Sheffield City Council Overview and Scrutiny Management Committee

Briefing note from the Institute for Local Government Studies

Introduction

In preparation for the planned May 2020 referendum on moving the council to a committee system of decision making, the Overview and Scrutiny Management Committee is developing a set of principles on which any future City Council decision making structure should be based, and considering the strengths and weaknesses of different decision making structures. Inlogov welcomes the opportunity to contribute to this discussion.

This paper summarises the historical and legal background to local government political structures, evaluations of the cabinet model in England, examples of councils reviewing their governance, and guidance on how councils can do this effectively. We conclude with some personal reflections.

Background

Political structures in local government can be organised as a *centralised* political executive (a 'mayor' or 'cabinet' with specific powers and distinct from the wider body of councillors), or as a *decentralised* political executive (in which all or most of the elected representatives participate in the conduct of policy) (Collinge, 1997).

In the UK, local government responsibilities expanded rapidly from the 1850s, and each new service was linked to a new specialist board or committee. Over the next fifty years, these disparate services were pulled together by merging boards into 'compendious' authorities, but pre-existing committees retained considerable independence (Finer, 1934).

The pattern of 'centrifugal' tendencies towards decentralisation was reinforced by professional groups, the expansion of services, weak corporate centres and service-based central government funding. Meanwhile, there were competing 'centripetal' tendencies towards integration within a unified policy framework and administrative and political structures (Collinge, 1997).

After the Second World War, calls for greater coordination increased with a series of national reports (including by Maud, Redcliffe and Bains) and initiatives by local councils including grouping committees, appointing a chief officer, and introducing an overarching "policy and resources committee". Some councils introduced 'quasi-cabinets' of committee chairs, although these were not always fully effective in providing corporate leadership (Borraz *et al.*, 1994).

The Widdicombe Inquiry (Widdicombe, 1986) made a number of recommendations to strengthen council leadership, formalise decision-making and separate politics and management. Decision-making committees were to reflect the political balance of the council and Chief Executives established as 'head of the paid service'. The Government's response (the *Local Government and Housing Act 1989*) only partially implemented the recommendations.

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Michael Heseltine, as Secretary of State for the Environment, established a review of local authorities' internal organisation which reported in 1993. The report concluded that cohesion required a focussing of power and responsibility among leading politicians (rather than a managerial executive). It considered four international models of political executives: a directly elected 'mayor' (as in parts of the US and Germany), a directly elected multi-person executive, an indirectly elected 'mayor' (as in France) and a multi-person executive appointed from the council (a 'cabinet') (DoE, 1993).

Following the 1998 White Paper *Modern Local Government: In Touch with the People* (Department of The Environment and Regions, 1998), the Labour government passed the *Local Government Act 2000*. This abolished the committee system (for councils with a population over 85,000) and replaced this by an executive committee or 'cabinet' system with three options (Wilson and Game, 2011):

- Cabinet with leader: leader elected by the council majority while the executive councillors are either also elected by the council majority or appointed by the leader. This form was adopted by over 80% of councils.
- Directly elected mayor and cabinet: the mayor is elected by the local population and appoints a cabinet of councillors
- Directly elected mayor with council manager: the mayor is elected by the local population and the council appoints a council manager (this option was withdrawn in the *Local Government and Public Involvement in Health Act 2007*).

Under the *Localism Act 2011*, principal authorities are now allowed to return to decision-making by Committees. The take up of this option was explored by several councils in the initial period after the act, and there appears to be an increase in interest again this year – often as a result of public campaigns or elections resulting in "no overall control" arrangements.

The Local Authorities (Referendums)(Petitions)(England) Regulations 2011 make provision for holding a referendum on whether a local authority should change to a different form of governance where at least 5% of the local government electors in the authority's area petition the authority. Subject to certain exceptions, regulation 16 requires the holding of a referendum, following a valid petition, no later than the next ordinary day of election which follows the petition date. Regulation 17 sets out steps which must be taken by an authority before holding a referendum and requires the authority to draw up proposals in relation to the proposed form of governance.

Referendums to mandate a return to the committee system have been held at Fylde Borough Council in 2015 and West Dorset District Council in 2016. In Flyde Borough, the existing regulatory committees continued and four new committees were established around the policy areas of tourism and leisure; operational management; health and housing; and finance. In West Dorset a strategy committee replaced the former executive committee, with seats allocated in accordance with the number of councillors from each political party (West Dorset DC was abolished in 2019 and formed part of the new Dorset unitary authority).

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Evaluation of the cabinet governance model in the UK

Evaluations of the 2000 reforms showed that they may have strengthened local political leadership, but non-executive councillors were felt to have lost influence (Wollmann, 2008). Decision-making was viewed to have become quicker, although this potentially increased risk if not preceded by effective pre-scrutiny.

The government's process evaluation of the new council constitutions in July 2004 concluded as follows (Stoker *et al.*, 2004):

- A mixed picture of reform has emerged with some parts of the system working better than others for example executive arrangements are operating better than overview and scrutiny functions on the whole. Some authorities have adapted more quickly than others. Some groups seem to be happier with the new arrangements than others with executive councillors, senior officers and stakeholders more positive about the system than non-executive councillors and junior officers.

- The implementation has been successful in that the new arrangements are in operation and enable decisions to be made on a relatively smooth basis. The forward plan and key decisions, although subject to a variety of interpretations, appear to have become a normal way of conducting business in most local authorities.

- Decision making is seen as speedier and leadership capacity enhanced. Councils seem better equipped to deliver better service delivery and community leadership and there is a sense among senior councillors, officers and stakeholders that the governance of local authorities puts them in a better position to go forward.

- There are areas where much more needs to be done to increase the transparency and accountability of the system and ensure non-executive councillors to realise the opportunities and potential afforded by their new roles.

Examples of councils reviewing their governance

The Centre for Public Scrutiny report, Rethinking Governance, summarises five case studies of councils reviewing their governance in the light of the Localism Act (CfPS, 2014):

- Cornwall (where the council kept the existing governance arrangements but changed some roles within that)

- Cambridgeshire (which moved to a committee structure in 2014)

- Stroud (which introduced a streamlined committee structure without a separate O&S function)

- Nottinghamshire (which moved to a committee structure with a separate O&S function).

- Kent (which has a hybrid arrangement, operating a leader-cabinet model but with decisions made by cabinet committees and ratified by the executive)

Guidance on reviewing council governance

Two useful documents concerning council governance are available from the Centre for Public Scrutiny:

- Musical chairs: Practical issues for local authorities in moving to a committee system (2012)

- Rethinking Governance: Practical steps for councils considering changes to their governance arrangements (2014)

This guidance proposes a number of principles for councils reviewing their governance arrangements:

- Be clear about the reasons and objectives for change

- Involve local partners who may be affected by change

- Think about how forward planning of decisions will be managed, and what decisions should be delegated to officers

- Consider the future contribution of the scrutiny function

Rethinking Governance proposes councils adopt a five step process:

1. Plan your approach, and assess your current position
2. Consider some design principles
3. Think of ways to meet these objectives and put a plan in place
4. Make the change
5. Return to the issue after a year and review how things have gone

Personal Reflections (John Cade)

As has been well documented, whilst structures are important, even more significant is the culture of the Council.

This has been most recently highlighted by the new Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities (May2019).

> "The prevailing organisational culture, behaviours and attitude of an authority will largely determine whether its scrutiny function succeeds or fails."

Your witness today has worked within both the Committee system and the Executive/Scrutiny model.

He has worked with a Committee Chair whose definition of a successful meeting was one that was over in less than 45 minutes, irrespective of the amount of business to be considered. At the same time, he has worked with a Committee Chair who ensured all viewpoints were heard before a decision was taken.

Similarly, he has worked with a Scrutiny Chair who just wanted a quiet life and another who ensured that all recommendations were evidence based.

Just changing the structures will not necessarily result in intended changes unless it is accompanied by a clarity in the way of working.

This is why your approach of looking at the principles which should underpin the referendum is so important. This prompts a number of questions including:

- What are understood to be the shortcomings of the current arrangements?
- Will moving to a Committee system by itself resolve any perceived shortcomings?
- The petition recognises that there can be no return to the pre-2000 committee structure – time has moved on – and it looks at taking the best of both structures. What does this mean?
- Is the "hybrid" arrangement, as operated by Kent County Council, relevant?
- Will a Committee system be better at engaging with local communities?
- Will a Committee system slow down decision making?
- Will moving to a Committee structure be neutral in terms of Officer delegations?
- Would a Policy and Resources Committee (if established) just be a Cabinet by another name?
- Will any new arrangements be cost neutral?

Just as good scrutiny is invariably about asking good questions (and not just about making statements), it is important that the Council poses pertinent questions to ensure that decisions are taken on the basis of the best possible evidence.

References

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