Council

22 October 2020

Title	Changing to a Committee System
Purpose of the report	To make a decision
Report Author	Victoria Statham
Recommendations	**It is recommended that:** • **the objectives as set out in paragraph 4 of this report are adopted to achieve the desired change** • **this is recognised as a flagship project for the Council** • **the indicative budget is allocated for this flagship project and on-going structure as set out in this report** • **this project proceeds in-line with the timetable for a change in arrangements to take place at the ACM in May 2021 and without a public consultation exercise.**
Reason for Recommendation	**To ensure that the Council can take forward the paving motion for a change in the Council's Governance arrangements.**

1.   Background

1.1   Prior to the Local Government Act 2000 local authorities had taken decisions through a committee-based structure whereby most policy and operational decisions were taken by service-based committees. Representation on the committees was on a politically proportionate basis. Some decisions were reserved to full Council and delegated to officers.

1.2   The change away from the committee system and the growth of the Cabinet and Leader arrangements began around the 1990's. The Widdicombe Committee conducted an enquiry into the conduct of Local Government Business (1985) which concluded 'that (in common with politics) generally there has been a decline in public confidence in democracy over the preceding twenty years'.

1.3   The Government White Paper 'Modern Local Government: In touch with the People' (1998) a precursor to the 2000 Act, was very critical of the committee system. The following comment was made: 'Councils must have political management structures which are effective and command respect. The current committee system is confusing and ineffective, with significant decisions usually taken elsewhere. Many councillors have little influence over Council decisions yet spend a great deal of time at council meetings. The result is that people do not know who is running their council'.
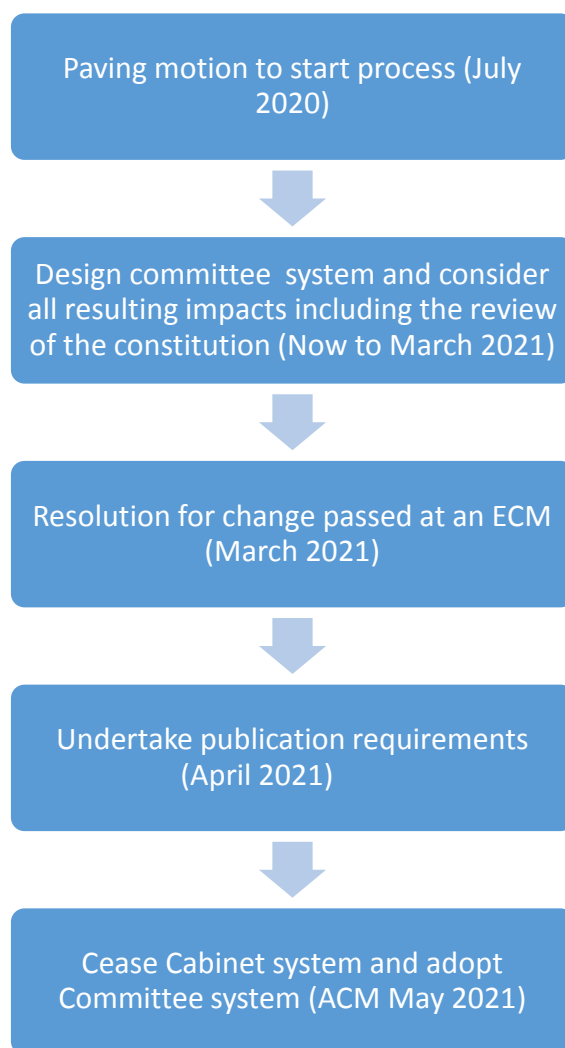
1.4   The Local Government Act 2000 then enacted fundamental reform. All council's (except for small authorities who were able to continue with a committee system) had to adopt either the leader and cabinet model, executive mayor or mayoral models. The explanatory notes which accompanied the act explained: "the objectives of the policy underlying Part II is to deliver greater efficiency, transparency and accountability of local authorities. The new arrangements are intended to ensure that decisions can be taken more quickly and efficiency than the existing committee system, that the individuals or bodies responsible for decision making can be more readily identified by the public and that those decision makers can be held account in public by overview and scrutiny committees."

1.5   In recent years there has been a rethink on the governance arrangements for local authorities. In the Coalition Agreement of May 2010 the Prime Minster and Deputy Prime Minister stated, "The time has come to disperse power more widely in Britain today." The Localism Act 2011 set out a series of measures with the ambition to achieve a substantial and lasting shift in power away from central government and towards local people. As part of this the act gives councils a choice on their governance arrangements, including the ability to revert to a committee system.

1.6   It is clear that there was thinking that one form of governance is not suitable for all. The Localism Act gives a council the ability to choose from three main models of governance:

   1.   **The Leader and cabinet system** – This is currently operated by the Council along with the majority of Councils in England, although several councils have moved away from this system. Council's with this system must have one or more overview and scrutiny committees.

   2.   **Mayoral system** – There is a directly-elected executive mayor with wide decision-making powers. The mayor appoints a cabinet made up of other councillors. These Councils must have one or more overview and scrutiny committees.

   3.   **Committee system** – Councils make most decisions in committees, which are made up of a mix of councillors from all political parties, politically balanced according to the overall composition of the Council. These councils may have one or more overview and scrutiny committees but are not required to. As with other models the full Council retains some decision-making powers, such as to approve the annual budget, Council Tax and borrowing.

1.7   There are variations for each of these models that can lead to councils having a hybrid approach; the most common hybrid is between a leader/cabinet and the committee system; which is legally a modified version of the leader/cabinet model.

1.8   The Local Government Association (LGA) and the (newly named) Centre for Governance and Scrutiny (formally Centre for Public Scrutiny) comment "No one governance system is intrinsically better than another and no system is more or less expensive to operate; however some systems allow more members to be directly involved in voting on decisions. It is important to note that activity at committee level is not the same as member involvement in

policymaking. Member involvement in policy making is a longer-term more involved process and can happen under any governance option."

1.9 There has been a trend of councils moving to the committee system. A guide on governance change, published jointly by the LGA and Centre for Governance and Scrutiny in January 2014 identified nine authorities that had changed in 2012/13 with an additional seven adopting hybrid models. An additional 4 went over to the committee structure in 2014 and although not being able to establish the full number of authorities that have now changed, the Centre for Governance and Scrutiny have stated that the trend slowed in 2015 but since 2019 with a number of authorities being in no overall control the numbers were again increasing. Many of these authorities communicate that the catalyst for change was the desire to improve general councillor participation and involvement in decision making.

1.10 On 30 July 2020 this Council resolved: "to implement a change in decision-making governance arrangements, comprising the cessation of the current Leader and Cabinet model of governance and the implementation of a Full Committee model of governance. This is to be developed during 2020 with a view to the arrangements taking effect at the earliest opportunity, but no later than the commencement of the next Council Municipal Year in May 2021, subject to a legally and constitutionally robust process. The changes are to be debated and agreed by the Council."

2. Process for changing governance arrangements

2.1 The process for moving to a committee system can be summarised as:

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┌─────────────────────────────────────┐
│   Paving motion to start process     │
│            (July 2020)               │
└─────────────────────────────────────┘
                  ▼
┌─────────────────────────────────────┐
│  Design committee system and consider│
│ all resulting impacts including the  │
│ review of the constitution (Now to   │
│            March 2021)               │
└─────────────────────────────────────┘
                  ▼
┌─────────────────────────────────────┐
│  Resolution for change passed at an  │
│          ECM (March 2021)            │
└─────────────────────────────────────┘
                  ▼
┌─────────────────────────────────────┐
│  Undertake publication requirements  │
│            (April 2021)              │
└─────────────────────────────────────┘
                  ▼
┌─────────────────────────────────────┐
│   Cease Cabinet system and adopt     │
│   Committee system (ACM May 2021)    │
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2.2 The bulk of the work is in that second step. Many a decision will need to be made by Councillors to ensure that a committee system is implemented that fulfils all the objectives of moving to such a system.

2.3 The statutory requirements for the change are set out in the Localism Act 2011. To change from a cabinet system to a committee system, a local authority must:

1. Pass a resolution to change the governance arrangements;

2. As soon as practicable after passing the resolution, make the provisions of the new arrangements available for inspection by the public;

3. Publish in one or more newspapers circulating in the area a notice which describes the features of the new system and timescales for implementation; and

4. Once the resolution to change the governance arrangements has been passed and the publicity requirements complied with the authority is required to cease operating their old form of governance arrangements and start operating their new arrangements. This must take place at the first annual meeting or later annual meeting as specified in that resolution. Transitional arrangements may be required to bridge any gap between the previous arrangements ending and the new structure beginning.

2.4   There is no requirement for public consultation in relation to governance system change under the Localism Act 2011. However, several authorities have chosen to do so to ensure engagement of the residents and partner organisations. The London Borough of Barnet for example undertook a two-phase consultation process. Phase 1 comprised a survey to residents, community and voluntary groups, businesses and other organisations who they work in partnership with on their experience of the current governance system and the principles behind the new governance arrangements. Phase 2 comprised of two events (Elected member consultation meeting & a public consultation meeting) these were to present the findings from phase 1 and to test the proposed structure options with the public and councillors.

2.5   Public consultation does not need to be as detailed as that done by Barnet. However, the Council are asked to consider to what extent they want to undertake public consultation and so what form it should take.

2.6   If it was considered that public consultation and consultation with partner organisations and business was necessary to ensure wider buy in to this change, this may impact upon the timetable. The more detailed the consultation – for example a two to three month consultation period – the more likely it would mean that the change would not be able to take place in May 2021 and would move to May 2022 (due to the legal requirement to change at an ACM, there is not the statutory ability to move the date of the ACM earlier than March 2022). More limited consultation could be done – for example a short exercise twin-tracked with the final stages of development of the constitution with the results discussed at the ACM. That might allow the Council to achieve May 2021 implementation but runs the risk of any significant consultation outcomes either being in affect ignored or having to put a brake on proceedings for further consideration at a later stage.

2.7   Although a public consultation exercise may therefore not be the most appropriate way forward due to the time constraints, officers could ensure that the public are kept informed of the Council's objectives in changing the system and progress on this change via the Council's website and usual social media platforms.

2.8   Any change to a new governance arrangement must by law be a minimum five-year commitment to that model.

3.   Project Management

3.1   Moving from one system to another is within the definition of a flagship project for the Council and it is recommended that this is acknowledged as such.

3.2   An internal project manager (Siraj Choudhury - Deputy Group Head Commissioning and Transformation) has been assigned to this flagship project.

3.3   A team of officers are required to work on this project including the Chief Executive, the Section 151 Officer, the Monitoring Officer, the newly created post of Committee Services Support Officer, the Principal Solicitor and the appointed project manager. This will have an impact on their current workloads.

3.4   A Committee Services Support Officer will be in post for a year to support the transition to a new Committee Services team and to support this project.

3.5   To ensure that this flagship project can progress to the desired timetable, external consultants also need to be called upon. Hoey Ainscough Associates Ltd have been appointed. They were set up in April 2012 to support local authorities in managing their arrangements for handling councillor conduct issues. The company was co-founded by Paul Hoey, who had been Director of Strategy at Standards for England from 2001 until its closure in 2013, and Natalie Ainscough who had worked as his deputy. Paul previously worked as a civil servant where he was responsible for overseeing work on council constitutions before joining the Standards Board. They have now worked with over 400 authorities in one form or another through provision of training, investigative support and wider governance advice.

3.6   They are supported in this project by John Austin. John has over 40 years' experience of local government in the UK. John is founder chair of the Association of Democratic Services Officers (ADSO) and is a qualified advisor for its qualifications. He was Borough Secretary and then Assistant Director, Corporate Governance in the London Borough of Enfield. He was also the Council's Monitoring Officer for 10 years until October 2014.

4.   Objectives

4.1   Hoey Ainscough Associates Ltd have advised that the Council sets objectives to achieve the change. With objectives being set this focuses the detailed changes that need to be made to ensure these objectives are achieved.

4.2   Having objectives for the change ensures that the committee system put in place reflects the reasons for the change expressed at the Council meeting on the 30 July 2020.

4.3   The proposed objectives are:

1. **Accountability** – responsibilities and accountability about who does what should be clear, within the Council and to residents;

2. **Credibility** – governance should assist good decision making, which involves proper and early scrutiny of policies and proposals;

3. **Transparency** – the decision-making process should be open and transparent to Members, officers and to the public;

4. **Collaboration** - decision making should be collaborative across parties and less combative;

5. **Timeliness** – decision making should be both quick and effective and, when necessary, allow for urgent decision-making.

4.4 All of these objectives are achievable with a committee system of governance.

4.5 It is recommended that these objectives are adopted by the Council to steer this project to achieve the desired results of change. If adopted by the Council will need to assess whether, and how far, these objectives have been met by any new arrangements. In terms of each objective a very simple measure should be that for each objective things are at least the same if not better than under the current arrangements. Where that test is not met for some objectives the Council would then need to consider whether that is offset by another objective having improved arrangements significantly or whether any

changes are needed to the arrangements to improve performance against the objective.

4.6   The LGA and Centre for Governance and Scrutiny recommend that the Council assess whether its objectives have been met after 12 months of operation. If this is done prior to the Annual Council Meeting at the end of the first year, any required changes to the constitution can then be made.

5.   Cabinet v Committee System

5.1   There are inevitably advantages and disadvantages to any governance model. Taking the words of the Centre for Governance and Scrutiny "there is no 'best system' and it isn't really possible to talk about, and weigh up, the 'pros and cons' of each system in isolation – pros and cons will and should look different for each Council". This change needs to focus on the best system for this Council to achieve the objectives set out above.

5.2   Below is a generalised view of the comparison of the systems. The cabinet system is seen as a less consensual system as it does not involve all councillors in key decision-making as it concentrates ownership of the decisions in any ruling group through the cabinet or individual portfolio holders rather than dissipating accountability across a committee which may not have all agreed with the decision. However it is seen as more efficient in terms of timeliness of decision making, for example as it allows for decisions to be made by individual portfolio holders and is not tied to a committee cycle. That is not to say that ownership and efficiency cannot be built into a committee system, hence objectives of accountability and timeliness being included as key drivers of any new arrangements.

Committee System	Cabinet System
more consensus	less consensus
decision making	decision making
less ownership of	more ownership
Decision making	decision making

6.   Risks and mitigation measures

6.1   For the purposes of this report the risks and criticisms of the cabinet system have not been addressed as the focus is on how to make a committee system work. This next section therefore concentrates on the risks associated with the committee system and possible mitigations needed.

6.2   Some of the criticisms that have been made about a committee system and therefore some of the dangers to be guarded against in designing the arrangements are:

1. **Slowing down of decision making**. Under the committee system councillors cannot be given 'executive' authority – you cannot delegate decision making to a committee chair. The design therefore needs to deal with how decisions will be made, particularly including how urgent ones can be taken quickly. For example, this may be achieved through smaller sub-committees which can meet at shorter notice or greater or more specific delegation to officers (after say consultation with the relevant chair).

2. **Increased Bureaucracy**. A committee system can, if not designed correctly, lead to more meetings and require greater officer capacity which can be expensive to resource. Thought therefore needs to be given as to the optimal number of committees and meetings cycle and, wherever possible, the avoidance of duplication of efforts so there needs to be clear demarcation as to which committee is responsible for what, how frequently they meet and the size of the committees.

3. **No mechanism for holding decision makers to account**. Because there is a greater involvement by all members in formal decision-making processes there can be a reduced mechanism for holding decision-makers to account. Similarly, if an overview and scrutiny function is reduced or removed altogether there may not be as effective a mechanism for holding such to account. It is important therefore to look at how decision-making power is distributed, where the balance lies between policy and operational committees and the effective use of Full Council and how to make best use of any continuing role for scrutiny. Care should be given to ensure that Full Council's role is broadly strategic and should not be used as a body to refer committee decisions and responsibilities to unless absolutely necessary (for example as reserved powers) under the Council's scheme of delegation.

6.3   The following mitigations will need to be designed in:

Cross party support

Council continue to be seen as 'supreme' decision maker

Efficetive seperation in delegations

Timeliness of decision making

Using what has worked well

Appropraite use of O&S principles

6.4 In further detail:

1. To be effectively embedded the arrangements must have cross party support for a proportionate system so that all Members and political groups feel engaged in the democratic process and take responsibility collectively both for decisions made and constructive scrutiny of those decisions.

2. Council would continue to be recognised as the "supreme" decision-making body – that ensures that all Members therefore play a part in key strategic decisions.

3. There must be effective separation in delegations between decisions that are regulatory, operational, policy formulation and policy setting. The remit of each committee should be defined without overlap with effective delegation to officers.

4. All Members can be involved in key decision making, with enhanced openness and transparency, but this should not be at the expense of efficient and timely operational or business decisions.

5. It should not be seen simply as a 'nostalgic' return to the traditional committee system and the arrangements should also identify what has worked effectively in the cabinet system. Arrangements must ensure decisions are accountable but also are quickly reactive and commercial where they need to be.

6. Appropriate use should be made of call-in on overview and scrutiny principles so that, while there is greater collective responsibility for decisions, they are still robustly tested and reviewed.
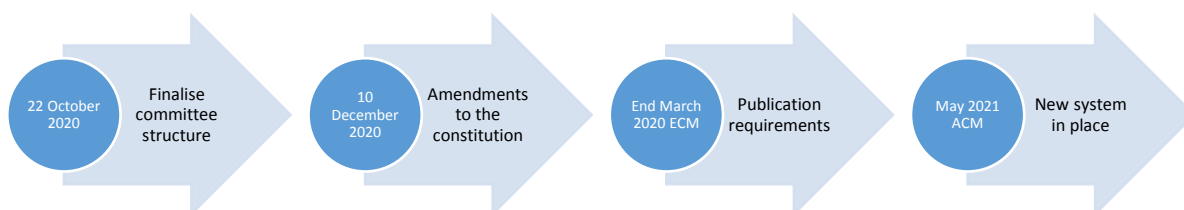
7.   Overview and Scrutiny

7.1   MHCLG's Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities May 2019 emphases the importance - "The role that overview and scrutiny can play in holding an authority's decision-makers to account makes it fundamentally important to the successful functioning of local democracy. Effective scrutiny helps to secure the effective delivery of public services and drives improvements within the authority itself. Conversely, poor scrutiny can be indicative of wider governance, leadership and service failure."

7.2   One characteristics of a committee system is that a scrutiny function is only required for health and community safety matters. This does not need to be in the form of a full Overview & Scrutiny Committee, but it can be and can be built into the committee remit.

7.3   The Council needs to consider what type of scrutiny it wants within the new committee structure. This will be considered as part of the design principles.

8.   Timetable for change

8.1   The motion carried on the 30 July 2020 is a paving motion. This has started the ball rolling for the change in governance arrangements. There are a numerous decisions to be made to move from where we are now to a new system. The Constitution Working Party will have to undertake a considerable amount of work, and hence the suggested requirement to meet every three weeks. All Councillors will need to fully engage in the process in their consideration of the responses to the councillor consultation(s) which will be issued to all Councillors in during this process and in the Council meetings on this subject. All decisions made during the process need to be ratified by full Council at the meetings set out in the timetable.

8.2   It is a tight timetable to make the change in arrangements for the Annual Council Meeting in May 2021. The following indicative timetable is proposed (please note this does not include any public consultation phase):

1. October – December – finalise committee structure

    i)   Councillor consultation issued end October to gain views from all members on how they see the new arrangements working and their personal key objectives

    ii) Constitutional Working Group to meet as often as necessary and at least every three weeks during this period

2. 10 December 2020 – Council report to agree design principles

3. December 2020 – Recruitment of Committee Managers

4. December – March 2021 – work on amendments to the constitution

5. 17 March 2021 – Members' Code of Conduct meeting

6. ECM at end March 2021 – Resolution to amend governance arrangements presented to Council

7. April 2021 – Publication requirements to be fulfilled

8. April 2021 – Member and Officer training

9. May 2021 – ACM changes made including appointments to all committees.

| 22 October 2020 | Finalise committee structure | | 10 December 2020 | Amendments to the constitution | | End March 2020 ECM | Publication requirements | | May 2021 ACM | New system in place |

8.3 Due to the statutory requirement that the new system has to be adopted at an Annual Council Meeting, if public consultation is required then this timetable may have to slip with the end date being May 2022. If public consultation was included in the timetable and the change being scheduled for May 2022 this would provide more time in which to develop the constitution and the working mechanics of the system.

8.4 To ensure that the deadline of May 2021 is met, it's important that there are minimal delays to the process between now and then. Cheshire East for example announced in January 2020 that although they were looking to change in May 2020 this has been postponed until 2021. They have cited that there was more work than anticipated to implement the change and that they were using the additional time for the outstanding details of the committee system to be agreed and for extensive training and awareness for both officers and members.

9. Design Principles and confirming the structure

9.1 When the objectives are set, the next stage would be to agree the more detailed design principles. The LGA and Centre for Governance and Scrutiny have emphasised that the design principles should be based on assessing the strengths and weaknesses of the current system at the authority and ensuring that they are addressed and measured against the agreed objectives.

9.2 To agree the design principles the Constitution Working Party will need to meet every three weeks to discuss and bring forward ideas on the design. A survey or series of surveys will be issued to all Councillors requesting their feed-in on the design of the system and how they consider the new system should operate.

9.3 A considerable amount of work will need to go into that design to achieve the Council's objectives. How the system is structured will impact on how decisions are taken and where responsibilities lie.

9.4 At the principle design stage, members will be asked to agree the new system's broad structure and outline. For example:

1. How many committees would seem appropriate?

2. Would the broad approach to committees be cross-cutting policies, thematic or supporting the current service areas?

3. What matters would be reserved to full Council?

4. What is the role of overview and scrutiny?

10. Constitution

10.1 The principles of the new system need to be agreed prior to a new constitution being developed as the constitution will flow from that structure. The development of a new constitution can be a major and costly piece of work, it is going to be resource-intensive both in terms of officer time and member time. This needs to be completed in time for adoption at the ACM when the new system is adopted.

10.2 The draft constitution will need to set out the format of the new arrangements, any amendments to delegations to officers and the terms of reference for each committee. The terms of reference of each committee and their financial responsibilities are key decisions to make. Amendments to the rules of debate will also need to take place.

10.3 As per the requirements of the Constitution the amendments will be presented to the Members' Code of Conduct Committee for consideration.

11. Staffing

11.1 Committee Services are currently working above their resourcing needs. A recruitment process is underway for a Principal Committee Manager and a Committee Manager/Trainee. Based on research into staffing levels of other authorities operating a committee system. The current resource level will not be adequate. As the new system will need to be fully operational from the date of change at the ACM, any additional staff requirement needs to be in place before that date. The recruitment process will therefore need to commence in December 2020 once the broad outline of the proposed structure has been agreed.

11.2 Based on the staffing levels of a similar size local authority operating an average 5-7 committees it is suggested that 2 additional Committee Managers are required.

11.3 From the research into other authorities, a return to a committee system is likely to require more support from management, service leads and legal services as there will be more decision making committees where reports will be required to be written and presented and there will be additional pre-meetings and briefings.

12. Member Allowances

12.1 A change to a committee system will also necessitate a review of the Members' Allowances Scheme by the Independent Remuneration Panel (IRP). The role of a chairman of a committee is different to that of a cabinet member and the leader has a different function. There could be an increase in the number of member-level meetings and a wider spread of responsibilities and this may well impact on the allowances. An increase in budget has been included in this report as a contingency in case the timescales mean that the IRP will not be able to make any recommendations prior to the appropriate budget cycle.

12.2 The contingency has been included but it is acknowledged that the IRP might recommend allowances which are cost neutral to the present or in fact might represent a saving.

13. Impact of potential unitary status

13.1 Local government reorganisation requires the passing of a statutory instrument (SI) which provides an underpinning framework for that re-organisation. This SI (mostly) comes into being before the creation of the unitary. It designates the newly created unitaries as "shadow authorities" until they are formally established. The SI will direct how the shadow authorities will operate and will prescribe the obligations that they must undertake including agreeing the new governance arrangements for the new unitary.

13.2 There is the possibility that any change to a committee system put in place by the Council could very quickly be superseded by the requirements within any statutory instrument. It might be the case that under any statutory instrument direction that a committee system is adopted for any unitary created but this will be a differing structure to that for a borough council and it may be the case that considerable time and resources are used for this then to have to be reviewed again in a short time period.

14. Financial implications

14.1 The financial implications can be divided into 2 sections. The implementation of the system and the on-going operation of the system.

14.2 In terms of the implementation budget provision will need to be made for £75,000. A contingency has been added to the estimated costs which are set out. As there costs will need to be incurred in the current financial year this will require a supplemental revenue estimate to be funded from unspent balance on the Project Delivery Fund.

14.3 This is broken down as follows:

Item of expenditure	Amount
Training	£5,000
Recruitment costs	£1,000
Committee Service Support Officer costs	£40,140
Consultancy	£27,000
Total	£73,140

14.4 The additional resources to operate the system could amount to £73,000. This will need to be incorporated into the base budget as part of the 2021/2022 Revenue Budget process and will in turn increase the budget gaps for 2021/2022 and for the Outline Budget period.

14.5 This is broken down as follows:

Item of expenditure	Amount

2 x Committee Managers	£58,400
Members allowances	£12,000
Additional committee allowance	£3,000
Total	£73,400

14.6 There would be no additional costs for the Modern.Gov system, but there may be additional costs for the training of new staff on the system therefore a contingency has been included.

15. Other Considerations

15.1 As part of the project an Equalities Impact Assessment will be undertaken to ensure that all impacts are considered.

15.2 The change to a committee system and the resulting changes to the constitution need to ensure that high levels of governance filter through the system in all the Council seeks to achieve.

16. Recommendations

16.1 The recommendation within this report are:

1. the objectives as set out in paragraph 4 of this report are adopted to achieve the desired change

2. this is recognised as a flagship project for the Council

3. the indicative budget is allocated for this flagship project and on-going structure as set out in this report

4. this project proceeds in-line with the timetable for a change in arrangements to take place at the ACM in May 2021 without a public consultation exercise.

16.2 These recommendations are there to ensure that this flagship project has clear objectives and to commence the focused work which needs to be undertaken to achieve a form of governance which is fit for Spelthorne Borough Council to fulfil the Corporate Plan and to provide excellent services to the residents.