

Governance at Mid Sussex

Background

1. The Local Government Act 2000 introduced a requirement for Councils with a population of over 85,000 to introduce a Cabinet/Executive model. The Act also introduced recommended Standing Orders and the requirement to have a Constitution with some prescribed information.
2. The reason for the Cabinet or Executive model was to improve the efficiency and effectiveness of decision taking. The previous committee system, all reporting to the Council, sometimes produced some very long delays in decisions being taken. The 2000 Act also provided for individual Cabinet Members to take decisions. All such Cabinet decisions are subject to a 5 day call in period to the relevant Scrutiny Committee. A Forward Plan highlights when decisions are likely to be made. There is also an Urgency procedure, involving consultation with the Chairman of the relevant scrutiny committee, to ensure decisions can be made very quickly if necessary.
3. To complement the work of the Executive, Overview and Scrutiny Committees were also introduced. Their role can involve both policy formulation and scrutiny and the Act envisages a clear separation of roles between the Executive and Scrutiny Committees. Councils are required to have at least one Scrutiny Committee. Scrutiny Committees make recommendations but do not take decisions. They can enable back bench members to take a longer term view of the work and responsibilities of the Council through policy development and review.
4. Full Council is responsible for setting the Budget and Council Tax levels and the making of new policies. All functions, excluding planning and licencing, are the responsibility of the Executive unless specified otherwise. The planning and licensing committees deal with applications in those areas that require determination. Their decisions can be challenged within a fixed time by the courts and not by any scrutiny process. The Audit Committee has a specific role in relation to the accounts and investments and reports to Council. The Standards Committee is charged with promoting high ethical standards and determining any Code of Conduct complaints.
5. The Constitution creates a governance framework to ensure good administration and decision-making. It sets out the separation of the duties of officers and members, accountability to full council, and the scrutiny and audit processes. Importantly this framework has a number of checks and balances built in to safeguard against poor ethical standards and protect against impropriety. These arrangements are overseen by the officers of the Council and in particular the Monitoring Officer.
6. The formal structures of councils provide an excellent infrastructure to support effective governance. These mechanisms also work most effectively when there is a good understanding of the different roles of officers and members and when elected members have a solid skill set and experience.
7. Political group leaders and other key members also have an important leadership role to play. They set the tone for how new councillors will engage with each other. They set expectations for how new councillors will work with officers and ensure political groups understand the Constitution, for example by attending training and briefings. Leaders of political groups not only need to model high standards themselves but should be quick to address poor behaviour when they see it.

At Mid Sussex

8. This Cabinet system has operated for the past 18 years. The current Cabinet comprises 7 Members and meets at least 9 times annually. Cabinet decisions can be taken by the Cabinet or by individual Cabinet Members. In both cases the decisions are subject to call in. The call in period is 5 working days after the publication of the decision. Decisions are published in MIS on Wednesday or Friday.
9. A called in decision can either be referred back to the Cabinet, the relevant Scrutiny Committee or to full Council. The Constitution sets out reasons for calling in decisions. These mainly relate to the way a decision was taken rather than the substance of the decision itself.
10. The Cabinet does not deal with planning, licensing and standards issues. At Mid Sussex these are dealt with by the Planning Committees, the Licensing Committees and the Standards Committee. Of these Committees, the heaviest burden are the Planning Committees. There are currently two Planning Committees with 12 members each, and approx. 30 meetings annually. This is of course driven by the strict timescales for the consideration of planning applications.
11. Decisions of the Planning Committees, the Licensing Committees and the Standards Committee are not subject to call in but can be reviewed by the High Court via the judicial review process or by statutory appeal to other courts.
12. Finally, the Council has an Audit Committee. Its role is to independently review the Council's finances and investments and sign off the Council's accounts.
13. The Council currently has three Scrutiny Committees of 15 members each. There is a direct relationship between them and the portfolios of Executive Members. They undertake the dual role of both scrutinising activities within portfolios and also supporting policy development within them. The Council's corporate performance is scrutinised by the Leader, Finance and Performance Scrutiny Committee. More detailed work on the specific service areas is carried out by the two remaining Scrutiny Committees. There are approx. 15 meetings annually across the three committees. Scrutiny Committees can play a useful role in developing new policies or strategies. If operated effectively, this can add a richness to the work of the Executive. They also scrutinise the effectiveness of the Council's work and can offer recommendations for improvement.
14. Our standing orders are common to most Councils in the Country given they are based on the original recommendations made by the Local Government Act 2000. Formal meetings of the Council are conducted in public and the papers published and accessible to the public. The Access to Information Act governs these processes.
15. Both the Scrutiny Committees and Council can set up task and finish working groups and provide them with terms of reference. Their purpose is to enable a small group of Members to work alongside officers to achieve a particular piece of work. They work best when the work is complex and benefits from technical advice from officers and community based perspectives from Members. If operated effectively they can add a richness to the policies and strategies developed by the Council. However, they are very resource intensive; so do need to operate effectively and with a minimum of bureaucracy. They require strong chairing skills. The outcome of their work can form the basis of advice to the relevant portfolio holder or be presented back to the sponsoring body (Scrutiny Committee or Council) for detailed debate.

16. Finally, it is essential that all the complementary components of governance operate efficiently and effectively. Compared to the private sector, they are very resource intensive. As all our work is funded by local tax payers, it is essential that governance operates effectively, transparently and using the Council's finite resources to very best effect.

Review of Formal Governance

17. Given the very significant resource restraints that will apply to the Council going forward, it is important that the Council's governance is proportionate to the resources available. In addition, and like other areas of Council activity, there is some useful learning from the introduction of virtual meetings and other effects of the pandemic, that should be reflected upon.
18. The Covid-19 crisis has precipitated a highly dynamic operating environment for the Council. This is unlikely to change, certainly in the short to medium term and so the Council's governance needs to reflect the agility required to operate in this environment.
19. Governance in local government has some unique characteristics which differentiates it from the private and third sectors and central government. This includes the political neutrality of officers, the demanding nature of the Access to Information and Freedom of Information legislation and the varied portfolio of regulatory, statutory and discretionary services and duties.
20. Developing a governance structure that matches this unusual mixture of characteristics, is difficult and the changed operating environment (that Covid-19 has created) makes this more important.
21. The Council has a good track record of keeping its governance arrangements under regular review and annual amendments are made to reflect changing needs. However, the impact of the crisis has the potential to be so significant, that a more fundamental review is needed.
22. The Council currently averages 104 formal meetings per year. In addition, each formal meeting also has a briefing meeting for the Chairman and Vice Chairman (approx. 90 per year). Despite the demanding nature of the requirements of local government governance (transparency, accessibility etc) this is a very considerable time commitment for officers and members alike and is not sustainable going forward.
23. Consequently, it is recommended that an external review is commissioned with a view to its findings be reported in time for implementation in the 2021/22 year. In terms of methodology, the review will be commissioned from expert advisors and enable full participation of all Members and relevant officers.
24. Overarching principles for the review could be:
- (i) Assisting Members to achieve a good balance between their responsibilities: representing ward issues and case work, policy making and scrutiny;
 - (ii) Maintaining the highest standards of conduct and ethics;
 - (iii) Enabling full participation and enabling the council's membership to be representative of its communities;
 - (iv) The potential of technology to assist facilitate access and ensure efficiency;
 - (v) A governance framework that is flexible and agile;
 - (vi) Draws on best practice;
 - (vii) Is highly efficient and effective;

- (viii) Considers the current Scheme of Delegation;
- (ix) Considers options for the timing of meetings (bearing in mind the points above).

Short term Changes

- 25. The Constitution Working Group 2020 was able to agree some modest changes to the operating of the Council's Planning Committees. They are aimed at simplifying the schedule of meetings for the public and other stakeholders.
- 26. The Working Group recommended that Planning Committee meetings be scheduled for the 2nd and 3rd Thursday each month, rather than the current arrangement.
- 27. **It is recommended that** these changes be implemented for the remainder of the financial year but that these arrangements are reviewed by the external review recommended above.