the decision commits the council to spending over £100 million. This system requires a robust forward plan which identifies decisions coming up for service committees.

Given the inherent scrutiny and cross party engagement in decision making, there is no post-decision ‘call-in’ once a committee has taken a decision.

Urgent decisions are delegated to chief officers in consultation with committee chairs. There was no change to the scheme of delegation from the previous cabinet system.

Full Council and the committees meet seven times a year.

There is no overview and scrutiny committee but there are task and finish groups. Committees also hold workshops on specific issues, such as budget savings.

Comment

All of the councils insisted that they were not going back to the system pre 2000. They were, they said, building on the best of that system but also on the best of the cabinet model.

And, of course, the context now is very different. These councils have had the experience of scrutiny for example, and they are introducing a new system at a time when costs of administration are carefully monitored. The new committee system is invariably more streamlined than the old. The most important difference is that much more of the work of the council is done in partnership, informally and formally. This adds a degree of complexity – how does an adult social care standing committee work with the health and wellbeing board, where are budgets decided or scrutinised? And there are issues around perceptions – partner bodies can assume that all

councils have a cabinet member with responsibility and with delegated powers but with a committee system this may be more complex. Brighton & Hove point out that some government legislation and guidance, despite the Localism Act, does not seem to recognise that some councils have introduced a committee system.

The increasing complexity of local governance, with new partnerships evolving all the time, and new models and initiatives, such as combined authorities, city deals and community budgets, means that these councils will have to review their own structures and lines of accountability regularly; but then so do councils with a cabinet model.

What do the councils that have changed to a committee model see as the advantages and disadvantages? The most cited advantage (and reason for changing) is that the committee system is inherently more democratic, with more councillors directly involved in decision-making. The opposition has more say and its voice is more strongly heard. In councils which have a history of no overall control and/or where decisions are hotly contested, a committee system can feel like a better fit.

Some councils that contributed to this briefing felt that the committee model provides greater clarity to residents and local organisations – they say that it is clearer where decisions are being taken and what the process for making them is. Some critics of a committee system would probably argue the opposite – that having cabinet members with clear responsibilities improves clarity.

The supporters of the committee system do feel that decisions are more out in the open. Of course, especially in councils with majority administrations, important decisions are taken by the political groups. This can, at times, curtail genuine discussion. However, a committee system means that there is more likelihood of fewer decisions being pre-determined and that it is worth opposition members proposing alternatives or moving amendments to decisions – which will sometimes gain support from councillors with a majority. In councils with no overall control there is no certainty about what will happen at a committee.

Councils represented here did say that councillors in general were having to take on extra work so that they could contribute effectively to their committees and they needed more training. But council leaders felt this was positive, as was the need for officers to be better at forward planning.

The old committee system, although with many supporters, was often criticised for being slow to take action, for discouraging joint working and for leading to a huge number of meetings. It is perhaps still early days to judge how successful the councils cited here have been, but it is clear, however, that where councils have decided to reintroduce a committee model they have been determined to avoid these problems, so that, for example, they all have clear urgent business and delegation processes which seem to be working well.

There is unlikely to be an upsurge in councils wanting to introduce a committee system, especially before next year's general election. There are a number of

councils, though, considering the option. Some may be pressurised by campaigning groups outside the council. Fylde District Council in Lancashire, for example, held a referendum in May 2014 following a campaign by the non political Fylde Civic Awareness Group to promote the committee system. The campaigners won the vote, with nearly 58 per cent voting for a new committee system (and on quite a high turnout of 34.16 per cent). This was after the campaigners had got the required number of voters to petition for a referendum, the first under the Localism Act, and means that governance by committee will start in April 2015. There are other councils where opposition councillors are pressing for change.

How to engage voters who can feel their political institutions are too distant is a high profile issue currently for all political parties, as is the debate over devolution at all levels. For some local authorities this could result in a consideration of how their formal governance arrangements work. Looking at possibly introducing a committee system means a council has to reassess how it makes and scrutinises decisions, how involved members feel in the process, how effectively residents are brought in and whether the delegations to officers are appropriate.

Whether a form of committee system is the right one for a council will depend on many factors, both political and cultural. No-one can say that one system is inherently better than another but considering change can be a positive process even if the final decision is to stick with the current system.

For more information about this, or any other LGiU member briefing, please contact Janet Sillett, Briefings Manager, on janet.sillett@lgiu.org.uk