

Kirklees Council

Governance Review: Report

1. Background

1.1 The Council approved the Corporate Governance and Audit (CGA) Committee to determine the next steps in relation to the motion to consider a committee system governance model.

1.2 The CGA appointed me, Mark Edgell, from the LGA to advise and work with Councillors on the review process.

2. First Meeting with CGA

2.1 At the first meeting with the Committee (24/9/21) background to different governance models was provided, what some perceive the characteristics of those models to be and examples of Councils that had changed their governance model.

2.2 The Committee were advised that the initial approach aimed to take the conversation away from addressing whether they preferred a particular type of governance system – namely, the Leader and Cabinet or Committee system models. Instead, aiming to focus on the core issues that the Council was seeking to solve. Why did some people want/feel the need to change governance arrangements? This would then extend into a conversation on the strengths of current arrangements and the issues that needed improving or to change. Throughout these discussions, it was essential to ensure that Councillors did not automatically conflate any disagreements with actual decisions made, with the system within which those decisions were being made.

2.3 Flowing out of these conversations would be clarity around some “design principles” or “needs” for the future governance model. These design principles would allow consideration of how best to retain the desired strengths and to deliver the desired improvements or changes, through some sequential tests. Could those needs be met by:

- A. Changes to the way people behave within the current arrangements (culture). If not, could they be met by;
- B. Changes to the way the current legal governance arrangements are defined and work, such as through the constitution. If not, then they are likely to be best met by;
- C. Change to the legal governance model

2.4 At the first meeting, the Committee agreed to the suggested approach.

3. Further informal meeting with CGA

3.1 At the informal meeting with the CGA on 13/10/21 further advice was provided. Specifically referring to:

3.2 Governance being vital:

- It's the way you develop policy

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- The way you make decisions
- The way you hold people to account for delivery

3.3 What makes for good governance?

- Clarity and transparency over who is making decisions
- Appropriately inclusive decision making
- Appropriately speedy decision making
- Ability to hold those who are responsible for decisions and delivery to account

3.4 That there are 3 official options for council governance (in order of frequency):

- Leader and Cabinet
- Committee
- Mayor and Cabinet

3.5 But that in reality there are a whole variety of options. Sometimes some of these are referred to as “hybrids,” although officially they are all one of the 3 above. Some Councils have arrangements where:

- Within the Leader and Cabinet model there is no delegated decision making and all decision making is collective
- Within the Leader and Cabinet model most powers are delegated to individual portfolio holders
- Within the Leader and Cabinet model most powers are delegated to portfolio holders working in a small team with an advisory panel or assistant cabinet members
- Within the Leader and Cabinet system there could be powerful overview and scrutiny which considers big issues and gives a view before Cabinet makes a decision (pre decision scrutiny)
- Within a Committee System, there is often a Policy and Resources Committee which makes some bigger decisions. Some people liken this to a Cabinet

3.6 However the main message was that it is not just about the formal model, or the way it is adapted in a specific council’s case, but also about culture. In other words, the way that people behave within any system, the way they assert themselves, the way they listen to others and are influenced by them etc. Consequently, culture can be just as important as structure.

3.7 The way in which some people characterise the pros and cons of a Leader and Cabinet model or a Committee system model was explained. Several specific councils that had moved between different official models were provided as examples, including Nottinghamshire which had moved from Leader and Cabinet to Committee system and is now proposing to move back to Leader and Cabinet.

3.8 Councillors were advised that the best approach was to, initially, take the focus away from the question: “Committee system or not” and to consider what the problem was; the

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issue; the shortcoming; that the Council was seeking to solve. But equally to consider the strengths of current arrangements alongside any issues that needed improving or to change.

3.9 It was therefore agreed that all Councillors would be invited to a meeting, facilitated by the LGA. At this session it would be possible to discuss these issues together, in a balanced, neutral, way and to capture the views of all members.

4. Outcomes from the all-Councillor facilitated session on 4/11/21

4.1 The purpose of the session was to go beyond the model itself and to try to identify the reasons why some in Kirklees are asking for change, the nature of those current shortcomings, but without overlooking any current strengths.

4.2 The session gave all members the chance to contribute and, to me, felt productive and constructive. It began with detailed introductions, outlining the various systems, and what are sometimes seen as their advantages and disadvantages. A handful of examples where Councils had changed governance models and where members may like to make further enquiries were also provided.

4.3 The event delivered some fairly clear messages on what members felt was good with current arrangements:

- Clarity of policy direction and knowing who is making the decisions
- Focused, joined up thinking but with good speed of decision making
- Strong cabinet member can create change
- Scrutiny can challenge
- Balance between officers and councillors
- Accountability
- Less time demand on councillors

4.4 But equally the discussion gave some clear messages on shortcomings of current arrangements:

- One party makes all the decisions
- Not a lot of back bench members involved in policy making, other voices not heard, expertise of some councillors not used
- Some councillors feel done to, rather than part of
- Limited communication with and information provided to councillors
- Navigation (Large reports) and therefore access to advice
- Accountability not clear
- Bigger time call impact on small group of councillors

4.5 From this first part of the conversation (including some views received by email), it was felt there may be three, interlinked, areas on which to focus consideration of change:

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A. How to involve all councillors, in some way, in the development of key policies

Some called for “putting councillors at the heart of decision making.” But it was clear that some members meant, by this, that they wanted more control over directing council services in their Wards. This is to misunderstand the role of councillors. They should be focussed on key STRATEGIC decision making. Operationally directing services is not a councillor function.

More generally, councillors talked about the need for a greater involvement from a wider set of councillors in policy development and therefore decision making. This will draw on the broad experience, views, and expertise of a larger number of councillors. There was a suggestion that there could be a greater use of cross-party working groups and some task and finish groups.

But the largest message was that there is mileage in the greater use of pre-decision scrutiny to ensure that on key issues a broader range of members can consider a matter, look at evidence and consider a way forward, before the Cabinet makes a formal decision. Consequently, improving the quality of decision making. Councillors commented this was the approach that was followed on the waste strategy, and it should be considered how this approach can be extended.

This would build on an already good scrutiny function and make even more use of pre-decision scrutiny. But mention was made that this would require greater commitment from councillors to be effectively involved. It was expected that this would allow a clearer path for more councillors to influence policy.

B. Transparency of Decision Making and holding people to account

There was a need for clarity about which Cabinet member had what within their portfolio. However, recognising that there was no delegated power within the Cabinet and that all decisions were made collectively, there was a need for Cabinet to be clearer about decisions it was due to make, what it was considering in reaching a decision and why it made the decision it did. In the context of the point about scrutiny above, Cabinet would need to be clear how scrutiny’s view was being integrated into its decision.

There were also some points raised about the nature of Full Council meetings, whether there was space for more debates/discussions or indeed also, more decision making. Recognising at present it is not always possible to get through the agenda, there were some limited calls for the meeting to start earlier.

There was also a request for clarity as to how issues are referred to scrutiny and the Scrutiny Call in process.

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But the main message was about there needing to be more clarity concerning how Cabinet reaches its decisions. Explaining its decision and what it expected the outcome from that decision to be would allow greater transparency, clearer scrutiny and holding to account for the outcomes of those decisions.

C. Better communication

Councillors felt that there was a need for much better flow of information, to and from them. Mention was made of resurrecting an “Information sharing protocol.” Whilst clearly member decisions are generally strategic in nature, there was also a desire for members to have a “Ward forward plan” allowing them to be clear on what was happening in their wards.

Improvements in information should also focus on timeliness. This should ensure that information is shared sufficiently early to allow there to be proper influence over decisions and the asking of questions.

There was a view that Cabinet reports should be made more understandable, with clear timelines in them and clear advice, which would enable others to challenge that advice where appropriate.

4.6 Participants at the end of the all-member session on 4/11/21 were also offered the chance to specify one change they would like to see. There were a very small number of explicit suggestions to simply move to a Committee system (without further justification) but the majority of suggestions reflected the earlier desire to build on what were seen as the strengths of the current arrangements and to make some changes to ensure the result is, as one participant put it, “co-operative and collaborative politics and policies.” These other suggestions have been incorporated into 4.5 above.

5. Conclusions and Recommendations

5.1 Having heard the views of the members of the CGA, as well as those attending the all-councillors session on 4/11/21, there was not a sense that the current governance system was failing Kirklees. Members were able to describe many strengths (see section 4.3) that derived from the current arrangements.

5.2 However, there were some clear views that improvements could be made. These have been listed in 4.4. Section 4.5 gives some further detail on this and suggestions on the areas on which to focus change.

5.3 Using the sequential tests in 2.3 my strong advice and recommendation would be that the Council can resolve the issues raised by members by “simply” encouraging changes to the way people behave within the current arrangements, namely on:

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A. Ensuring the strengthening of the impact of scrutiny, through greater involvement of members and a greater focus on pre-decision scrutiny. This latter issue is the only area where the committee may wish to consider changes to the way the current legal governance arrangements are defined and work (i.e., sequential test B in 2.3). This depends on whether the Council feels the role and status of pre-decision scrutiny is suitably defined within the current Council Constitution.

B. Greater transparency over the decisions Cabinet is making – a clearer forward plan and timetable, what it has decided, why, and the outcomes it expects from that decision. By being clearer about, and better at explaining, its decisions, this should enable greater transparency, clearer scrutiny and stronger accountability.

C. A better flow of information, to and from members, which will ensure both Cabinet decision making, scrutiny and the community leadership role of members becomes better informed and more effective. Perhaps this could be formalised through an “Information sharing protocol.”

Mark Edgell and Jacqui Smale LGA

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