Decision making and Local Government

Introduction

1. The mechanisms by which a Local Authority is governed and the procedural safeguards, which must, by law, be put into place are generally contained within a legislative framework.

2. There have been some fundamental changes to Local Authority governance in the past few years, particularly in respect of how a Local Authority is controlled and how decisions are taken.

3. This report sets out the current legal models of governance in current local authority law, describes the legislative provisions which MUST be put into place, and indicates areas where decision making and governance may be shaped to best meet the needs of the Authority.

Background

Local Government Act 1972

4. The Local Government Act 1972 has set the landscape for all modern local authority governance law. The Act saw both a consolidation and overhaul of local authority law in respect of governance up to that point.

5. The Act determined that for the administration of local government on and after 1st April 1974, England shall be divided into local government areas to be known as counties and in those counties there shall be local government areas to be known as districts.

6. It also set out basic committee structures, delegations, the role of the Mayor as Chairman of the Council, terms of office of Councillors and access to information rules.

1988 Local Government Finance Act and 1989 Local Government and Housing Act

7. The 1988 Local Government Finance Act saw the commencement of the role of the s151 or ‘Chief Finance Officer’ and the 1989 Local Government and Housing Act saw the codification of the roles of the Head of Paid Service (Chief Executive), the Monitoring Officer, restrictions on officers in respect of political restrictions and the requirements for political proportionality in respect of Council Committees.

Local Government Act 2000

8. The next, major shift was the introduction, in 2000, of the restrictions on models of governance, initially prescribing that all principal councils must adopt a ‘Leader and Executive model’, a ‘Council Manager model’ or a Mayoral model. (Councils were prevented from remaining with a ‘Committee system model’). In prescribing these models the Act necessarily instigated a split between those powers that were to be discharged by the Council (and its Committees) and those powers that were to be discharged by the Executive (Cabinet).

9. The 2000 Act also introduced the statutory requirement for a system of ‘overview and scrutiny’ which must allow for challenge (by a committee of the council) of executive decisions.

Local Government and Public Involvement in Health Act 2007

10. This Act narrowed the governance models further, allowing only the ‘Strong leader’ model and Mayoral Model as models of governance that may be used in a Local Authority.

11. In 2009 Milton Keynes Council moved to the Strong Leader model – a model where all powers that fall to the Executive are now discharged solely by the Executive Leader (whether personally or through delegation), and not by the Executive as a ‘body’.
Localism Act 2011

12. The Localism Act 2011 has now brought forward further changes, allowing the Committee system to be used by local authorities again, promoting changes to the access to information rules in respect of executive meetings and allowing for the Secretary of State to ‘prescribe’ additional forms of Local Authority governance.

Governance

13. This report will look at the two forms of governance available to local authorities, the specific legislative provisions applied and go on to consider models adopted by other authorities within those confines.

Executive models

14. The two ‘executive’ models that now exist are the Executive Leader model (known as the Strong Leader Model) and the elected Mayor model.

15. ‘Executive’ generally refers to a person or a group of persons having administrative responsibility for functions in a local authority. The split of powers is described below, but generally executive functions are all of those that are not specified as being ‘council’ functions in law.

16. This report focuses on the legal governance required for the Leader and Executive Model and therefore does not describe the necessary provisions for the election of a mayor, although generally, once the mayor is in place, the governance provisions are similar (with the small addition of the Council only being able to amend or reject budget and policy proposals put forward by a directly elected Mayor by a two thirds majority).

Leadership – Leader and Executive model

17. The Council’s Executive must consist of:

- An Executive Leader: Councillor elected as leader by the authority
- Two or more councillors (but no more than 9, (plus the Leader): appointed to the Executive by Executive Leader
- One of whom must be a Deputy Leader

Limitations in these roles are only that the Mayor or Vice Mayor of the authority MUST NOT be a member of the Executive

18. Executive arrangements (Cabinet Procedure Rules) must include provision for the Leader to:

- Determine the size of the Executive
- Appoint a member of the Exec to be Deputy Executive Leader

19. Further they must provide a means to

- Remove the Leader
- Elect a Leader

20. It is generally accepted that any authority operating executive arrangements will properly record those arrangements in its constitution, normally as part of the Cabinet (Executive) Procedure Rules, however even if they are not included in the Constitution, the Authority is bound by law.

21. It should be noted that political balance is not required in an Executive (or a Committee thereof).
Delegation of functions in a Leader and Executive Model

22. All executive powers and functions vest in the Leader who may take any decision on an executive function.

23. The Leader may arrange for those functions to be discharged by;
   (i) by the executive,
   (ii) by another member of the executive,
   (iii) by a committee of the executive,
   (iv) by an area committee, or
   (v) by an officer of the authority.

24. Functions may be delegated further from these bodies (although there can be no ‘upwards’ delegation, and no other person/body can permit the delegation to an individual Cabinet Member).

25. A ‘Leaders Scheme of Delegation’ is usually published to ensure transparency and clarity for all members of the Council, members of the public and officers in respect of the discharge of executive functions. Often this is accompanied by a financial scheme of delegation, which determines decision making powers by virtue of the value of the decision.

26. The Scheme of Delegation MUST only be approved by the Leader, and any changes made with the Leaders consent and documented. There may be a constitutional provision to report to the Council but it would be unlawful of the Council to amend such a scheme.

Area Committees and delegations to Ward Councillors

27. The only way that a delegation can be made from the Executive to a Council Committee, or to an individual who is not a member of the executive is either through:
   (a) an Area Committee. This is a Committee established to discharge functions in respect of part of the area of the authority. The members of the committee are the members of the authority elected for electoral divisions or wards which fall wholly or partly within that part; or
   (b) s 236 of the Local Government and Public Involvement in Health Act 2007, which allows for delegation to ward members to make executive decisions in respect of their wards.

28. These delegations must be very specific and are accompanied by certain duties in respect of recording decisions. Milton Keynes Council currently has no Area Committees, although it does have ward based budgets for members.

The split of functions

29. Where one of the executive models is used, there must be a split of functions.

30. This split creates the following categories of functions:-
   1. Functions that may only be discharged by the Council (non delegable functions)
   2. Functions that may only be discharged by the Council, but may be delegated to a committee, sub committee or an officer (Council functions)
   3. Functions that can be discharged by the Executive (Executive functions)
   4. Functions that may be discharged by either (local choice functions)
   5. Functions that may only be discharged by a person or body specified in statute (statutory functions)
31. It is a continuing rule that any function not identified as a specific statutory, Council or non-delegable Council function MUST be discharged by the executive.

1.1 Example - Executive model delegated functions

- Council Tax setting – non-delegable Council function by virtue of the Local Government Finance Act 1992 (s67)
- Determining planning applications – a Council function by virtue of Local Authorities (Functions and Responsibilities Order 2000) discharged in MK by DCC, sub committees thereof or officers
- Licensing functions – statutorily delegated to the Licensing Committee required by Licensing Act 2003
- Determining expressions of interest received under the Community Right to Challenge – legislative but silent on who should discharge so discharged by the Executive and delegated to the ‘communities’ portfolio by the Leader
- Decisions on award of contracts – dependent on amount awarded, but delegated by the Leader to officers, Cabinet members or the Procurement Committee (a committee of the Cabinet)

Decision-making

32. Decision-making by the Executive is now covered by the Executive Arrangements (Meetings and Access to Information) (England) Regulations 2012.

33. These Regulations, in brief,

- Provide a presumption that executive meetings will be held in public (unless exempt information is to be discussed)
- Any key decision must be advertised on the forward plan for 28 days before the decision is taken
- If for any reason this cannot be the case then, if five clear days can elapse until the decision is taken, the Chair of Overview and Scrutiny MUST be informed
- If less than five clear days can elapse before the decision is taken, the Chair of Overview and Scrutiny MUST agree that it is a case of special urgency
- This notice requirement applies whether the Key Decision is to be taken by the Cabinet at a meeting, or by the Executive Leader or by another Cabinet Member, or by an officer
- There are further notice requirements to be adhered to if the decision to be taken includes exempt information and will mean that the press and public are to be excluded from the meeting.
- Agendas must be available five clear days prior to the meeting

What is a key decision?

34. A key decision is one which is likely to result in the relevant local authority incurring expenditure which is, or is the making of savings which are, significant having regard to the relevant local authority’s budget for the service of function to which the decision relates; or to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area.
1.2 Key decisions in MK

- Value of £100,000 or significant in respect of two or more wards
- If taken by an individual member or an officer, taken in public in an agreed time slot
- Fully publicised
- Open to all members of the authority
- Advertised as per the law above
- Open to the scrutiny process

Budget and Policy Framework

35. Under the Executive model, the Council sets the budget and the policy framework. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 require that the full Council adopt or approve specified plans and strategies of the local authority; adopt or approve the budget and any plan or strategy for the control of the authority’s borrowing or capital expenditure, determine the scheme for Member’s allowances and authorise applications to the Secretary of State for the transfer of housing land.

36. In respect of the policy framework, this is largely what the Council state that it is – although there are some statutory plans that must be included:

| Annual Library Plan | Section 1(2) of the Public Libraries and Museums Act 1964 (c 75). |  |
| Best Value Performance Plan | Section 6(1) of the Local Government Act 1999 (c 27). | Repealed |
| [Children and Young People’s Plan | Children and Young People’s Plan (England) Regulations 2005.] | Intention to revoke |
| Crime and Disorder Reduction Strategy | Sections 5 and 6 of the Crime and Disorder Act 1998 (c 37). |  |
| [Development plan documents | Section 15 of the 2004 Act.] |  |
| [Licensing Authority Policy Statement | Section 349 of the 2005 Act.] |  |
| Plans and alterations which together comprise the Development Plan | (b) for districts outside Greater London and the metropolitan counties, section 54 of the Town and Country Planning Act 1990 | Repealed |
| [Sustainable Community Strategy | Section 4 of the 2000 Act.] | Intention to repeal |
| Youth Justice Plan | Section 40 of the Crime and Disorder Act 1998 (c 37). |  |

37. If there are a large number of plans and strategies that form the policy framework, this will direct the Cabinet, to a greater extent as to what decisions that it can take, and on certain matters, to what extent it will need to revert back to the Council when making decisions. The budget must also be agreed by the Full Council, who may also control the extent to which virements may be made between budget lines.

38. Different authorities take differing approaches to what is included in the policy framework. Many merely list the statutory policies; some make inclusions, most commonly in respect of housing strategies.
39. Before a plan or the budget is to be adopted, the Leader will publish initial proposals and these will be referred to the O&S Committee for their consideration. The Council will then consider the proposals, and before they take any action on the plan or strategy, must inform the Leader if they have any objections to it and give the Leader 5 working days in which to revise the plan or strategy or set out their disagreement with any of the Council’s objections. The authority may then make their decision on whether to adopt the plan or strategy or make amendments to it.

40. If any decision maker wishes to take a decision outside of the budget and policy framework the matter must be referred to the Council to make the decision, however if the matter is urgent (and agreed to be urgent by the Chair of the Overview and Scrutiny Committee) then it may be taken but must be reported back to the Council as soon as possible.

1.3 Birmingham

Labour Majority Leader and Cabinet

Policy framework
- Adult Learning Plan
- Birmingham Children and Young People’s Plan
- Birmingham Cultural Strategy
- Birmingham Unitary Development Plan
- Community Safety Strategy
- Council Business Plan – including Budget and Long-Term Financial Strategy
- Development – Economic Strategy
- Heritage Strategy
- Housing Strategy / Homelessness Strategy
- Local Development Framework Plans
- Manufacturing Strategy
- Pay Policy
- Statement of Licensing Policy under the Licensing Act 2003
- Taking Birmingham Forward (Community Strategy)
- West Midlands Local Transport Plan

8 O/S Ctees
10 district committees appointed with a £500,000 exec budget and long list of exec delegations

1.4 Bedford

Mayoral Model with LD Mayor and mixed Cabinet (majority are LD)

Policy Framework
- Anti Poverty Strategy
- Communications Strategy
- Consultation Strategy
- Corporate Plan
- Equal Opportunities Policy
- Food Law Enforcement Service Plan
- Joint Economic Strategy
- Homelessness Strategy
- Sub Regional Housing Strategy
- Older People’s Housing Strategy
- Learning Disabilities Strategy
- Local Agenda 21 Strategy and Action Plan
- Medium Term Financial Strategy
- Treasury Management Strategy
- Waste Management Strategy

5 scrutiny committees
1.5 Mole Valley
NOC – Strong Leader.
1 O/S Cttee
Statutory policy framework. No other specialist decision making structures

1.6 St Albans
NOC with a Cons Cabinet and Leader
2x scrutiny committees
Documents above the statutory included in the policy framework
- Council’s Corporate Plan;
- Food Law Enforcement Service Plan;
- The plan and strategy which comprise the Housing Investment Programme;
- Local Agenda 21 Strategy;
It would appear that many key decisions are taken in ‘Cabinet’ rather than at a delegated level
No stated area committees

1.7 Scarborough Council
Cabinet and Leader, 26 Labour to 24 other groups
Four Scrutiny Committees of 13 members
Policy Framework
(i) The Community Strategy;
(ii) The Corporate Plan;
and the following thematic Policy Statements:
(iii) Finance Resources and Governance Policy Statement
(iv) ICT Policy Statement
(v) Customers and Communication Policy Statement
(vi) Regeneration and Economic Development Policy Statement
(vii) Tourism, Leisure and Culture Policy Statement
(viii) Environment and Sustainability Policy Statement
(ix) Plans and strategies which together comprise the Development Plan/Local Development Framework
(x) Social Inclusion Policy Statement
(xi) Human Resources Policy Statement
(xii) Crime and Disorder Policy Statement
(xiii) Housing Policy Statement
Policy statements are used, under which policies are listed, the inference being that it is the policy statement which is determined by the Council, but still for the Cabinet to decide with regard to the policies listed.
Scarborough has four area committees who have delegated powers to consider grant applications and undertake executive functions.
1.8 **Colchester**

NOC, Lib/Lab and Independent administration

In addition to the Statutory Plans their policy framework includes;

- The Council’s Strategic Plan:
- The plan and strategy which comprise the Housing Investment Programme;
- Local Agenda 21 Strategy;
- Waste Strategy
- Genetically Modified Crops Policy
- Leisure Policy Framework
- Economic Development Strategy
- Information, Communication and Technology Strategy
- Electronic Service Delivery Strategy
- Personnel Policies
- Local Code of Corporate Governance
- Risk Management Strategy
- Anti-Fraud and Corruption Policy
- Travellers Policy
- Tackling Homelessness - Colchester’s Review and Strategy
- The Corporate Diversity Policy and Plan
- Licensing Authority Policy Statement under the Gambling Act 2005

Three O/S committees with task and finish groups. No area Committees

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**Scrutiny**

41. The **Local Government Act 2000**, in bringing the Leader and Executive models, also contained a requirement for scrutiny provision. Local Authorities must include provision within their arrangements for the appointment by the authority of one or more overview or scrutiny committees.

42. The Overview and Scrutiny Committees must have the power to;

- Review or scrutinise decisions or actions taken by the executive
- Make reports to the Council or the Executive in respect of the discharge of Executive functions
- Review or scrutinise decisions made or actions taken which are not the responsibility of the executive
- Make reports or recommendations to the authority or the executive in respect of decisions or actions which are not the responsibility of the executive
- Make reports or recommendations to the authority or the executive on matters which affect the authority’s area or inhabitants of that area

43. Arrangements made by the authority must include provision for;

- Any member of the Overview and Scrutiny Committee to refer to the committee any matter relevant to its functions
- Any member of a sub committee of the Overview and Scrutiny Committee to refer to the committee any matter relevant to its functions
• Any member to refer a matter to an Overview and Scrutiny Committee which is relevant to the functions of that Committee and is not an excluded matter.
• No member of the Executive may be a member of the Overview and Scrutiny Committee

44. Excluded matters are covered in law as are matters relating to planning decisions, licensing decisions, matters for which a person has a right of recourse to review or appeal, and any matters which are vexatious, discriminatory or not reasonable to be included.

45. However where the allegation is that the authority has not discharged a function, or that its discharge is failing on a systemic basis, regardless of whether the matter is a planning decision, licensing decision or the person involved has a right of recourse to review or appeal, the matter should be considered.

46. Where the Overview and Scrutiny Committee makes a report or recommendation to the authority or the executive the Overview and Scrutiny Committee may publish the recommendations and must require the authority or the executive, in writing to consider the report or recommendations

47. Further, there must be provision for scrutiny of decisions not yet implemented (call-in).

48. Overview and Scrutiny Committees may appoint sub committees, which must be politically proportionate and are largely treated as Committees of the Council.

49. The authority must also appoint a scrutiny officer to discharge listed functions in respect to scrutiny.

50. The Police and Justice Act 2006 and the National Health Service Act 2006 both contained provisions for Local Authority scrutiny and created a duty for Local Authorities to have a means of scrutinising Crime and Disorder and Health functions. It is still the position that authorities must have arrangements for scrutinising these functions (and flood risk management if they are a lead local flood authority)

51. There are also statutory provisions regarding the appointment of diocesan representatives and parent governor representatives on scrutiny committees dealing with education scrutiny.

1.9 Executive Arrangements in Hertfordshire

| Strong Leader Model 55 Cons, 22 other |
| 2x Overview and scrutiny committees, each of around 28 members |
| Eight Cabinet panels, comprising 15 cross party members on what would appear to be a politically proportionate basis, with the remit of considering the areas overseen by the Cabinet Member. |
1.10 Executive arrangements in Kent

Leader and Cabinet, Cons Majority

A statement released from Kent County Council indicates that they have redrawn their governance model.

It would appear that at the heart of this system are six new cabinet committees, which sit around the Cabinet Member of which there are ten (and a number of ‘deputies’) and provide recommendations and reports in respect of executive functions.

Statutory Key Decisions and significant strategic decisions (definition in their constitution) are considered by Cabinet Committees prior to the decision maker taking the decision.

Ultimately they do not have any decision making functions as such, although they can make recommendations.

Although named as being ‘Cabinet Committees’ it would appear that in law these are advisory bodies that follow committee rules.

There is no requirement for them to be politically proportionate as they are not a properly constituted Council Committee, although it seems they largely are politically representative.

Further, Kent have specific rules in respect of secondary and deputy Cabinet members, who may not take decisions but support Cabinet members.

Four major O/S committees (one ordinary, health scrutiny, crime and disorder and flood risk management) with a select committee from whose membership task and finish groups may be drawn.

Policy framework contains only statutory plans.

The Committee System

52. Although the 2000 (and later the 2007) Act prohibited any other forms of governance than an executive, this did not mean that the Committee system of governance described in the 1972 Act was rendered obsolete. Due to the split of functions, as described above, a committee system remains an absolutely essential component of Local Authority governance.

53. Those functions that are reserved to the Council, but are delegable are often discharged by individual committees. Often, due to the nature of the functions that remain with the full Council, these committees are largely quasi judicial in nature (such as planning).

54. Some Committees are statutory (Health and Wellbeing Boards, Licensing Committees) and their remit and make up is largely prescribed by statute. However some are appointed as a question of practicality to allow a smaller number of trained members to consider matters, and also gives the flexibility, where appropriate, for a legitimate means of appeal.

55. Since the Localism Act 2011 however the ‘committee system’ now means – arrangements by a local authority that does not operate executive arrangements or prescribed arrangements, for or in connection with the discharge of its functions. This allows a local authority to have a governance system in place that does not include any executive arrangements and meaning that all of the Council’s functions are discharged by the Full Council or Committees thereof, with schemes of delegation approved by the Committee in respect of delegations to officers.
Essential Components of a Committee System

The Council

56. As stated above, the 1972 Act provides for every Council to meet as a Council, to hold an annual meeting, to have a Chairman who, if the area has borough status, may use the style of Mayor (and a vice chairman who in a Borough may use the style of ‘Deputy Mayor’).

57. In a Committee system, there is no executive, and therefore the split of functions is reduced.

- Functions that may only be discharged by the Council (non delegable functions)
- Functions that may only be discharged by the Council, but may be delegated to a committee, sub committee or an officer (Council functions)
- Functions that may only be discharged by a person or body specified in statute (statutory functions)

58. Delegations cannot generally be made to individual members but may be made to committees, sub committees or officers. (see Local Government and Public Involvement in Health Act 2007 and Ward Based Budgets, below, for limited powers to delegate to individual members)

59. The Council, as responsible for the delegation of powers, must agree all delegations to committees, sub committees or officers in the first instance. However the usual route to the delegation of these functions is to delegate a group of functions to a committee and then allow the committee to set its own, further scheme of delegation, to include sub committees and officers. A committee may not determine its own terms of reference, but as is the general rule with delegations, the body with the delegated power may delegate it further.

Statutory Committees

60. As indicated above there are some statutory committees that the Council must have. The difference drawn is where the legislation that governs the makeup and the meetings of a committee specifically, as opposed to where the committee discharges a statutory function.

61. At present these are Licensing Committees, School Admission Appeals Panels and Health and Wellbeing Boards. These still must be in place in an authority using the Committee system.

Other Committees

62. As all powers are to be discharged by the Council or Committees thereof, at the current time Milton Keynes Council has;

- A Development Control Committee
- An Audit Committee
- A Standards Committee
- A Regulatory Committee
- A Constitution Commission
- An Appeals Commission
  - A Housing Appeals Committee
  - A Schools Admissions Appeals Committee (Statutory function)
- Employer’s Side of the Joint Negotiating Committee
- A Corporate Parenting Panel (Advisory)
Below are examples of some authorities who have adopted the Committee System and

Authorities who have adopted the Committee System

<table>
<thead>
<tr>
<th>Brighton and Hove</th>
<th>1. Policy &amp; Resources Committee</th>
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<tbody>
<tr>
<td>NOC</td>
<td>o Personnel Appeals Panel</td>
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<tr>
<td>22 - Green Party</td>
<td>o Corporate Parenting Sub-Committee</td>
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<td>13 - Labour and co-operative</td>
<td>2. Housing Committee</td>
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<tr>
<td>18 – Conservative</td>
<td>o Housing Management Consultative Sub-Committee</td>
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<td>1 – independent</td>
<td>3. Children and Young People Committee</td>
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<td>1.11 Brighton and Hove</td>
<td>4. Adult Care &amp; Health Committee</td>
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<td>5. Economic Development &amp; Culture Committee</td>
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<td>6. Environment &amp; Sustainability Committee</td>
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<td>7. Transport Committee</td>
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<td>8. Planning Committee</td>
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<td>9. Licensing Committee</td>
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<td>10. Audit &amp; Standards Committee</td>
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<td>Standards Panel</td>
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Brighton has retained a Leader.

Two Overview and Scrutiny Committees:-
Support the work of the Council as a whole, monitor the work programme of the Policy Committees and can call-in decisions which have been made but not yet implemented

No area committees

Scrutiny

63. There is no requirement to have a scrutiny committee in the committee system model, however if an overview and scrutiny committee is created, the authority must ensure that it has the power to:

- Review or scrutinise decisions or actions taken by the executive
- Make reports to the Council or the Executive in respect of the discharge of Executive functions
- Review or scrutinise decisions made or actions taken which are not the responsibility of the executive
- Make reports or recommendations to the authority or the executive in respect of decisions or actions which are not the responsibility of the executive
- Make reports or recommendations to the authority or the executive on matters which affect the authority’s area or inhabitants of that area

64. Arrangements made by the authority must include provision for;
- Any member of the Overview and Scrutiny Committee to refer to the committee any matter relevant to its functions
Any member of a sub committee of the Overview and Scrutiny Committee to refer to the committee any matter relevant to its functions

Any member to refer a matter to an Overview and Scrutiny Committee which is relevant to the functions of that Committee and is not an excluded matter

65. The authority must make arrangements for Health, Crime and Disorder and Education scrutiny, including statutory co-optees.

66. If the authority chooses not to have a scrutiny system, it still needs to make arrangements for health and where appropriate, flood risk management, although it does not have to make arrangements for crime and disorder and education scrutiny appointments.

Area Committees and delegations to Ward Councillors

67. The Council may delegate functions to an Area Committee to discharge in respect of their area. A committee or sub-committee is established to discharge functions in respect of part of the area of the authority, and the members of the committee or sub-committee who are members of the authority are elected for electoral divisions or wards which fall wholly or partly within that part.

68. Further to this, despite the comments above regarding delegation, the Council may delegate to an individual Councillor under s 236 of the Local Government and Public Involvement in Health Act 2007, which allows for delegation to ward members to make individual council decisions in respect of their wards.

69. These delegations must be very specific and are accompanied by certain duties in respect of recording decisions.

70. Milton Keynes Council currently has no Area Committees, although it does have ward based budgets for members.

1.12 South Gloucester – Committee System – NOC

- 33 Conservative councillors
- 21 Liberal Democrat councillors
- 15 Labour councillors
- 1 UK Independence Party councilor

Committee structure

- Public Health and Health Scrutiny
- Audit and Accounts
- Regulatory (Licensing Sub, Public Rights of Way and Commons Registrations sub, standards sub)
- DC East (Sites sub)
- DC West (Sites sub)
- Adults and Housing
- Children and young people
- Communities
- Policy and Resources
- Area forums (and Committees with local traffic scheme and grant powers)
- LEP Scrutiny (1-1-1)
**1.13 Sutton – 41 Liberal Democrat, 11 Conservative, 1 Labour**

Full Council agrees the Council's overall policies, sets the budget and acts as final arbiter when matters are referred.

Has appointed a four year Leader and five politically balanced Committees responsible for the Council's principal functions

- Strategy and resources
- Adult Social Care and Health
- Children, family and education
- Environment and Neighbourhood
- Housing, Economy and Business

Leader has some powers to object to the budget and policy framework as set out in the Constitution and chairs the Strategy and Resources Committee.

One Scrutiny Committee with a remit to scrutinise health matters and carry out the scrutiny of crime and disorder and flood risk management.

Sutton has six local (area) Committees

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**Resolution and other arrangements**

71. The Secretary of State has been given the powers to prescribe ‘other arrangements for local authorities however the Secretary of State must have regard to any proposals received from a local authority when he considers making regulations to give force to those ‘prescribed arrangements’. Practically, what this allows is for local authorities to put forward proposals for different models of governance. In order for the local authority to make proposals to the Secretary of State it must explain, in the proposal, how;

(1) The proposed arrangements would be an improvement;

(2) They would be likely to ensure that decisions would be taken in an “efficient, transparent and accountable way”; and

(3) They would be suitable for all local authorities, or for a particular description of local authorities.

72. It would not appear that any proposals have been made to the Secretary of State at the current time, and there are very few examples available, however indications from Parliamentary Papers are that the Secretary of State will consider executive and non-executive proposals.

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**How to change governance arrangements**

- The Authority must pass a resolution to change governance arrangements
- As soon as practical, make the provisions of the new arrangements available for inspection
- Publish in one or more newspapers circulating in the area a notice which describes the features of the new system and timescales for implementation
- No further change within 5 years (unless change by referendum or by Order)
## Summary of Legal Requirements

<table>
<thead>
<tr>
<th>Leadership</th>
<th>Exec Leader &amp; Cabinet</th>
<th>Exec Mayor &amp; Cabinet</th>
<th>Committee System</th>
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</thead>
</table>
| **Leadership** | - Must have a leader elected by the Council  
- Leader must have ability to have an Exec of between 2 and 9  
- Leader must appoint a deputy  
- Leader can remove deputy  
- Leader can be removed by the Council | - Must have elected mayor  
- Mayor must have ability to have an Exec of between 2 and 9  
- Mayor must have a deputy  
- Mayor can remove deputy  
- Mayor CANNOT be removed by the authority | None Prescribed |
| **Leadership options** | Could have deputy exec members, but cannot make decisions or sit as true members of the exec | Could have deputy exec members, but cannot make decisions or sit as true members of the exec | Could have provision for election of a leader by the Council. Would not have any powers but could chair a committee with oversight of the other committees |
| Scrutiny | Must have an Overview and scrutiny committee  
May appoint one or more sub-committees  
Must make provision for health scrutiny, crime and disorder scrutiny and education scrutiny  
Must be politically proportionate  
Must make provision for members of O/S, O/S subs and any other member to refer matters to the O/S Committee  
Must include provision to scrutinise decisions not yet implemented (call in) |
|---|---|
| Must have an Overview and scrutiny committee:  
May appoint one or more sub-committees  
Must make provision for health scrutiny, crime and disorder scrutiny and education scrutiny  
Must be politically proportionate  
Must make provision for members of O/S, O/S subs and any other member to refer matters to the O/S Committee  
Must include provision to scrutinise decisions not yet implemented (call in) |
| Scrutiny options | All systems can appoint as many scrutiny committees, over as many areas as they wish, as long as the statutory requirements are met.  
Some places, however choose to engage more of a ‘pre scrutiny’ approach, appointing Cabinet Panels or other working groups to provide support on policy development. |
| Functions and powers | Council  
Non delegable  
Council functions (delegable)  
Statutory functions  
Exec  
Exec functions  
Either  
Local Choice functions |
| Council  
Non delegable  
Council functions (delegable)  
Statutory functions  
Exec  
Exec functions  
Either  
Local Choice functions |
| Non delegable  
Council functions (delegable)  
Statutory functions |
<table>
<thead>
<tr>
<th>Discharge of functions</th>
<th>Discharge functions</th>
<th>Discharge functions</th>
<th>All functions vested in the Full Council who may delegate to a Committee, sub committee, or officer.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Arrange for the discharge of any of the executive functions by the executive, another member of the executive, by a committee, by an area committee or by an officer of the authority</td>
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<td></td>
</tr>
<tr>
<td>Discharge of functions Options</td>
<td>All systems may, by way of appropriate delegations, delegate functions to an individual ward member (in respect of their ward) or an Area Committee. If delegated to a ward member, proper recording systems should be in place</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Access to information</td>
<td>Exec Must follow exec rules, including 28 days on forward plan for key decision, recording of exec decisions public meetings etc and subject to urgency provisions. Agenda’s must be available 5 clear days before the meeting. Minutes and papers made available to the public for 6 years unless exempt information.</td>
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