

<b>REPORT TO:</b>	<b>CABINET 24 SEPTEMBER 2018</b>
<b>SUBJECT:</b>	<b>GOVERNANCE REVIEW</b>
<b>LEAD OFFICER:</b>	<b>RICHARD SIMPSON EXECUTIVE DIRECTOR OF RESOURCES</b> <b>JACQUELINE HARRIS BAKER DIRECTOR OF LAW AND MONITORING OFFICER</b>
<b>CABINET MEMBER:</b>	<b>COUNCILLOR SIMON HALL, CABINET MEMBER FOR FINANCE AND RESOURCES</b>
<b>WARDS:</b>	<b>ALL</b>
<b>CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON:</b>	
<p>The Labour Administration in its 2018 manifesto made a commitment to hold an independent review of the Council's governance structure bringing together best practice across the country and beyond to develop a model tailored to the needs and aspirations of Croydon residents. The main goal of the review would be to assess and review local democracy and community engagement. This is embodied in the Council's Corporate Plan 2018 to 22. The Council's capacity to work effectively and to deliver all aspects of its strategic framework is conditioned by its ability to take informed and transparent decisions with openness and inclusivity.</p>	
<b>FINANCIAL IMPACT:</b>	
<p>There are resource implications to conducting the review. The use of external support or advisors will be met from the Community Priority Fund and is estimated to be no more than £25K.</p>	
<b>KEY DECISION REFERENCE NO.: This is not a Key Decision</b>	

## **1. RECOMMENDATIONS**

Cabinet recommends to the Council to :

- (1) Approve the establishment of a cross party governance review panel to assess and review the Council's governance arrangements as set out in the draft scoping document and terms of reference for the governance panel as set out in Appendix 1.
- (2) To appoint a maximum of 7 councillors (4 Labour 3 Conservative) and 1 independent member to the governance review panel (together with independent external chair and such other expert independent members external to the Council as the panel may wish to co-opt in a non-voting capacity).
- (3) To require the governance review panel to report its findings and make recommendations within the 2018/2019 municipal year on options and improvements to the Council's governance arrangements, and in any event to report on progress to the Cabinet and Council, as advised.

## **2. EXECUTIVE SUMMARY**

- 2.1 This report recommends the establishment of a cross party governance review panel to assess and review the Council's governance arrangements and to develop proposals tailored to the needs and aspirations of Croydon residents. The panel will report back with recommendations and options on improvements to the governance arrangements which enhance local democracy and community engagement.
- 2.2 This report provides information to assist Panel Members to agree and implement a process to develop recommendations during the current municipal year.
- 2.3 A final report to Cabinet and Council is planned for early 2019 to include an analysis of options and a final set of recommendations. Any proposed consequential changes, following any required formal consultation, may be made to the Council's Constitution at the Annual Council meeting in May 2019.

## **3. DETAIL**

### **Introduction – legislative background**

- 3.1 A number of key legislative changes have influenced the current governance arrangement for the Council.
- 3.2 The Local Government Act 2000 ("the 2000 Act" ) introduced a separation of powers into local government for all but the smallest local authorities with the aim of making council decision-making efficient, transparent and accountable. The 2000 Act required most local authorities to change governance arrangements from the committee system to an executive-scrutiny model. The Council adopted the leader and cabinet model in May 2001.
- 3.3 The Local Government and Public Involvement in Health Act 2007 ("2007 Act") restricted the governance options available to local authorities. The 2007 Act required the Council to introduce a choice of two models: a directly elected mayor or a new style "strong" council leader. Both models place executive powers in the hands of an individual, who, in the normal course of events, will serve an uninterrupted four year term. A directly elected mayor and the new style council leader have the power to appoint and dismiss cabinet members and decide what executive powers they will exercise (if any). The Council resolved to introduce the strong leader and cabinet model following the local elections in May 2010.
- 3.4 The Localism Act 2011 increased the governance options for local authorities as follows:
- Executive arrangements (leader and cabinet or directly elected mayor and cabinet);
  - A committee system;
  - Prescribed arrangements. If councils propose their own system of prescribed arrangements this will require approval of the Secretary of State. Regulations or detailed criteria for such an alternative governance structure

have not been issued although it would at least need to be an improvement on the current arrangements, demonstrate “efficient, transparent and accountable” decision-making and be appropriate for all other councils to consider adopting. To date no councils have proposed such arrangements.

3.5 Outlined below are the three main models of governance available for councils to choose from:

- Leader and cabinet system. The decision-making structure operated by most councils and the model currently run by the London Borough of Croydon. The leader is elected by full council for a term determined by council and leads the cabinet. Councillors in the cabinet are appointed by the leader. At least two and up to nine councillors can be appointed to the cabinet.

Some councils require decisions to be made by the whole cabinet, other councils delegate such powers to individual cabinet members. Some non-executive functions are reserved to committees (such as Planning and Licensing). The appointment of at least one overview and scrutiny committee is required under this system.

- Directly elected Mayor and cabinet system. A directly-elected mayor is elected by local residents and holds office for four years. The mayor is in addition to the elected councillors. A cabinet of at least two and up to nine councillors is appointed by the mayor who may (or may not) delegate decision making powers. Some non-executive functions are reserved for committees (such as Planning or Licensing). The appointment of at least one overview and scrutiny committee is required under this system.
- Committee system. Decisions are made by committees, which comprise members from all political groups. Committees receive briefings and commission reviews to develop policy. The Council appoints the committees and sets their terms of reference. Overview and scrutiny is optional under this model with certain powers reserved to overview and scrutiny (such as crime and disorder scrutiny) exercised by another committee.

3.6 In practice, the governance options available to councils are more nuanced than the above classification suggests because councils can adopt a so-called “hybrid” arrangement. While not a formal change of governance, such a hybrid approach typically retains the leader and cabinet system but builds a layer or advisory committees advising and making recommendations to cabinet.

3.7 The perceived merits and shortcomings of various governance models for the Council are not discussed in this report, not least because the objectives against which to judge models in the Croydon context are not identified adequately. Such an evaluation will form a key part of the review by the governance review panel. However, the review starts from the pretext that a Directly Elected Mayor is not favoured, as it was not an option outlined in the Labour Administration 2018 Election Manifesto.

## **Trends in other local authorities**

- 3.8 A guide on governance change published jointly by the Local government Association (LGA) and the Centre for Public Scrutiny (CfPS) in January 2014 identifies nine local authorities that changed governance arrangements to move to a committee system in May 2012 or May 2013. An additional seven local authorities adopted hybrid arrangements in the same period. In May 2014 at least four other local authorities moved to the committee system.
- 3.9 There is expected to be local evolution of governance arrangements. Gathering evidence from local authorities with experience of governance change is likely to be of interest to a governance review panel; and is listed within the scope and TOR in Appendix 1. Other councils are investigating different arrangements in public while others may be discussing proposals internally. Therefore, the LGA and CfPS will be an appropriate source of evidence and advice for the review panel.

## **Process for changing governance arrangements**

- 3.10 The Localism Act 2011 specifies that governance arrangements can be changed either by a Council resolution alone or by a council mandated by a referendum. If the change is made by a Council resolution alone then the change will be locked in for five years. However, if the change in governance form is implemented as a result of a referendum then the change is for a ten year period.
- 3.11 In order to conduct a referendum on a proposed change of governance a valid petition containing signatures of 5% of the borough's electorate requesting such a referendum would need to be received by the Council and its validity confirmed.
- 3.12 In instances where a referendum is held to decide a change in governance arrangements, such as when a local authority is petitioned to adopt a committee system instead of executive arrangements with a leader and cabinet, the council would be required to draw up proposals for the operation of a committee system in the event of a vote for change.

## **4. ISSUES**

### **Review timetable.**

- 4.1 It is anticipated that the review panel should submit its findings and recommendations within the 2018/2019 municipal year. It is anticipated that the Annual Council in May 2019 will use the panel's conclusions and recommendations to inform its decisions for future governance arrangements with effect from May 2019.

### **Governance Review Panel membership and chair**

- 4.2 A cross party review panel is proposed as follows:-Independent external chair –  
The chair of the review panel will be provided from a candidate with suitably

qualified local government policy or constitutional experience that reflects the expertise required to conduct such a review. For example from the LGA, the Institute of Local Government Studies, or the CfPS.

- Labour Group x 4
- Conservative Group x 3
- Independent member x 1 - from the Ethics Committee would help ensure objectivity and the wider impacts and implications of the review are considered.
- The review panel could consider the involvement of independent experts to support the review either as non-voting co-optees or advisors.

#### **Governance Review Panel's scope**

- 4.3 The terms of reference or scope of the review is broadly to assess and review the Council's governance arrangements bringing together best practice from across the country and to develop a model tailored to the needs and aspirations of Croydon's residents and stakeholders. The main goal of the review being to enhance councillor involvement, local democracy and community participation. This would consider if a change in arrangements could improve the quality of decision making as well as how it could improve members' involvement and participation. Alternative potential models and options would be considered with regard to the relative merits and shortcomings, including legal and resource implications.

#### **Review Panel's evidence gathering**

- 4.4 In addition to seeking wide public involvement in the review of governance structure and hosting member workshops the review group will gather evidence from other sources. For example, desk based research, visits and discussions with other councils, and calls for evidence from interested parties will feature.
- 4.5 If the establishment of the review panel is agreed it is suggested that the scoping document and terms of reference attached at Appendix 1 should form the basis of the group's activities. It is envisaged that it will consider that document at its first meeting to ensure the process and timescale for reporting back is established at the outset.
- 4.6 Clearly the panel has a considerable amount of work to do in order to conduct the review. It is envisaged that the panel will need to meet frequently, and could require meetings, during the daytime as often as fortnightly – possibly more frequently than that. Councillors will need to bear this time commitment in mind in putting their names forward for membership of the group.

### **5. CONCLUSION**

- 5.1 The timescale and potential scale of the review is challenging but, especially given that any governance change is locked in for a considerable period of time. It is crucial that the panel engages all stakeholders and the scope is broad enough to identify and explore all relevant issues.

### **6. CONSULTATION**

- 6.1 The Leader of the Council, Cabinet members, non-executive members and

minority group members have been consulted on the content of this report.

## **7. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

7.1 Undertaking this review will result in a cost to the Council. At this stage a maximum budget of £25k has been identified, which will be funded from the Community Priority Fund.

7.2 Costs to be incurred include:-

- the possible use of an external Chair and external facilitators for a member issues workshop;
- the review panel members using expert advisors; and
- Obtaining verbal or written evidence from stakeholders, together with delivery of a suitable communications/consultation plan.

The review panel may recommend actions that have a financial implication, including an impact on the Members' Allowance Scheme and these will be contained within the review's report, and funding to be identified once costs have been developed.

Approved by: Lisa Taylor Director of Finance, Investment and Risk

## **8. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER**

8.1 The Solicitor to the Council comments that the review of governance arrangements will need to ensure that the recommendations are legal and adhere to processes within the Localism Act 2011 and other relevant legislation. When implementing a change in governance it is necessary to comply with the Local Government Acts. Any changes may require an update to the Council's Constitution.

Approved by: Sandra Herbert Head of Litigation and Corporate Law for and on behalf of Jacqueline Harris Baker Director of Law and Monitoring Officer

## **9. HUMAN RESOURCES IMPACT**

9.1 Officer time will be required to assist the group in scheduling meetings, summoning and minuting meetings, research, providing legal advice, gathering evidence and compiling its final report. The review panel will report separately on any human resource implications arising from its recommendations (if any).

Approved by: Sue Moorman Director of Human Resources

## **10. EQUALITIES IMPACT**

10.1 No particular group of individuals except Members may be affected by carrying out the review. The assessment of the existing arrangements will seek to

identify how well they serve different communities across Croydon. Any options put forward as a result of the review will need to ensure that they are assessed against the equality and diversity framework. A goal of the review is to enhance community engagement and participation.

## **11. CRIME AND DISORDER REDUCTION IMPACT**

- 11.1 There is scope within the context of the governance review to examine how any existing partnership arrangements aimed at tackling crime and disorder can be improved. The Localism Act requires the scrutiny of crime and disorder.

## **12. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION**

- 12.1 The proposal for a review of the Council's governance structure forms part of the Administration's manifesto commitment 2018. The requirement for such a review is also embodied in the Council's Corporate Plan. The main goal is to enhance local democracy and community engagement and participation.

## **13. OPTIONS CONSIDERED AND REJECTED**

- 13.1 Not to proceed with a review.
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**CONTACT OFFICER:** Jacqueline Harris Baker, Director of Law

**APPENDICES:** Appendix 1 – Scoping and Terms of Reference document

**BACKGROUND DOCUMENTS:** None