

## Constitution and General Purposes Committee

6 October 2022

<b>Title</b>	<b>Governance Review – Project Update</b>
<b>Report of</b>	Executive Director of Assurance
<b>Wards</b>	All
<b>Status</b>	Public
<b>Urgent</b>	No
<b>Key</b>	No
<b>Enclosures</b>	None
<b>Officer Contact Details</b>	Emily Bowler, Assistant Director Assurance <a href="mailto:emily.bowler@barnet.gov.uk">emily.bowler@barnet.gov.uk</a> , 020 8359 4463 Andrew Charlwood, Head of Governance, <a href="mailto:andrew.charlwood@barnet.gov.uk">andrew.charlwood@barnet.gov.uk</a> , 020 8359 2014

### Summary

A motion was passed at the July Council meeting which requested officers to review the Council's governance arrangements to:

- move to an Executive system
- introduce an overview and scrutiny function; and
- strengthen opportunities for public participation.

This report provides the Committee with an update on the project and progress made to adopt the new system in May 2023.

### Officers Recommendation

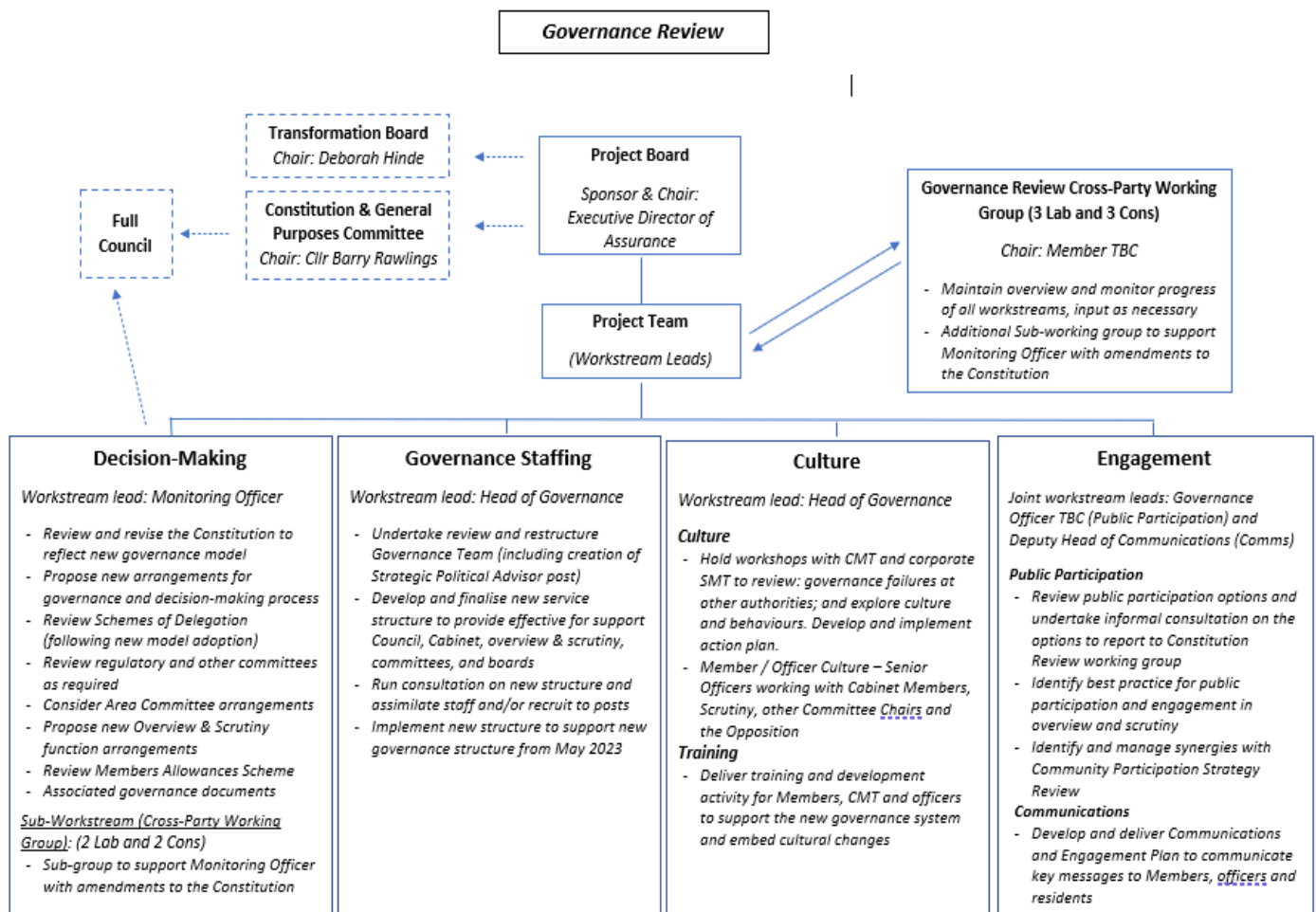
1. That the Committee note and comment on the progress of the Governance Review project as set out in the report.
2. That the Committee agreed that Constitution amendments related to the Governance Review project can be reported directly to Council.

## 1. Why this report is needed

- 1.1 In May 2014, the Council changed its governance arrangements in accordance with the provisions of the [Localism Act 2011](#) which permitted local authorities to move away from an Executive system (introduced by the Local Government Act 2000) and back to a Committee System. For eight years the council has operated under a 'Committee System of Governance.'
- 1.2 On 26 July 2022, Council passed a motion instructing officers to undertake a review of the council's governance arrangements to:
- move to a Cabinet System
  - introduce an Overview & Scrutiny function; and
  - strengthen opportunities for public participation.

The motion resolved that a Member Working Group should be set up to facilitate the development of the proposals. It was noted in the motion that delivering the new Administration's significant transformation and change programme would require more regular, timely and efficient decision-making which may not be well-served by an old-style traditional committee system where there can be long periods between committee cycles.

- 1.3 Following this motion, officers attended a meeting with Labour Members on 30 August 2022 setting out the available governance models and key features, some design principles and the change process to move to a new governance arrangement. The session was co-delivered by the Head of Governance and Chief Executive of the Centre for Governance and Scrutiny (CfGS), to enable Members to gain relevant information on any formal changes to governance arrangements. The Opposition Group have been offered a similar briefing.
- 1.4 After the resolution at Council in July, officers started work on the review of current formal governance arrangements and the steps required to make a legal change to a different governance system, comprising of an all-out change from one governance option to another under the Localism Act 2011. A decision will be made at the Annual Council meeting in May 2023 with the new system operational thereafter.
- 1.5 An overview of the project structure and workstreams is set out below:



1.6 The move to an Executive system will be supported by four workstreams as follows:

1.7 **Decision-Making** – the legal amendments to the Constitution to reflect new governance model; detailed arrangements for governance and decision-making (including Executive Forward Plan, Advanced Notice of Executive decisions and any other legally required documents); review and update Chief Officers Schemes of Delegation (following the adoption of the new Constitution); reviewing Area Committee arrangements; proposed new overview and scrutiny arrangements; and review Members Allowances Scheme. This workstream will be led by the Monitoring Officer and will have input from a Cross-Party Sub-Working Group.

1.8 The Committee are requested to agree that the detailed Constitution amendments can be reported from the Cross-Party Sub-Working Group to Full Council for approval rather than via this Committee and then Council as is the usual process. This Committee will receive a high level summary and progress update.

1.9 **Governance Staffing** – a restructure of the Governance Service will be required to support the functions and structure of an Executive system. This workstream will include developing and finalising the new service structure to provide effective support for council, executive, overview and scrutiny, committees, and boards. The new structure will need to be in place to support the new arrangements ahead of May 2023. Engagement with staff and trade unions will take place as required. This workstream will be led by the Head of Governance.

- 1.10 **Engagement** – the motion agreed by Council requested that opportunities to strengthen public participation be examined as part of the review. This workstream will include:
- reviewing public participation options and undertaking informal consultation on the options to report to the Constitution Review Working Group;
  - identifying best practice for public participation and engagement in overview and scrutiny; and
  - identifying and managing synergies with the Community Participation Strategy Review.
- 1.11 In addition, this workstream will develop and deliver a Communications and Engagement Plan to communicate key messages to Members, officers, and the public. This workstream will be led by a Governance Officer and the Deputy Head of Communications
- 1.12 **Culture** – the review will also look at elements of organisational culture specifically: to support cultural change within the organisation to prepare staff (Council Management Team (CMT), the corporate Senior Management Team (SMT), Governance Service and other officers) for the move from Committee System to Executive, including roles and responsibilities and Member/Officer relations (including with Executive and Non-Executive Members); and to develop an action plan following CMT and SMT workshops to review the Centre for Governance & Scrutiny Risk and Resilience Framework and lessons learnt from recent Public Interest / Best Value Reviews which have reviewed governance failures at other local authorities. This workstream will be led by the Head of Governance.
- 1.13 Progress against all workstreams will be regularly reported to the Governance Review Cross-Party Working Group and this committee.

### **Key Milestones**

- 1.14 The table below outlines key future milestones and timeline for updating to the committee on progress and key decision points:

Full Council	26 Jul 2022	Motion by Leader of the Council instructing officers to undertake a review of governance arrangements
Labour Group workshop – governance arrangements	30 Aug 2022	Present available governance models and key features, some design principles and the change process to move to a new governance arrangement
<b>Constitution &amp; General Purposes Committee</b>	<b>6 Oct 2022</b>	Progress update
<b>Constitution &amp; General Purposes Committee</b>	<b>12 Jan 2023</b>	Progress update
Council Meeting	24 Jan 2023	Report Constitution amends for agreement
<b>Council Meeting</b>	<b>TBC Apr 2023</b>	Report final Constitution amends for agreement
<b>Constitution &amp; General Purposes Committee</b>	<b>TBC 2023</b>	Progress update
New Governance Team structure	April 2023	New Governance Team structure go live
Publication of new provisions	TBC Apr 2023	Publish resolution of the new provisions ( <a href="#">s.9KC LGA 2000</a> )
Constitution Review working group	TBC Apr 2023	Monthly member working group to review different elements of the Constitution for revision
<b>Annual Council</b>	<b>23 May 2023</b>	<b>New constitution takes effect and formal change to Executive governance system</b>

- 1.15 The Governance Review Cross-Party Working Group will meet regularly. The Constitution Review sub-Working Group will meet as required to review detailed amendments to the Constitution documents.

## **2. Reasons for recommendations**

- 2.1 See section 1.2 above.

## **3. Alternative options considered and not recommended**

- 3.1 The Council could choose to retain their current governance arrangements (i.e. a Committee System), but this is not recommended as it is contrary to the Motion passed at Council on 26 July 2022.

## **4. Post decision implementation**

- 4.1 Workstream leads are in the process of developing the final outputs and timelines for their workstreams. Work to review the constitution, restructure the Governance Service and take forward the culture workstream has commenced already. Work on the engagement workstream will commence shortly.

## **5. Implications of decision**

### **5.1 Corporate Priorities and Performance**

- 5.1.1 The current corporate plan (Barnet Plan 2021-2025) was adopted in March 2021. Following the May 2022 elections, the council now has a new administration and a new corporate plan, consistent with the new administration's priorities will be brought forward shortly.

### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

- 5.2.1 The Administration have indicated that the new governance system should be cost neutral in respect of Members Allowances and Governance Service staffing. However, there will be costs associated with delivering the change and these are currently being collated but will include: officer time; facilitated workshops with Council Management Team and the Corporate Senior Management Team; additional staff capacity in the Governance Service to support the team during period of change; and legal costs associated with reviewing the Constitution. A detailed breakdown of project costs will be reported to the Committee at the next meeting. Cost will be met from existing Assurance budgets or the Transformation Reserve.

### **5.3 Legal and Constitutional References**

- 5.3.1 Council's Constitution, Article 7 - the Constitution and General Purposes Committee terms of reference includes responsibility "To keep under review all aspects of the Council's Constitution so as to ensure that it remains current and fit for purpose, and to make recommendations thereon to the Council" and "To have responsibility for

overseeing the Council's governance arrangements.”

5.3.2 The law allowing the move to an executive system is the Local Government Act 2000 section 9K under this sections A local authority may cease to operate its existing form of governance, and start to operate a different form of governance.

5.3.3 A resolution of a local authority is required in order for the authority to make a change in governance arrangements.

As soon as practicable after passing such a resolution a local authority must—

(a) secure that copies of a document setting out the provisions of the arrangements 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 newspapers 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 on which the change is to have effect,

(iii) describes the main features of the change,

(iv) states that copies of a document setting out the provisions of the arrangements that are to have effect following the resolution are available at the authority's principal office for inspection by members of the public, and

specifies the address of the authority's principal office.

The change has to be implemented at annual Council

## 5.4 **Insight**

5.4.1 N/A

## 5.5 **Social Value**

5.5.1 N/A

## 5.6 **Risk Management**

5.6.1 Risks are being managed via the Governance Review project. Any escalated risks will be reported to Members via this committee as required.:

## 5.7 **Equalities and Diversity**

5.7.1 Decision makers should have due regard to the public sector equality duty in making their decisions. The equalities duties are continuing duties they are not duties to secure a particular outcome. The equalities impact will be revisited on each of the proposals as they are developed. Consideration of the duties should precede the decision. It is important that Cabinet has regard to the statutory grounds in the light of all available material such as consultation responses. The statutory grounds of the public sector equality duty are found at section 149 of the Equality Act 2010 and are

as follows:

5.7.2 A public authority must, in the exercise of its functions, have due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- a) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- b) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.7.3 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

5.7.4 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

5.7.5 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- a) Tackle prejudice, and
- b) Promote understanding.

5.7.6 Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act. The relevant protected characteristics are:

- c) Age
- d) Disability
- e) Gender reassignment
- f) Pregnancy and maternity
- g) Race
- h) Religion or belief
- i) Sex
- j) Sexual orientation
- k) Marriage and civil partnership

5.7.7 Officers do not consider that the proposals will have any detrimental equality implications. The workstream on public engagement will consider how those with protected characteristics can contribute to council meetings.



## 5.8 **Corporate Parenting**

5.8.1 N/A

## 5.9 **Consultation and Engagement**

5.9.1 There is no legal requirement to consult on the decision to change from Committee System to Executive. There is a requirement to notify the public And this will be done as set out above. It is expected that public engagement will take place on public participation options (via the Constitution) and that the outcome will be reported to the Governance Review Cross-Party Working Group.

## 5.10 **Environmental Impact**

5.10.1 There are no direct environmental implications arising from the recommendations.

## 6. **Background papers**

6.1 Council, 26 July 2022, Item 14.5, Administration Motion in the name of Councillor Barry Rawlings – Barnet’s Governance Arrangements: [Agenda for Council on Tuesday 26th July, 2022, 7.00 pm | Barnet Council \(moderngov.co.uk\)](#)