



## Standards and Constitutional Oversight Committee

<b>Date:</b>	<b>Tuesday, 26 November 2019</b>
<b>Time:</b>	<b>6.00 p.m.</b>
<b>Venue:</b>	<b>Committee Room 2 - Wallasey Town Hall</b>

**Contact Officer:** Patrick Sebastian  
**Tel:** 0151 691 8424  
**e-mail:** [patricksebastian@wirral.gov.uk](mailto:patricksebastian@wirral.gov.uk)  
**Website:** <http://www.wirral.gov.uk>

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### AGENDA

1. **APOLOGIES FOR ABSENCE**

2. **MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members are asked to consider whether they have any disclosable pecuniary interests and/or any other relevant interest in connection with any item(s) on this agenda and, if so, to declare them and state the nature of the interest.

3. **MINUTES** **(Pages 1 - 14)**

To approve the accuracy of the minutes of the meeting held on 26 September 2019.

4. **SUMMARY OF STANDARDS COMPLAINTS 2018/19** **(Pages 15 - 18)**

5. **COUNCIL OWNED COMPANIES** **(Pages 19 - 24)**

6. **GOVERNANCE REVIEW** **(Pages 25 - 52)**

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## STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

Thursday, 26 September 2019

Present: Councillor T Cox (Chair)

Councillors C Blakeley P Stuart  
C Cooke J Williamson  
P Gilchrist G Wood  
M McLaughlin

In attendance: Councillors I Lewis  
D Mitchell

### 9 APOLOGIES FOR ABSENCE

There were no apologies for absence received.

### 10 MEMBERS DECLARATIONS OF INTEREST

There were no declarations of interest.

### 11 MINUTES

#### RESOLVED:

**That the Minutes of the meeting of the Standards and Constitutional Oversight Committee held on 11 June 2019 be confirmed as a correct record.**

### 12 CONSTITUTIONAL ARRANGEMENTS FOR THE OPERATION OF THE NORTHERN LOCAL GOVERNMENT PENSION SCHEME INVESTMENT POOL

A Report by the Director of Governance and Assurance introduced by the Director of the Merseyside Pension Fund sought the Committee's approval to the constitutional arrangements that the Pension Committee, at its meeting on 16 July 2019, had recommended to the Council in order to implement the requirements imposed on administering authorities for local government pension schemes by the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016 (the Investment Regulations) to establish, in accordance with the guidance of the Secretary of State arrangements with other LGPS Pension Funds to pool investments in order to

oversee greater efficiency and economise on the costs of investment management.

The Committee noted that Tameside and Bradford Councils were the administering authorities for the local government pension schemes in Greater Manchester and West Yorkshire respectively.

The Committee also noted that the Pensions Committee had proposed that the Council, in its capacity as administering authority for the LGPS in Merseyside should enter into pooling arrangements with Tameside and Bradford Councils and to that end set up a Joint Governance Committee composed of elected representatives of all three authorities to oversee the implementation of the pooling of investments by the three LGPS schemes.

No other options were being considered since the reasons for the recommendations were adequate, and had the support of the Council's Pensions Committee and Tameside and Bradford Councils.

Appended to the report were:

- Minute No. 27 Extract of the meeting of the Pensions Committee held on 16 July 2019;
- the report of the Director of Pensions to the Pensions Committee on 16 July 2019; and
- the draft Northern LGPS Operating Agreement.

The Pensions Director was in attendance at the meeting and answered Members questions on the following matters raised.

- The option for a pooling company was not a statutory or regulatory requirement. An exemption could be obtained under Section 9 of the Financial Services and Markets Act. It could be demonstrated to the Government that the three local authorities were operating on a joint venture basis. Operating as a joint venture was the lower cost option and advice had been taken on this. The Pool was not seeking to incur unnecessary costs.
- Compulsory exit and voluntary exit procedures.
- Indemnity and protection of Members against any personal sanctions whilst carrying out functions as a Councillor were covered by the Public Health Act 1875 and by the Council's insurance.
- There was no uncertainty over the assets of the Merseyside Pensions Fund. The agreement had been structured in such a way that the assets of the Merseyside Pension Fund would be returned to the Fund in the fullness of time.
- Pooling partners and ethical investors.
- The Joint Investment Policy that was in place.

## **RESOLVED:**

**That this Committee recommends to the Council:**

- (1) the proposed principles of governance contained in the draft Operating Agreement approved by the Pensions Committee at its meeting on 16 July 2019 and in particular the establishment of a Joint Committee with Tameside and Bradford Councils to oversee the required arrangements for the pooling of investments by all three Pension Funds;**
- (2) the Chair and Vice Chair of the Pensions Committee (or as otherwise determined by Pensions Committee) be the Council's elected representatives on the Joint Committee; and**
- (3) the Director of Pensions in consultation with the Director: Governance and Assurance be given delegated authority to negotiate and agree with Tameside and Bradford Councils the details of the final draft of the Operating Agreement within the parameters of the principles of governance approved by the Pensions Committee and the Standards and Constitutional Oversight Committee.**

## **13 REVIEW OF SCRUTINY ARRANGEMENTS**

Councillor Dave Mitchell, the Chair of the Business Overview and Scrutiny Committee was in attendance at the meeting and introduced his comprehensive report on the review of the Council's overview and scrutiny committee arrangements that had been undertaken in consultation with the Committee Chairs and Group representatives. Members had considered the number of committees and their respective terms of reference and the report set out suggested steps on how to improve the arrangement.

The Committee was informed that the Scrutiny Review Panel had been established and an all non-executive Members' Workshop had been held. The report detailed the outcomes of the review of the scrutiny arrangements of the Business Overview and Scrutiny Committee. The findings and recommendations reflected the views of all the Members who had been involved.

The Review Panel had commissioned the Scrutiny Team to carry out a research exercise to explore governance including scrutiny arrangements at authorities with statistical similarities to Wirral and the experiences of Councils in the UK where committee systems had been introduced. A briefing pack had been approved by Chairs and Party Spokespersons of all four Overview and Scrutiny Committees and circulated to all non-executive Members in preparation for the workshop. It included statutory guidance on overview and

scrutiny in local government published in May 2019. This was a best practice guide and it was noted that Wirral already fulfils several of these areas of focus. It was also worth noting that areas that needed work were around organisational culture which required a long term commitment to change.

The Scrutiny Review Workshop for all non-executive Members was held on 17 July 2019 to review current scrutiny arrangements in Wirral and to discuss future options for scrutiny and Members from all Political Groups were in attendance, eleven in all, as well as key members of the Strategic Leadership Team. The Statutory Scrutiny Officer facilitated the session in order to ensure the strategic objections were clear, to provide an overview of the current arrangements and to ensure that key points were considered as part of the workshop.

At the Workshop Members were asked to consider what had been working well and what key principles of overview and scrutiny were important. The discussion produced two lists of positive areas of scrutiny and areas for improvement. Members then asked questions about developing a fit for purpose overview model for Wirral and two models had been presented and were detailed in the report.

As a result of the Members' Workshop several crucial findings had been gathered and there was agreement for the retention of the following key principles in any new model of governance to ensure decision-making was efficient, effective and legitimate:

- Openness and Transparency
- Ensuring Effective Oversight
- Holding Partners to account.
- Use of Task and Finish and Scrutiny Review Groups – Pre-decision Scrutiny.
- Effective Assignment of Members with appropriate knowledge and skills and across political groups to relevant Committees and sub-Committees.
- Continued Engagement with Stakeholders.

Councillor Mitchell reported that it was important to note that two separate reviews had been directed by the Council; the Review of Scrutiny outlined in the report and the Governance Review that was also reporting at this Committee. Both were related to the Council's governance arrangements and, therefore, it was noted that the two reviews had implications for each other. The primary objective of the Governance Review Working Group was to explore different governance options that could be implemented by Wirral Council. They were the current system, an executive model, a committee system or a potential hybrid of both. Some governance models did not require scrutiny. It had not been possible to propose an exact scrutiny model

because the Scrutiny Review Working Group had not been aware of the outcomes of the Governance Review until the report had been published.

Councillor Mitchell informed that the Council currently had four Overview and Scrutiny Committees and three Members sat on the Overview and Scrutiny Committee of the Merseyside City Region Combined Authority.

Appended to the report were:

- Appendix 1 – The Review of Scrutiny Arrangements Report
- Appendix 2 – The Review Briefing pack including Scoping Document
- Appendix 3 – The Presentation to the Members' Workshop

Members then commented on the report and asked a number of questions. Issues raised included:

- The monitoring of partner organisations should be built into any new form of governance arrangements.
- In the past not all the recommendations made to the Cabinet by Overview and Scrutiny Committees had been approved.
- Task and Finish Groups and the need for Call-in would need to be considered before any new governance structure was agreed.
- Culture was an issue and needed to be changed within the Council.
- Good scrutiny provided an invaluable service.
- A suggestion that when the Minute of this item of business was published, a document covering what the Committee discussed here including the summary and findings that Councillor Mitchell had outlined be included in a paper for Members to use as a reference document.
- It was essential that attention be given to Merseyside City Region Combined Authority scrutiny in any new governance arrangements.

**RESOLVED: That**

- (1) the Business Overview and Scrutiny Committee be thanked for its very detailed report;**
- (2) the Council be recommended to approve the recommendations of the review of its scrutiny arrangements as follows:**
  - (a) the findings of this review of scrutiny arrangements be taken into account as part any new governance model, with the six key principles of effective scrutiny formally included within the new model of decision-making;**
  - (b) the effectiveness of the Overview & Scrutiny arrangements of the new governance model at Wirral be reviewed after 12**

months to ensure the good practice currently in operation is continued; and

- (c) the new governance model should ensure full consideration of Wirral's involvement in the Liverpool City Region Combined Authority Overview & Scrutiny function.

## 14 GOVERNANCE REVIEW

At the Annual Meeting of the Council the Committee had been charged with carrying out a review of the Council's governance arrangements. Consequently, Councillor Tony Cox introduced a report by the Governance Review Working Group that had undertaken this work. The Working Group had met during the summer and, with the assistance of the Local Government Association (LGA), had conducted interviews and had hosted an all Member workshop. The findings of the Working Group, and its implications, were set out in the report.

The Governance Review Working Group had considered that the recommended move to a Streamlined Committee System form of governance best met its objectives for governance arrangements of:

- **Accountability** – responsibilities and accountability should be clear, within the Council and to residents;
- **Credibility** – governance should assist good decision making, which involved proper and early scrutiny;
- **Transparency** – the decision making process should be open and transparent to Members and to the public;
- **Collaboration** - decision making should be collaborative across parties and less combative;
- **Timeliness** – decision making should be both quick and effective and, when necessary, allow for urgent decision making.

Members noted that the recommendations, if adopted, set in train a number of pieces of work to be completed to allow for the change of form of governance within the desired timeframe.

The Committee was informed that varying alternative governance arrangements had been considered by the Working Group. This had included a particular emphasis on a more inclusive and open version of a Leader and Cabinet form of executive arrangements, as well as 'Hybrid' and other forms of governance arrangements.



However, these other governance options had been rejected as it was considered that they would not achieve the objectives to the same high degree or as conclusively as a Streamlined Committee System.

The Working Group had considered delaying the implementation date of the change of governance arrangements to the Annual Meeting of 2021 to allow for more time to draw up a satisfactory working structure. However, it was satisfied that any advantages were more than outweighed by the view that such a delay would be counter-productive and that a workable revised Constitution could be produced in the given time period.

Appended to the report was:

- Appendix A – The Presentation slides for the Governance Review Workshop; and
- Appendix B – The Governance Review Working Group's Chair's Report.

Councillor Cox reported that accountability, credibility and transparency were paramount and it was important not just to keep governance arrangements the same but about improving them so that the electors could hold Members to account. Also, collaborative working was very important and the current form of governance did not actually endear people to work in collaboration. If the Council was to move forward with an improved form of governance there was now an opportunity to make a genuine change to how the Council was actually run and the oversight that Members had.

Councillor Cox also reported that it was important that information was made available because in the past Members had been told more or less to go and look for themselves. This should not be allowed to happen going forward. It needed to be eradicated and a more inclusive way of working found and if this meant a change in governance arrangements, then so be it.

The Director of Governance and Assurance informed that Appendix B, written by the Chair, was the most important part of the report. The Director had drafted the covering report and had included the practical implications of changing the Council's governance arrangements.

Members then commented on the report and asked a number of questions. Issues raised included:

- The Working Group had been speedy and had completed a good consensual piece of work and there had been no major defence of the Cabinet System. No one had said staying with the current system of governance was the right option.
- The All Member Workshop had been well attended and although some Members did have concerns about change and how that would look,

overwhelmingly those who had attended had declared that they were in favour of change and were not resistant to it. They had recognised that things moved on, times changed and the way the Council was constructed had to change. This had all been helpful.

- At the time the original Notice of Motion was debated there had been an overwhelming feeling that decision-making in the Council had not been of the top quality that it should have been and, in fact, even in the face of fairly strong public opposition, that decision-making had not been revisited. The current model of governance had been imposed on the Council by central government. It was thought that the Strong Leader model with the delegation of decision-making had led the Council down the wrong path. It was important to review the Council's governance arrangements now and the starting point of the Working Group had not been to say how we implement a Committee System but had been to say how do we reverse the process that has been going on for some years.
- Members wanted meaningful involvement in decision-making that meant something to their constituents. They needed to serve the electorate better. The Council's powers currently were not what the public expected it to have and this needed to be put right. The public's perception currently was that decisions were made behind closed doors.
- The number of Freedom of Information requests had gone up considerably since the Cabinet System was implemented. Wirral Council had the highest number of these submitted to a local authority in the country.
- It would be a mistake to see this chance as a return to the old Committee System. It was not a return to any system that the Council had in place previously. It would be a much more streamlined system.
- There were still concerns to be addressed and one of these was the speed at which the change was taking place. However, if Members found the time constraints were too tight, the Council could decide at its meeting on 14 October 2019 that it did not want to implement new governance arrangements until May 2021. If that decision was made there could not be another vote, in the meantime, to reverse that decision.
- Some Members thought the timescale was too rushed to implement a change in governance arrangements within six months and informed that the representative from the Local Government Association who had attended the Members' Workshop had recommended a timescale of at least 18 months for such change to be implemented.
- If the Council agreed the recommendations set out in the report the Director of Governance and Assurance had confirmed that it would be possible to have a workable Council Constitution in place for May 2020. It would then be continually reviewed and evolve as appropriate.
- It was not anticipated that the new arrangements would lead to an increase in Members' Allowances. Instead it was expected that there

would be a reduction as there would not be as many Special Responsibility Allowances included in the new Scheme of Members' Allowances. This should mean a cost saving.

- Cost from an officers' perspective would:
  - (1) include implementing the changes and the Constitution which would be a one off. However, there were issues identified with the current Constitution which meant it would need to be rewritten anyway if the Council did not move to new governance arrangements. Therefore, the cost of a new Constitution would be incurred whatever the Council decided to do regarding its future governance.
  - (2) depend on the number of meetings held, were they were held and how many Committees were established. Inevitably, other councils that had moved to a Committee System had ended up employing one or two more Democratic Services Officers. The change to committees also had taken up more of officers' time. The Committee Structure that was agreed would have direct consequences for the actual costs and could result in an 'invest to save' situation.
- The Committee should receive regular updates on the costs involved with the Council changing to a new governance arrangement.
- It was difficult to see how there could be any more meetings in the Council's Calendar of Meetings as a result of a change in governance than there was under the current model, as there were meetings scheduled on most evenings.
- Under the current system of governance decision-making had been quick but not necessarily effective.

Councillor Gill Wood proposed the following:

That the Committee is recommended:

- (1) to recommend to the Council that:
  - (a) the Council moves from Leader and Executive arrangements to a Committee System form of governance arrangements to take effect from the Annual Council meeting in 2021; and
  - (b) this Committee accordingly prepare a draft revised Constitution to propose to Council at its earliest opportunity in the new Municipal Year.
- (2) to task the Governance Review Working Group to:
  - (a) consider possible structures for a Committee System of governance;

- (b) undertake due consultation but giving preference to a streamlined style of arrangements; and
- (c) oversee the drafting of revised standing orders, delegations and procedures by the Director of Governance and Assurance, with a view to producing an operational Constitution for the 2021/2022 Municipal Year in draft form for consideration in the new Municipal Year.

The proposal was seconded by Councillor Paul Stuart.

However, some Members believed that progress should be made more quickly than proposed here and to do so Councillor Phil Gilchrist moved the following Amendment:

Having considered:

- (a) the materials presented to the Governance Review Working Group; and
- (b) the discussions held at the Working Group's meetings and subsequent Member sessions.

This Committee is of the view that Wirral's residents will now be better served by the introduction of a more accountable and transparent way of conducting the Council's business, policy formulation and decision-making.

It is the opinion of this Committee that the Council should now move to a Committee based structure to be designed, finalised and in place for the next Municipal Year.

The Committee notes that a range of costs have been put forward that apply to the revised arrangements. It is recognised however, that revisions to the existing Constitution have been under discussion for some time and that costs would have been incurred in that process.

The Committee considers that the operational costs of the new system of governance should be the subject of regular reports and that in practice these costs should be minimised.

The Committee:

- (1) recommends to the Council: That
  - (a) there be a move from Leader and Cabinet Executive arrangements to a Committee System form of governance arrangements to take effect from the Annual Council Meeting in 2020; and

- (b) the Standards and Constitutional Oversight Committee accordingly prepare a draft revised Constitution to propose to the Council meeting of 16 March 2020.
- (2) the Governance Review Working Group be tasked with:
- (a) considering possible structures for a Committee System of governance system of governance;
  - (b) undertaking due consultation but giving preference to a streamlined style of arrangements; and
  - (c) overseeing the drafting of revised standing orders, delegations and procedures by the Director of Governance and Assurance, with a view to producing an operational Constitution for the 2020/21 Municipal Year in draft form for consideration in February 2020.

This amendment was seconded by Councillor Moira McLaughlin and put to the vote and carried (5:0) with 3 abstentions.

The amendment then became the substantive Motion. It was put to the vote and it was

**RESOLVED: (5:0) (Three abstentions)**

**Having considered:**

- (a) the materials presented to the Governance Review Working Group; and**
- (b) the discussions held at the Working Group's meetings and subsequent Member sessions.**

**This Committee is of the view that Wirral's residents will now be better served by the introduction of a more accountable and transparent way of conducting the Council's business, policy formulation and decision-making.**

**It is the opinion of this Committee that the Council should now move to a Committee based structure to be designed, finalised and in place for the next Municipal Year.**

**The Committee notes that a range of costs have been put forward that apply to the revised arrangements. It is recognised however, that revisions to the existing Constitution have been under discussion for some time and that costs would have been incurred in that process.**

**The Committee considers that the operational costs of the new system of governance should be the subject of regular reports and that in practice these costs should be minimised.**

**The Committee:**

- (1) recommends to the Council: That**
  - (a) there be a move from Leader and Cabinet Executive arrangements to a Committee System form of governance arrangements to take effect from the Annual Council Meeting in 2020; and**
  - (b) the Standards and Constitutional Oversight Committee accordingly prepare a draft revised Constitution to propose to the Council meeting of 16 March 2020.**
- (2) the Governance Review Working Group be tasked with:**
  - (a) considering possible structures for a Committee System of governance system of governance;**
  - (b) undertaking due consultation but giving preference to a streamlined style of arrangements; and**
  - (c) overseeing the drafting of revised standing orders, delegations and procedures by the Director of Governance and Assurance, with a view to producing an operational Constitution for the 2020/21 Municipal Year in draft form for consideration in February 2020.**

## **15 MEMBERSHIP OF THE INDEPENDENT REMUNERATION PANEL**

The Director of Governance and Assurance introduced his report on the Membership of the Independent Remuneration Panel (IRP). He informed that the ongoing review of the Council's governance arrangements may result in the introduction of a different set of roles and responsibilities for Members. In the light of that, the Director asked the Committee to confirm postponement of the ongoing review of this Council's Scheme of Members' Allowances pending the agreement of any revised governance arrangements.

The Director of Governance and Assurance informed that discussion with Members had highlighted that the onset of any revised governance arrangements of whichever form they might take, was an ideal juncture at which to refresh the membership of the IRP and introduce fresh perspectives. Moreover, whilst the Council was extremely grateful to the current IRP for the work that it had carried out, its membership had remained largely unchanged

for a considerable number of years. In order to maintain a robust IRP review process and to sustain a public perception of independence it was necessary that the membership of the IRP was refreshed from time to time.

The Director informed that Government guidance suggested that the IRP's membership should be refreshed every three to five years and the current IRP consisted of some very long serving members, with the exception of its Chair who was relatively new.

The Committee was also asked to consider whether any of the Panel members should receive an honorarium. It was informed that currently, only the Chair received one in the sum of £500 per annum.

**RESOLVED: That**

- (1) pending any revised governance arrangements coming into effect, the Committee:**
  - (a) agrees to pause the current review of the Members' Allowances Scheme;**
  - (b) agrees to refresh the membership of the Independent Remuneration Panel (IRP) in advance of requesting a new review of the Scheme of Members' Allowances in respect of any revised Council governance arrangements; and**
  - (c) authorises the Head of Democratic and Member Services:**
    - (i) to advertise for candidates from the general public and a wide range of organisations, including the local business community and voluntary organisations, for up to five members of the IRP to serve for a period of four years and conduct the next review of Members' Allowances;**
    - (ii) to separately recruit a Chair for the IRP as he or she will have a separate and distinct skill set and knowledge requirement; and**
    - (iii) to interview and recommend for selection (in consultation with Political Group Leaders) up to five nominees, including the Chair for appointment to the IRP;**
- (2) the nominees for appointment to the IRP be subject to the Council's approval;**
- (3) an honorarium of £500 (no increase) be paid to the Chair of the Panel only, for a period of four years; and**

- (4) the scope of the review of the Scheme of Members' Allowances be comprehensive, taking into account any revision of governance arrangements.**

16 **CHAIR'S THANK YOU**

Councillor Tony Cox thanked all of the Members who had worked with him on the Governance Review Working Group. He considered that a good piece of cross party work had been produced.

Councillor Cox also thanked all the Officers who had assisted the Governance Review Working Group for their help and support.



## WIRRAL COUNCIL

### STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

26 November 2018

<b>SUBJECT:</b>	<b>SUMMARY OF STANDARDS COMPLAINTS</b>
<b>REPORT OF:</b>	<b>MONITORING OFFICER</b>

### REPORT SUMMARY

This report provides a summary of standards complaints received under the Members' Code of Conduct and Protocol for dealing with complaints against Members between 31 October 2018 and 31 October 2019.

### RECOMMENDATION

That the Committee notes the summary of standards complaints set out at Appendix 1 to this report.

## SUPPORTING INFORMATION

### 1.0 REASONS FOR RECOMMENDATION

1.1 To provide the Committee with an opportunity to consider the handling and progress of standards complaints.

### 2.0 OTHER OPTIONS CONSIDERED

2.1 The process for the administration of standards complaints is undertaken in accordance with the revised Protocol for dealing with complaints against Members which was approved by the Committee in February 2019.

### 3.0 BACKGROUND

3.1 The Council is required to deal with complaints made against Members under its approved Ethical Framework.

3.2 In order to assist with the effective administration of standards complaints, the Committee, as part of its monitoring role, is invited to consider the nature and handling of complaints received pursuant to the Members' Code of Conduct.

3.3 Appendix 1 sets out a summary of the complaints received and their status.

3.4 The Ethical Framework requires complaints to be dealt with confidentiality and therefore it is not possible to provide extensive details in respect of each complaint.

3.5 Between 31 October 2018 and 31 October 2019 a total of 15 complaints in respect of the conduct of 9 Members have been received. The complaints were received from 13 complainants who were all members of the public. One complainant complained about 4 Members. One incident complained of involved 2 Members and the same complainant made a complaint against a third Member which was connected.

Period	Complainant		Ongoing	Referred for Investigation	Outcome		
	Member	Public			Upheld	other outcome	Not Upheld
31/10/2018 to 31/10/19	0	13	1	1	0	4	4

### 4.0 FINANCIAL IMPLICATIONS

4.1 There are no financial implications arising from this report save that where an external investigator is appointed, additional costs will be incurred. Such costs

will vary depending upon the nature of the complaint and the time taken to undertake and complete the investigation.

## **5.0 LEGAL IMPLICATIONS**

- 5.1 Under the Localism Act 2011 the Council is required to have a Code of Conduct relating to the conduct of Members and arrangements in place to deal with any complaints received in respect of Members conduct.
- 5.2 This report provides an opportunity for the Committee to monitor the progress of complaints.

## **6.0 RESOURCE IMPLICATIONS**

- 6.1 There are no such issues arising from this report.

## **7.0 RELEVANT RISKS**

- 7.1 The administration of standards complaints should be dealt with as efficiently as possible to ensure matters are concluded quickly and closure of issues secured for both complaint and the subject member(s) involved.

## **8.0 ENAGEMENT/CONSULTATION**

- 8.1 There are no such issues arising.

## **9.0 EQUALITIES IMPLICATIONS**

- 9.1 There are no specific discrimination issues arising from this report.

## **10.0 ENVIRONMENT & CLIMATE IMPLICATIONS**

- 10.1 There are no specific environmental and climate issues arising from this report.

**REPORT AUTHOR:** **Philip McCourt**  
Director of Governance and Assurance  
and Monitoring Officer  
Telephone: (0151 691 8469)  
Email: [philipmccourt@wirral.gov.uk](mailto:philipmccourt@wirral.gov.uk)

## **APPENDICES**

### **Appendix 1 – Summary of Standards Complaints**

## **BACKGROUND PAPERS**

None

## APPENDIX 1

### Summary of complaints 31.10.18 – 31.10.19

No	Date received	Nature of Complaint	Date Concluded
1.	06.11.18	Failed to treat others with respect	21.12.18 No breach
2.	02.12.18	Failed to treat others with respect	25.01.19 Local resolution - apology
3.	12.02.19	Inconsistent duty conduct	22.03.19 No breach
4.	31.03.19	Failed to treat others with respect	16.05.19 No breach
5.	31.03.19	Failed to treat others with respect	16.05.19 No breach
6.	04.04.19	Inconsistent duty conduct	15.05.19 Discontinued as Cllr not re-elected
7.	12.04.19	Inconsistent duty conduct	17.05.19 Discontinued as Cllr not re-elected
8.	17.07.19	Failed to treat others with respect	Not yet concluded
9.	11.10.19	Inconsistent duty conduct	15.10.19 Complaint withdrawn

## STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

26<sup>th</sup> November 2019

<b>REPORT TITLE:</b>	<b>COUNCIL OWNED COMPANIES</b>
<b>REPORT OF:</b>	<b>Director of Governance and Assurance</b>

### REPORT SUMMARY

This report provides Members of the Committee with the information that has been requested regarding details of the companies which are wholly or partly owned by the Council.

### RECOMMENDATION/S

**That the Committee is recommended:**

**To note the contents of the report.**

## SUPPORTING INFORMATION

### 1.0 REASON/S FOR RECOMMENDATION/S

1.1 The purpose of this report is to provide Members with information in relation to the companies which are wholly or partly owned by the Council.

### 2.0 OTHER OPTIONS CONSIDERED

2.1 No other options were considered.

### 3.0 BACKGROUND INFORMATION

3.1 Following consideration of the report of the Committee on Standards in Public Life review of Local Government Ethical Standards which recommended that as a matter of good practice:

*“Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place”;*

Members of the Committee requested that a report be prepared which provided information in relation to the companies which are wholly or partly owned by the Council.

### 4.0 COMPANIES OWNED BY THE COUNCIL

4.1 The Council currently owns shares in two active companies Edsential and Wirral Evolutions, details of which are set out below. Both are regulated by shareholder agreements in conventional form.

<p><b>EDSENTIAL</b>  (CRN 09550258)</p>	<p>Community Interest Company</p>	<p>50% of the issued share capital  (CW&amp;C holds the remaining 50%)</p>	<p>56290 - Other food services  85600 - Educational support services  Primarily school catering and cleaning, support to creative and performing arts, governors, health and wellbeing, music, residential visits and training - More particulars can be found at <a href="https://edsential.com">https://edsential.com</a></p>
<p><b>WIRRAL EVOLUTIONS LIMITED</b>  (CRN 09589553)</p>	<p>Private Limited Company</p>	<p>100% of the issued share capital</p>	<p>88100 - Social work activities without accommodation for the elderly and disabled More particulars can be found at <a href="http://www.wirralevolutions.org/">http://www.wirralevolutions.org/</a></p>

- 4.2 The Council also owns shares in two other companies both of which are currently dormant, details of which are set out below. Governance issues will need to be fully addressed before the companies commence to trade.

WIRRAL GROWTH COMPANY NOMINEE LIMITED  (CRN 10669793)	Private Limited Company	100% of the issued share capital	This company was incorporated to 'hold' the Wirral Growth Company name for the limited liability partnership and has not traded. It is essentially redundant and there is no requirement to keep it, but it could easily be repurposed to accommodate miscellaneous trading activity that the council may care to enter into.
WIRRAL HOLDINGS LIMITED  (CRN 11750772)	Private Limited Company	100% of the issued share capital	This is a single purpose company wholly owned by the Council - formed to enter into long term legal arrangements regarding the management of property in 10 years' time, but which has not traded and otherwise has no current assets. This company could be repurposed to discharge not only its original purpose, but also other housing or property related activities.

- 4.3 In addition to the four companies detailed above it is believed that the council holds one or more shares in or is a member of companies created to deliver various PFI schemes. However, it is believed that the council is only represented in these companies as a minority shareholder. As such the council will not usually be in a position to influence the decisions made by or the conduct of the companies.
- 4.4 The council also has an interest in the Wirral Growth Company LLP, which, despite its name and it being registered at Companies House, is not a company. It is a limited liability partnership and it is assumed that Members are familiar with the various agreements that have been entered into in respect of it.
- 4.5 In addition the council has numerous other informal arrangements, associations and 'partnerships' which either have no corporate structure or in which the council has no proprietorial interest.

## 5 ENGAGEMENT / CONSULTATION

- 5.1 There has been no consultation carried out specifically in relation to this report.

## **6 LEGAL IMPLICATIONS**

- 6.1 There are long-established powers for councils to trade. Among the most important is the Local Authorities (Goods and Services) Act 1970, which authorises councils to enter into agreements with other local authorities and other designated public bodies, for the provision of goods, materials and administrative, professional and technical services, for the use of vehicles, plant and apparatus and associated staff, and for the carrying out of maintenance.
- 6.2 The Local Government Act 2003 added new possibilities to charge for services, to both provide extra services at cost and to trade with the private sector. Under the 2003 Act, the Government authorizes trading by means of a trading order. The Trading Order currently in force was made in 2009 , which permits all councils in England to trade or "to do for a commercial purpose", anything which they are authorised to do for the purpose of carrying on their ordinary functions, which includes use of the granted general power of competence.
- 6.3 Under that 2003 Act and Trading Order, as augmented by the Localism Act 2011, for a local authority to exercise the power to do things for a commercial purpose (which the authority couldn't otherwise do), then it must be done through a company. Councils are thus enabled to establish a company by which they can trade with the private sector for a profit - that is to enter into commercial contracts. The profits may then go back to the council through dividends or service charges.

## **7 FINANCIAL IMPLICATIONS**

- 7.1 There are no direct financial implications arising directly from this report.

## **8 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

- 8.1 There are no significant resource implications arising directly from this report.

## **9 RELEVANT RISKS**

- 9.1 If the council has not paid for its share/s in a liquidation of a company limited by shares, it will have to pay the face value of the share/s to a liquidator. Normally shares have only a nominal value of £1 or similar. If the council is a member of a company limited by guarantee which goes into liquidation it will only have to pay the amount that it has guaranteed. Again, this is normally only a notional sum of £1.

## **10 EQUALITY IMPLICATIONS**

- 10.1 There are no identified equality impact implications directly arising from this report.



## **11 ENVIRONMENTAL & CLIMATE IMPLICATIONS**

11.1 There are no environmental and climate implications arising directly out of this report.

**REPORT AUTHOR:** Philip McCourt  
Director of Governance and Assurance  
Tel: 0151 691 8569

### **APPENDICES**

None

### **BACKGROUND PAPERS**

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## STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

26<sup>th</sup> November 2019

<b>REPORT TITLE:</b>	<b>GOVERNANCE REVIEW</b>
<b>REPORT OF:</b>	<b>GOVERNANCE REVIEW WORKING GROUP</b>

### REPORT SUMMARY

On 14 October 2019 Council passed a resolution that there be a move from Leader and Cabinet Executive arrangements to a Committee System form of governance arrangements to take effect from the Annual Council Meeting in 2020; and charged the Standards and Constitutional Oversight Committee accordingly prepare a draft revised Constitution to propose to the Council meeting of 16 March 2020.

This report provides an update on the work undertaken by the Governance Working Group following the decision of the Council.

### RECOMMENDATION/S

**That the Committee is recommended:**

**To note the progress to date in designing the new committee structure and to provide comment upon the proposals outlined in the report.**

## SUPPORTING INFORMATION

### 1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 The Governance Review Working Group considered that the recommended proposals for the new committee structure best met their objectives of:
- **Accountability** – responsibilities and accountability should be clear, within the Council and to residents;
  - **Credibility** – governance should assist good decision making, which involved proper and early scrutiny;
  - **Transparency** – the decision making process should be more open and transparent to Members and to the public;
  - **Collaboration** - decision making should be more collaborative across parties and less combative;
  - **Timeliness** – decision making should be both quick and effective and, when necessary, allow for urgent decision making.
- 1.2 The recommended proposals of the Governance Review Working Group are part of a number of pieces of work to be completed to allow for the change of form of governance within the desired timeframe.

### 2.0 OTHER OPTIONS CONSIDERED

- 2.1 Varying alternative forms of Committee arrangements were considered by the Working Group.

### 3.0 BACKGROUND INFORMATION

- 3.1 At the meeting on 26<sup>th</sup> September 2019 the Committee resolved to recommend to Council that:

Having considered:

- (a) the materials presented to the Governance Review Working Group; and
- (b) the discussions held at the Working Group's meetings and subsequent Member sessions.

This Committee is of the view that Wirral's residents will now be better served by the introduction of a more accountable and transparent way of conducting the Council's business, policy formulation and decision-making.

It is the opinion of this Committee that the Council should now move to a Committee based structure to be designed, finalised and in place for the next Municipal Year.

The Committee notes that a range of costs have been put forward that apply to the revised arrangements. It is recognised however, that revisions to the existing Constitution have been under discussion for some time and that costs would have been incurred in that process.

The Committee considers that the operational costs of the new system of governance should be the subject of regular reports and that in practice these costs should be minimised.

The Committee:

(1) recommends to the Council: That

- (a) there be a move from Leader and Cabinet Executive arrangements to a Committee System form of governance arrangements to take effect from the Annual Council Meeting in 2020; and
- (b) the Standards and Constitutional Oversight Committee accordingly prepare a draft revised Constitution to propose to the Council meeting of 16 March 2020.

3.2 On 14<sup>th</sup> October 2019 the recommendation was agreed and the Council formally resolved to move from Leader and Cabinet Executive arrangements to a Committee System form of governance arrangements to take effect from the Annual Council Meeting in 2020; and charged the Standards and Constitutional Oversight Committee accordingly to prepare a draft revised Constitution to propose to the Council meeting of 16<sup>th</sup> March 2020.

#### **4.0 NEXT STEPS**

4.1 Following the resolution by Council to change the form of governance, there then follows a process of formal notification. The legislation provides that, as soon as practicable after the Council has passed a resolution to change the form of its governance arrangements, it must:-

- a. Secure that copies of the document setting out the provisions that are to have effect following the resolution are available at its principal office for inspection by members of the public; and
- b. Publish in one or more newspaper circulating in its area, a notice which:-
  - (i) states that the authority has resolved to make a change in its governance arrangements;
  - (ii) states the date which the change is to have effect;
  - (iii) describes the main features of the change;
  - (iv) states that copies of the document setting out the provisions of the arrangements which are to have effect following the resolution are available at the authority's principal office for inspection by members of the public; and
  - (v) specifies the address of the authority's principal office.

- 4.2 A project plan is now in place supported by officers and forms five separate workstreams. Each workstream is supported by a project plan, staffing and timeline. The workstreams are:
- (i) Committee Design
  - (ii) Constitution Re-write
  - (iii) Training: Members and Officers
  - (iv) Service Review + Staffing Re-design
  - (v) Members Allowances Scheme
- 4.3 The Committee Design Phase required early consideration as later steps are reliant upon that being agreed. The meetings of the Governance Working Group therefore centred on these aspects, including agreeing design principles and considering draft committee structures as a process of iteration to be discussed with the Political Groups and the Working Group throughout November and early December.
- 4.4 Progress to date and the thought processes of the Working Group are described by the presentation slides attached as Appendix A, which were shared with the Local Government Association peers and officers on 18<sup>th</sup> November 2019.
- 4.5 The LGA has supported the Council through shared engagement of the Centre for Public Scrutiny (CfPS), who was also represented at the meeting of 18<sup>th</sup> November. The CfPS provided a training proposal agreed by the Working Group.
- 4.6 A further iteration of the full terms of reference for the committees as currently proposed are to be discussed the week commencing 25<sup>th</sup> November 2019. This will lead to the full drafting of a revised constitution during late December and early January.

## **5.0 ENGAGEMENT / CONSULTATION**

- 5.1 The current recommendation was subject to consideration by the Governance Review Working Group and it was agreed that each member of the Working Group would consult with their own Political Groups and respond to the Director of Governance and Assurance offering opinions upon the proposed options. This would then enable further work to be undertaken refining the proposed structure in readiness for a further meeting of the Working Group in December 2019.
- 5.2 Whilst there is no a legislative requirement to consult on the proposed changes, the Council's Constitution at Article 15.3(ii) states:

***“Change from a Leader and Cabinet form of Executive to alternative arrangements***

*- The Council must take reasonable steps to consult with local electors and other interested parties in the area when drawing up proposals.”*

5.3 The public notice on the change also links to a webpage, which will allow interested members of the public to comment upon the proposed committee design.

## **6.0 LEGAL IMPLICATIONS**

6.1 The ability for the Council to change from one of the permissible forms of governance arrangements of a local authority to another is provided for by Chapter 4 of the Local Government Act 2000 (as amended by the Localism Act 2011). Section 9KC of the Act straightforwardly states that a “resolution of a local authority” (a simple majority) is required in order for the council to make such a change in governance arrangements.

6.2 It should be noted, however, that a local authority may not then pass another resolution that makes a change from one to another of the permissible forms of governance arrangements ‘before the end of the period of 5 years’ beginning with the date the first resolution is passed, unless that change is by way of referendum.

6.3 A resolution passed by the Authority to change from one of the permissible forms of governance arrangements to another will then be implemented only during-

- (a) the first annual meeting of the local authority to be held after the resolution to make the change in governance arrangements is passed, or
- (b) a later annual meeting of the local authority specified in that resolution.

## **7.0 FINANCIAL IMPLICATIONS**

7.1 There are direct costs associated with making the change from one system to another. The Centre for Public Scrutiny (CfPS) have reported that the Government has estimated that the costs of moving from one system to another can range from £70,000 to £250,000. The CfPS believes this estimate is rather high, as do the Council’s officers, and consider a more accurate figure is likely to be in the tens of thousands.

7.2 These costs are associated more with the act of making the change, such as redrafting the constitution, making changes to rules of procedure and financial systems, project delivery and impact on forward work programmes as well as training and briefing costs for officers and Members.

7.3 Some of the cost activities will be required to be resourced externally, either directly or to provide alternate support to meet the impact of diverted officer resources. This will be to a greater or lesser extent dependent upon the alternative calls on the time and particular skills of the officer cadre and the pace of change will have a bearing on the eventual costs. For example, a procurement exercise for legal support has begun in preparation, but this is hoped to be largely formed of proofing and support.

7.4 Members' Allowances will require a full review and an exercise is currently underway to recruit new members of the Independent Remuneration Panel

## **8.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

8.1 There are significant implications for the Council in changing its decision making structure to a new form of governance. There will be an initial orientation, briefing and training impact that will reduce as the change in governance arrangements becomes embedded.

8.2 Project planning resource will be called upon to assist in preparation and for delivery of the drafting process and changes.

8.3 Across the Council, the change to potentially different ways of working and briefing with Members will require greater and different input from officers. The extent of these resource implications in the longer term will vary dependent on the number, frequency and timing of meetings (for example, evening or daytime meetings).

8.4 Democratic Services will directly be affected over the longer term and other authorities that have moved to a committee system have reported that an increase in staffing is required and this is the subject of the Service Staff Re-design workstream. Again, such matters as retention of a separate overview and scrutiny system or not and the number and frequency of meetings will have a direct bearing on this and so costs cannot be estimated at this time.

## **9.0 RELEVANT RISKS**

9.1 A change in the form of arrangements will represent a key and integral element of the overall organisational vision of the Council and also how it interacts with other stakeholders. That process of change will raise a number of associated risks to be identified and managed as part of the development process and implementation.

9.2 A key risk to the objectives of the recommendation is that a change to the form of governance arrangements fails to bring with it the desired change in culture.

## **10.0 EQUALITY IMPLICATIONS**

10.1 There are no identified equality impact implications directly associated with the proposals set out in this report.

## **11.0 ENVIRONMENTAL & CLIMATE IMPLICATIONS**

11.1 There are no environmental and climate implications arising directly out of this report.



**REPORT AUTHOR:** Philip McCourt  
Director of Governance and Assurance  
Tel: 0151 691 8569

## **APPENDICES**

### **Appendix A – Update presentation of Committee Structure Design**

## **BACKGROUND PAPERS**

- 1) Notes arising from meetings of the Governance Review Working Group

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# *Committee Structure Design*

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UPDATE REPORT  
November 2019

# PROJECT WORKSTREAMS

1. Committee Design Phase
2. Constitution Re-write
3. Training: Members and Officers
4. Service Review + Staffing Re-design
5. Members Allowances Scheme

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# Moving to a Committee System

## Workstream 1: Design

### Member Working Group Meetings post 14/10 decision

28/10/19 Outline on project and outcomes arising from the Council decision

4/11/19 Agreement on principles for drafting and outcomes

11/11/19 Working Group meeting on design iteration

26/11/19 Report to Standards & Constitutional Oversight Committee

# ITERATION QUESTIONS ASK:

- What do you want to achieve?
  - Returning to the agreed objectives
- Is that what this looks like?
  - Will what has been produced meet those objectives
- What does that mean?
  - Examining the practical implications
- How does that affect process and culture?
  - The view that this is as much about changing the culture as the governance system – form following function

# PRACTICAL QUESTIONS ASKED

- How Does It Work?
- Back to basics – What do Members and officers do?
- How do you (or do you) mitigate the problems of committees and/or retain the best of the cabinet system to become a ‘streamlined committee system’?
- Design of committees
- Reservation system or call-in?
- O&S and external scrutiny separate or part of committee remits?
- What should be the size and frequency of meetings?
- What do others do?

## Based on the agreed objectives of:

- **Accountability** – responsibilities and accountability should be clear, within the Council and to residents;
- **Credibility** – governance should assist good decision making, which involved proper and early scrutiny;
- **Transparency** – the decision making process should be open and transparent to Members and to the public;
- **Collaboration** - decision making should be collaborative across parties and less combative;
- **Timeliness** – decision making should be both quick and effective and, when necessary, allow for urgent decision making.



# QUICK RECAP

## How does it work?

The system operates under the Local Government Act 1972 (with some exceptions)

Council “supreme” decision making body

- Council may arrange for the discharge of any of their functions—
  - by a committee, or a sub-committee appointed by the Committee, or
  - an officer of the authority, either directly by any of those or through a general scheme of delegation
- Allocation of seats on Committees and Sub-Committees must reflect political balance

# Exceptions being

- Regulations specify functions which must be exercised by full Council (Schedule 2, Chapter 3 – 9J) – “non delegable functions”\*
- May have Overview and Scrutiny Committee(s) but do not have to – except that scrutiny functions are required for health, flood prevention and coastal erosion and Community Safety, which can be
  - Full system of Overview and Scrutiny Committees (as now);
  - No dedicated overview and scrutiny function and required functions are built into proposed Committee remits; or
  - A hybrid of committees and focussed overview and scrutiny committees:
    - one for statutory functions
    - one for Call-In

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*\*The Local Authorities (Committee System) (England) Regulations 2012*

# What do Members and officers do?

Drop and dedicated short training session  
For Officers (27/11/19)

# Designing the new system – Recap of discussion: *Lessons from history*

Audit Commission Management Paper Sept 1990

*“We can’t go on meeting like this”*

Page 42 - *“the processes of local authority management, which are seen most clearly in the committee system, can tend to focus on day to day problems rather than on policy, strategy and results”*

- *“committees can become overloaded with detail and the really important policy issues – the setting of objectives and monitoring of outcomes – get squeezed out”*

# Risks and Mitigation (1)

## - A traditional committee structure

### Weakening of strategic leadership and direction

- Return to silo based thinking and decision making
- Lack of strategic co-ordination
- More meetings to resolve cross cutting issues
- Too much focus on operational management rather than strategic leadership – tension with officers – erosion of officer delegation
- Real challenges in dealing with cross partnership decision making

### Lack of openness and transparency

- Political decision making behind closed doors
- Fail to engage the public in decision making

## Risks and Mitigation (2)

### - A traditional committee structure

#### Slowing down of decision making

- Politicians cannot be given 'executive' authority – can't delegate decision making to Committee Chair
- Reservation (or rescission) system used without restriction, replacing call-in, causing undue delay

#### Increased bureaucracy

- More meetings
- More officer capacity required
- Expensive to resource

#### No mechanisms for holding decision makers and external bodies to account

- Distributed power, balance between policy and operational committees and effective use of Council
- Not making best use of continuing role for scrutiny

## Risks and Mitigation (3)

### - Committee System Streamlined Arrangements

- Cross party support for a proportionate system to engage all Members/all political groups in democratic process
- Council is “supreme” decision making body – all Members therefore play a part in key strategic decisions
- Separation in delegations between decisions that are regulatory, operational, policy formulation and policy setting
- All Members can be involved in key/controversial decision making, with enhanced openness and transparency, but avoiding dragged out operational or business decisions, so:
  - **not** a nostalgic return to the traditional committee system;
  - retain the best of an open cabinet system in making decisions that are accountable but also reactive and commercial where they need to be; and
  - making use of call-in on overview and scrutiny principles

# *What this says: AGREED DESIGN PRINCIPLES*

## Decisions

- **Council** taking decisions on a full list of reserved policies and referred decisions on recommendation of:
- **Policy & Resources Committee** designed to undertake a similar role to an open style Cabinet:
  1. having delegated authority for key strategic decision making within the budget and major policy framework set by Council, with ability to make decisions quickly and effectively across the range and
  2. focussing on strategic leadership not operational management, often on the recommendation of:
- **Functional committees**, ‘doing and reviewing’ Policy and Services Committees, designed in an understandable way:
  1. having delegated authority to make decisions within a strategic policy and financial framework determined by the Policy & Resources Committee, **and**



# *What this says: AGREED DESIGN PRINCIPLES*

## Overview and Scrutiny

- **Functional committees** [cont.]

2. to carry over an Overview and Scrutiny skillset to review the policy frameworks within which they operate and to formulate new policy recommendations  
( ↻ implement, review, formulate, recommend ↻ )

- **An Overview & Scrutiny Committee** to

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1. focus on outside bodies, partnership working and the statutory scrutiny functions; and also
  2. co-ordinate overview and scrutiny functions of the Policy and Service Committees where required
- **A Call-In Committee** to conduct proper scrutiny of controversial decisions in an in-depth, non-partisan and speedy manner as and when required

# *What this says: AGREED DESIGN PRINCIPLES*

## Regulatory and Administrative

- **Regulatory Committees** to be kept separated from the strategic and operational
- Full committees for the quasi-judicial and administrative functions (e.g. Planning, Audit, Standards, Licensing), some of which may be delegated
- Sub-committees or panels wherever possible (e.g. HR)

# *What this says: AGREED DESIGN PRINCIPLES*

## Other matters

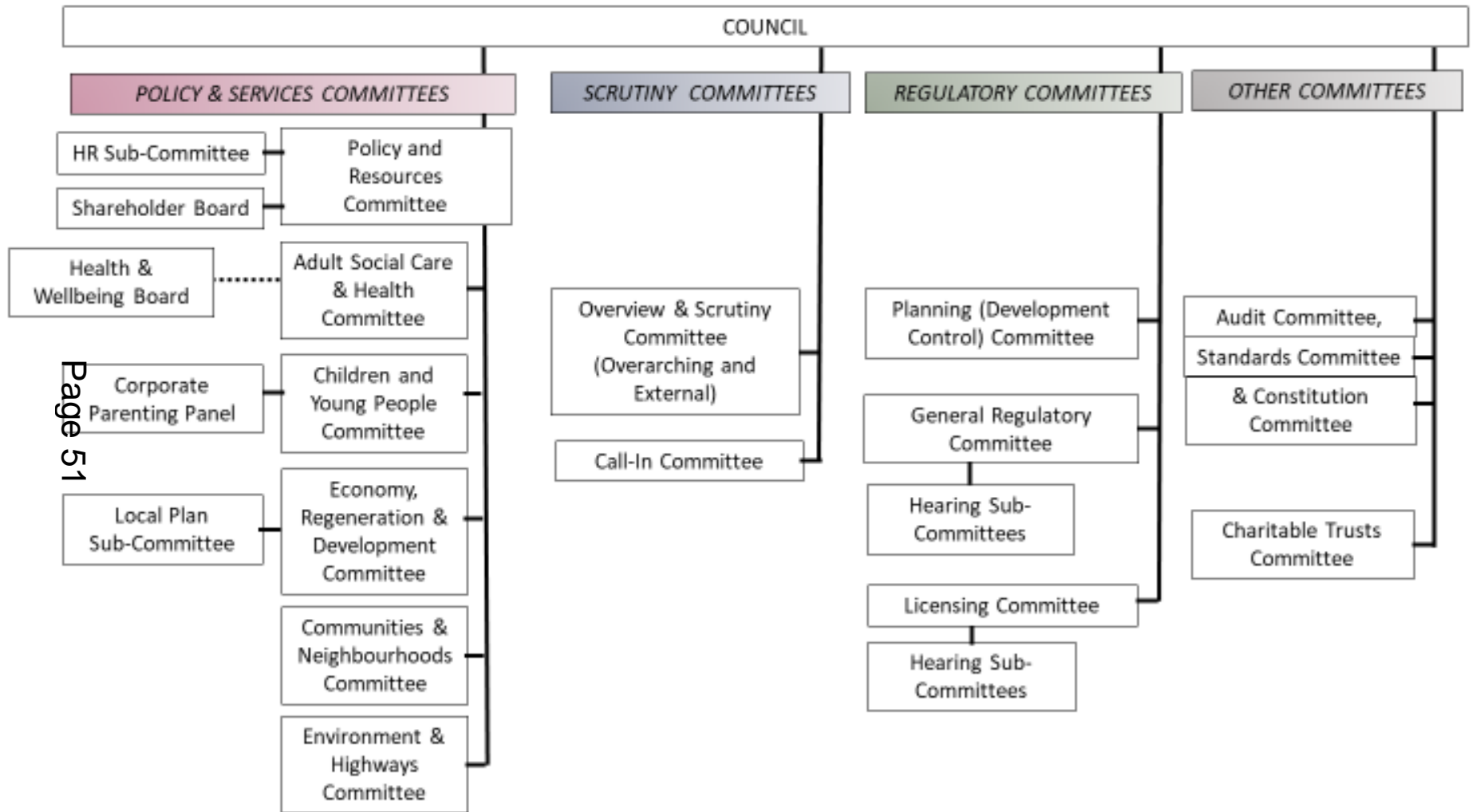
- **Committee Chair's** role, acting as advocate, ambassador and functional spokesperson but not decision maker
  - Formal Chair's briefings to be in the presence of Group Representatives, whose role is also defined
- **Leader's role** as Chair of P&R and spokesperson for the whole Council
- **Partner** bodies and links into the Council
- **Officers'** Scheme of Delegation, clarity and whether by exception
- **Review** all Standing Orders against model/best practice

# NEXT Workstream 1: Design

By mid-January

- Drawing up detailed design and remits for Committees
- Size of Committees
  - impact on political balance: apply matrix to different models
  - securing engagement of all members
- Frequency of meetings
- Appointment of Chairs and Vice-Chairs
- Sub-Committees
  - More business through standing sub-committees or a limit?
- Consultation
- Officer Scheme(s) of Delegation discussion
- Review of Procedures & Protocols in Constitution

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