

Report of:	Head of Democratic Services
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AGENDA ITEM 7

Submitted to:	<i>Constitution and Members' Development Committee 4 February 2020</i>
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Subject:	<i>Streamlining Committee Structures</i>
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Summary

Proposed decision(s)
<i>The Constitution and Members' Development Committee consider the proposed options for streamlining Committee structures.</i>

Report for:	Key decision:	Confidential:	Is the report urgent? ¹
Discussion	No	No	No

Contribution to delivery of the 2018-22 Strategic Plan		
Business Imperatives	Physical Regeneration	Social Regeneration
<i>The Constitution underpins the corporate and finance procedure rules providing officers and members with a governance framework to operate within</i>	NA	NA

Ward(s) affected
N/A

What is the purpose of this report?

1. The Constitution and Members' Development Committee requested that the Head of Democratic Services provide a report detailing possible options in terms of streamlining current committee structures.
2. The Council's political make-up has changed significantly since the May local elections. It was agreed by full Council that the Constitution and Members' Development Committee should consider a full review of the Committee structures and political balance allocation.

Why does this report require a Member decision?

3. As per Article 4 of the Council's Constitution (4.2(d), the approval of Committee Terms of Reference, and allocation of places, requires full Council approval before implementation.
4. To assist with its review, the Constitution and Members' Development Committee (15 July 2019) requested information on the following;
 - I. The number of Committees, the allocation of seats and whether there was a requirement to have as many Members as currently is on each Committee.
 - II. Options regarding streamlining Committee structures, including any proposals to reduce the number of Committees and the number of Members appointed to Committees.
 - III. The Terms of Reference of the various Committees should be examined, as well as legal clarity provided on the statutory / non-statutory / regulatory nature of each Committee.
 - IV. The current structure of the Overview and Scrutiny Panels and whether it would be feasible or beneficial to merge Panels.

Review

5. In accordance with the requirements of the Local Government and Housing Act 1989 the Council is required to periodically review the political composition of the Council and its application and appointments to committees of the Council. Whilst the full Council considers allocations to existing Committees on an annual basis the last major review of committee structures, and their terms of reference, took place in 2005.
6. This review focussed on those Committees that are covered by political balance. It is recommended that a further review of other committees, such as the Executive and Joint Committees, be undertaken at future date.
7. This report focuses on the Council's committee structure and respective Committee size, but it should be noted these factors are intrinsically linked. Therefore, Members' may be further influenced by a report concerning political balance/ place allocation, which is to be submitted to Constitution and Members' Development Committee at the request of the Monitoring Officer.
8. Methodologically, this review carried out desktop research and has made comparisons with other elected Mayoral authorities, as these are more likely to have similar Governance structures. Consultation was carried out with the Chair of the Overview and Scrutiny Board, Democratic support staff and other key officers during this review.
9. However, it was not possible to undertake like-for-like comparisons with other authorities as local variances still exist e.g. different in political make-up, geographic / population sizes and the number of elected Members. There were however, broad similarities in committee structures across the comparator authorities which allowed for robust proposals to be formulated, including merging some Committees and reducing the size of others.

10. Consideration was also made to the size and status of Committees for example, if they were statutory or discretionary, their remit and the frequency of meetings.
11. Once the Constitution and Members' Development Committee has considered the proposals below, further work will be undertaken to review the full Terms of Reference of any new/ merged Committees which will again be submitted to Constitution and Members' Development Committee for consideration before seeking approval from full Council.
12. It is proposed any changes/recommendations accepted by the Committee and agreed by Council should be implemented for the new municipal year in May 2021 following the completion of the Democratic Support Review that will take place from September 2020.
13. This will ensure that any agreed changes can still be supported along with a better understanding of any implications these bring.
14. It is also suggested that 6 months following implementation a further assessment be carried out on the impact of the Committee changes. This impact assessment will be report back to Constitution and Members' Development Committee
15. The details of the proposals in this report can be found in Appendix 1, which also provides a brief rationale.

Terms of Reference:

I. the number of Committees, the allocation of seats and whether there is a requirement to have as many Members as there are currently on each Committee.

16. Committees may be statutory or discretionary, i.e. there are committees that a Local Authority is compelled to set up by express statutory enactment, and others that it is not bound to set up but may do so if it wishes.
17. The number of members on a committee or sub-committee is a matter to be decided by the local authority or, in the case of a joint committee, the authorities that set it up (LGA 1972, s. 102). Several considerations affect the size of membership. One, of course, is to provide for a requisite political balance.
18. The size of committees does affect political representation/proportionality and this, therefore, will be a very important factor for members given the changes to the Council's political make-up, and no one political group having overall control. Therefore Members are strongly recommended to consider the implications of political balance and what effect that has on different sized committees.
19. The allocation of places to each political group is dependent on the number of committees and the collective number of seats that each committee has. This total is then divided by the percentage of the overall membership of the Council that each group has.
20. There are advantages and disadvantages for having smaller and larger committees, however it is widely accepted that a committee should not comprise fewer than three persons because the power of the person presiding to have a casting vote would become a dictatorship of the chair.

21. A smaller committee is more likely to reach a decision more speedily, but it may not be fairly representative, either politically or representative of electoral wards and therefore smaller groups, independent members and the public may not be fairly represented.
22. Smaller committees may also cause issues with quorum, for example, if one or two members are unavailable. This could be overcome if there was an appropriate substitute in place. Members may wish to consider how substitutes are appointed and perhaps consider having pre-identified substitutes in future, especially for those committees where training is required. If seats can be filled at short notice this will help protect members and the authority in general.
23. Conversely, larger committees may make decision making cumbersome but do allow for greater cross party representation.
24. A committee with an odd number of places reduces the possibility of tied votes, which aids effective decision making.
25. The only Committee that has a size specified in legislation is the main Licensing Committee, which should be between 10 and 15 Members (also see point 45)

Group	Number in group	Allocation of places	Number of places (rounded)
Labour	20	54.34	54
Middlesbrough Independent Councillors Association	15	40.76	41
Middlesbrough Independent Group	8	21.73	22
Conservative	2	5.43	5
Unallocated* Independent and vacant	1	2.7	3
Total	46		125

26. The proposals detailed in Appendix 1 would result in 55 fewer committee places to be allocated

II. options in terms of streamlining Committee structures, including any proposals to reduce the number of Committees, number of Members appointed to Committees

27. There are opportunities to merge committees and therefore reduce the number of places to be filled.
28. Merging committees may increase the remit/workloads of those committees and consideration would need to be given to forward planning and ensuring agendas for meetings remain achievable.
29. Merging Scrutiny Panels is feasible, however there are possible consequences of this in that remits may be too large for Panels to provide effective challenge and

review. Consequently, some areas may be missed, this is discussed further in point iv.

30. In relation to committees dealing with employment and related matters; larger committees can be seen as excessive and possibly intimidating to staff. However, there are also times when independence from a process is required and a small committee may struggle to retain its integrity/impartiality. This could be overcome by the introduction of sub-committees / panels which where possible, would be based on political balance.
31. Some committees such as Standards, Staff Appeals, and Chief Officer Appointments all deal with employment and appeals processes and meet on an ad hoc basis. Members will require similar knowledge and skills across all these committees and therefore merging them may be possible. However, to ensure fairness, there should be an element of cross party representation, especially on the Standards committee. However, for employment issues, such as staff appeals and interviews, it would be excessive to have the full committee acting as an interview panel. It is therefore recommended that sub-committees be formed to carry out more “operational” elements of the Committee’s remit.
32. Similarly, Works Council also deals with employment related issues and a sub-committee could be formed with members and union representatives.
33. These proposals would result in 6 fewer committees.

iii. The Terms of Reference of the various committees should be looked at, as well as legal clarity provided on the statutory / non-statutory / regulatory nature of each Committee

34. A committee’s Terms of Reference are its remit: they specify, precisely or broadly, the matters with which the committee is concerned; and they may go further and should specify the delegated powers of the committee on matters within the terms of reference. It is crucial that the Council is clear exactly what powers it wishes to delegate and that the members of the committee are clear exactly what they have the power to decide.
35. So far as the remit of a committee is concerned, it can be formed to deal with specific programme areas, or can cover more than one service or programme area.
36. As a result of any changes to committees new Terms of Reference are needed. It was also evident that whilst undertaking the review that there was a need to standardise how Terms of Reference are set out. This would allow for greater clarity for committee members, officers and the public on the terms, process, remit and powers of that committee. A new Terms of Reference template, which could be applied to all Committees, has been devised and a draft review of all Terms of Reference undertaken. These are detailed in Appendix 2.
37. Whilst a brief overview of the proposed remit of committees/ panels is included in Appendix 1, it is proposed that the new Terms of Reference are fully developed for all committees, which will help avoid any duplication.

Committee Status

38. There are a small number of regulatory/statutory committees such as Planning and Licensing along with a number of statutory functions that the authority is required to carry out. Such functions could be conducted by a dedicated committee with a wider remit or officer. Those committees with Statutory/regulatory functions are as below:

Health and Wellbeing Board

39. There is a statutory requirement under s. 194 of the Health and Social Care Act 2012 H&SCA for single-tier authorities to establish Health and Well-Being Boards,

40. Under s.194 H&SCA, the Health and Well-Being board (H&WB) must contain: at least:

- one councillor of the local authority the director of adult social services for the local authority;
- the director of children's services for the local authority;
- the director of public health for the local authority;
- a representative of the Local Health watch organisation for the area of the local authority;
- a representative of each relevant clinical commissioning group (CCG); and
- such other persons, or representatives of such other persons, as the local authority thinks appropriate.

41. It is for the elected mayor to determine the precise number of elected representatives on the board, and the relevant person could decide to have a majority of elected members on the board. They may also wish to take into consideration the political balance within the council, but this is not a committee to which the political balance rules apply (reg. 7 2013/218).

Licensing

42. The Licensing Act 2003 gave responsibility for licensing to local authorities. Section 6 of the Act provides that the licensing authority must establish a committee, which should consist of a least 10 but no more than 15 members.

43. The Council are required to have a Licensing Committee that should meet at least twice per year, however it is possible for a sub-committee to consider taxi licensing applications and other matters.

44. A sub-committee must consist of at least 3 members and be politically balanced were reasonably practicable. A sub-committee could be formed on a rota basis.

45. The Council currently have four licensing sub-committees, but none of these deal with taxi licensing. If there is the political will, there is nothing to prevent the functions of the full Licensing Committee, i.e. taxi decisions, being delegated to a sub-committee or to officers (notwithstanding hearings under the Licensing, Gambling and Scrap Metal Acts).

46. It is recommended that there be two Licensing sub-committees, i.e. one for taxi licensing and one for all other licensing matters.

Planning

47. The Planning Committee has delegated powers by full Council.

48. The size and remit of the committee is to be determined by the local authority and is subject to political proportionality.

49. The committee may determine further delegations to officers which may reduce the number of meetings required.

Overview and Scrutiny

50. For authorities operating Executive arrangements, it is a statutory requirement under s.9F (for England) of the LGA 2000 to appoint one or more overview and scrutiny committees.

51. The Local Government Act 2000 specifically provides, in s. 9FA (6) (in relation to England), that an overview and scrutiny committee is to be treated as a committee or sub-committee of a principal council for the purposes of the Local Government Act 1972 and it is to be politically balanced.

52. The principles of effective overview and scrutiny are that it should:

- Provide constructive “critical friend” challenge;
- Amplify the voices and concerns of the public;
- Be led by independent people who take responsibility for their role in driving improvement in public services.
- Accountability – an environment where responsibility for services and decisions is clear and where those holding responsibility can and are answerable for success and failure;
- Transparency – the publication, proactively, of information relating to services and decisions to allow local people, and others, to hold policymakers and decision-makers to account;
- Involvement – rules, principles and processes whereby a wide range of stakeholders (including elected representatives) can play active roles in holding to account, and influencing and directing the development of policy.

Standards

53. There is no longer a need to have a designated Standards Committee, however duties under ss. 26 to 37 of the Localism Act 2011 must be carried out by a politically balanced committee of the council.

54. Authorities have discretion to set their own processes and the size of committee. In case of unitary authorities they also cover Parish Council codes of conduct complaints. The committee should therefore have Parish Council representation when considering any Parish Code of Conduct hearings.

55. The Council is also required to appoint an Independent Person who will be a member of the Committee.

Audit

56. There is no statutory requirement for a local authority to have an Audit committee, but CIPFA estimate that about 90% of local authorities do have an Audit committee or a committee which fulfils the functions of an Audit committee.

57. So far as the remit of the Audit Committee is concerned, it can be formed to deal with specific programme areas, or can cover more than one service or programme area.

58. The LGA 1972, s.101 provides that "A committee, may delegate its functions to a sub-committee (which it alone can appoint) or, equally with a sub-committee, to an officer unless the terms of its appointment forbid it".

59. It is recommended that no Executive members sit on this committee.

IV. The current structure of the Overview and Scrutiny panels and whether it would be feasible / beneficial to merge / combine any of the panels.

60. The Local Government Act 2000 requires authorities operating Executive arrangements to have an overview and scrutiny function. It is for an authority to determine how that function operates.

61. Currently, Middlesbrough has an Overview and Scrutiny Board that acts as a coordinating body and six Scrutiny Panels with individual areas of responsibility:

- Adult Social Care and Services
- Children and Young People's Learning
- Children and Young People's Social Care and Services
- Culture and Communities
- Economic Development, Environment and Infrastructure
- Health

62. The Council's Health Scrutiny Panel and Health and Wellbeing Board have independent but complementary roles and responsibilities to ensure that health services are held to account, at the local level, and are answerable to local communities.

63. In addition to the Council's Health Scrutiny Panel, Councillors also attend meetings of the Tees Valley Health Scrutiny Joint Committee and the South Tees Health Scrutiny Joint Committee. Officer support arrangements are shared between neighbouring authorities on a rotation basis. These are also currently being reviewed on a regional basis.

64. On occasion ad-hoc scrutiny panels may also be established throughout the year to undertake additional investigations, for example to examine areas of work which overlap more than one scrutiny panel.

65. The advice at para. 3.21 of Chapter 3 of *Local Government Act 2000: Guidance to English Local Authorities* in relation to overview and scrutiny committees is that:
- ‘Overview and scrutiny committees should take a cross-cutting rather than narrow service-based view of the conduct of the local authority’s business and therefore the aim should be for local authorities to have, at any given point in time, a relatively small number of such committees.’
66. Whilst it is possible to reduce the number of panels it is not clear as to whether reducing the number of panels would significantly detract from the effectiveness of scrutiny.
67. The proposal is to reduce the number of Scrutiny panels (see Appendix 1) by one, amend the remit for others.
68. During the last review of Democratic Support, the number of meetings had already been reduced and the meeting frequency increased from every three weeks to every 4 weeks. It is felt that this did not have any major impact on the current scrutiny functions.
69. However merging panels would result in considerably larger panel remits which may impact on the ability of the scrutiny panels to improve the performance, development and delivery of services within these timescales. Although increasing the number of meetings for the reduced number of panels could result in fewer members attending more meetings and may lessen any impact on staffing resources.
70. Therefore greater member analysis of proposed topics for review and prioritisation of work programmes would be vital to ensure the scrutiny function concentrates on delivering work that is of genuine value and relevance to the work of the wider authority and the public.
71. In order to mitigate this risk the Member Development Programme will provide a series of workshops for members to ensure members have the skills and knowledge to be able to prioritise and continue to provide effective challenge.
72. Children’s Social Care and Education, prior to 2018, had been considered by the Children and Learning Scrutiny Panel. However the recent Ofsted inspections expressed significant concerns and so this is something that members may wish to consider carefully.
73. In order to mitigate a reduction in the number of scrutiny panels Members may wish to consider :
- reviewing the way in which they undertake some scrutiny topics
 - take more informal approaches such as a “task and finish” approach which involves a small group of councillors being commissioned by a formal committee to go and investigate a topic in detail, before reporting back with recommendations or by way of a “single issue” committee meeting.
 - Consider further training on selecting and prioritising topics
 - Ensure members have appropriate skills in questioning and probing officers/ partners/ organisations, ensuring effective challenge takes place

74. It is also proposed that OSB take on the work of the Ad hoc Scrutiny Panel and that it considers strategic topics i.e. those that focus on risk, the authority's finances, or on the way the authority works with its partners.

75. The Chair of the Overview and Scrutiny Board has been consulted on the proposals in relation to Scrutiny Panels and has no objections to the proposals but feels that further consultation with the Overview and Scrutiny Board would be beneficial.

Other potential decisions and why these have not been recommended

76. There are numerous permutations of the above and are all subject to political will.

Impact(s) of recommended decision(s)

77. There will be a reduced number of meetings and a reduced number of Committees/panels allowing members more time to spend within their communities.

78. Fewer committees/ meetings may free up officer time to provide greater support to members in areas that have been impacted by previous reviews such as Member Development, governance reviews and elections.

What decision(s) are being asked for?

79. That the Constitution and Members' Development Committee discuss the proposals for the potential merger and reduction in the number of committees and that they consider recommendations for the size of committees and the proposed number committee places prior to consideration by Council

80. Consider the proposed remits for committees/panels and consider any further amendments suggestions for investigation.

81. Endorse that any changes recommended should be implemented from the new Municipal year 2021

Why is this being recommended?

82. The recommendations are made following a request from Council and the Constitution and Members' Development Committee to consider and review committee structures.

Legal

83. Following consideration, the terms of reference of committees are to be fully reviewed to ensure the authority meets any legislative requirements. Members will receive further training to ensure decision making is robust and avoids possible legal challenge.

Financial

N/A

Policy Framework

N/A

Equality and Diversity

84. It is not envisaged that there will be any equality or diversity issues

Risk

85. Merging Committees and panels would result in considerably larger panel remits which may impact on the ability of the Committee/ scrutiny panels to improve the performance, development and delivery of services within these timescales.

86. Members may start to feel disenfranchised from the decision making processes.

87. Decision making processes may not be effectively challenged and may take longer if agenda's are not managed appropriately.

Actions to be taken to implement the decision(s)

88. Review terms of reference for all committees

89. Refer amendments back to the committee

90. Conduct further consultations where necessary

Appendices

Background papers

Body	Report title	Date
Knowles Middlesbrough Council	The Local Government (Committees and Political Groups) Regulations	1990
	Knowles on Local Authority meetings A manual of Law and practice	2016
	<i>Local Government Act</i>	2000
	<i>Scrutiny Handbook</i>	

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