

RBKC Panel on decision-making options – a suggested model for RBKC (a prompt for discussion submitted by Henry Peterson, chair of St Helens Residents Association and former Deputy Chief Executive at Hammersmith & Fulham Council)

The CfPS paper ‘Musical Chairs’ as circulated for the December 11th meeting of the Panel demonstrates the wide variety of governance options that a council can select. In each case, the choice has depended partly on the type of authority (county or unitary) and on the political dynamics at local level.

The possible model outlined below is based on that introduced as the first example of a leader and cabinet system tested out in England (in Hammersmith & Fulham in May 1998). This model predated the Local Government Act 2000 and was put in place via a novel legal interpretation of the 1972 Local Government Act.

The system was widely seen as an improvement on the former traditional ‘committee system’ and influenced the set of options later made available by the then Government under the 2000 Local Government Act.

Impact of the 2000 Act and the White Paper *Modern Local Government – in touch with the People*

Back in the early 2000’s, Kent County Council, and RBKC were amongst the first wave of local authorities to introduce cabinet systems and were also amongst the 20 or so councils in England rated as 4 star ‘excellent’ when the Audit Commission regime of Comprehensive Performance Assessment (CPA) was introduced in 2002.

This select group of councils (also including Camden, LBHF, Westminster and Wandsworth) were brought together by Government at that time, as a local government ‘Innovation Forum’, to develop ideas around joint central/local working, integration of health and social care, local partnerships and various means of service improvement.

In succeeding years, RBKC continued to achieve high scores under the CPA regime. In 2009 this was replaced by the wider framework of Comprehensive Area Assessment (CAA). This regime lasted only one year before being abolished by Government. An extract from the 2009 assessment of the Borough is attached as an annexe to this note. This rated the Council highly on most aspects, but with some cautionary comments about public awareness of and involvement in council decision-making.

This history is worth remembering, as it explains the origins of the ‘cabinet and leader’ system at RBKC and also accounts for some aspects of the Council’s culture in more recent years.

A possible varied governance and decision-making system for RBKC

The system would be a version of the ‘cabinet and leader’ model. As now, the Leader would be elected at the Annual meeting and would appoint a team of portfolio holders. Whether these are termed ‘Lead members’ or ‘Cabinet members’ is not a fundamental aspect of the system. This team would make up the ‘executive’ of the Council, as at present.

The executive

The ‘Leadership Team’ or ‘cabinet’ would meet in private session every 3 or 4 weeks, to discuss future policy and forthcoming decisions (which would have been trailed via a ‘forward plan’). Such meetings would have no formal decision-making powers and would not be a committee under the

2000 Act (i.e. they would have similarities to the Leadership Team Briefings as referred to at 7.07(a) in the current RBKC constitution).

Following each session, the Team would publish its 'proposed decisions' and accompanying officer reports in the knowledge that these may be 'called in' for scrutiny and review within a fixed time period (say 7 days) by any two(?) or more councillors who do not support the proposed decision.

'Proposed decisions' would include all those due to be made by the Executive, individually by 'Lead members/cabinet members' or by a 'Leadership Committee' meeting collectively.

Those 'proposed decisions' which were not called in would be formally determined by a Leadership Committee which would meet (say) two weeks after publication of the list of 'proposed' decisions. This would be a formal meeting of the Executive of the Council, meeting in public except where exemptions to the Access to information Act apply.

The Opposition would be represented on this committee, with a number of members set in accordance with existing proportionality requirements. Debate on each agenda item would be unlikely to be lengthy, as these would be decisions that were not contested. Were an item to have attracted unexpected public interest in the preceding weeks, debate would be lengthier.

Such a committee could be criticised as a 'rubber stamping' session. But it would be dealing only with matters that had not been 'called in' to an 'overview' committee as below.

Overview – a single centralised check on contested decisions

Meanwhile, those decisions that had been 'called in' for further consideration would be included on a separate agenda for a single 'overview' committee. This body would have a membership of (say) 10-14 members, made up of opposition and 'backbench' majority party councillors. Proportionality requirements would again apply.

Those majority party members involved in this 'overview' committee would be the natural deputies for Leadership Team/cabinet members.

Those opposition members involved in this committee would be the lead spokespersons on each portfolio.

This 'overview' committee would have powers to

- Agree that an issue needed further debate and resolution at full Council, and should be included on the next Council agenda for final decision
- Decide that an issue should be referred back to the Leadership Committee, along with any recommendations on how the original proposals should be varied before being finalised.

Such a committee would be a significant public forum for debate on contested proposals from the majority party. Meeting much more frequently than full Council meetings, it would be addressing issues across the full range of RBKC services and all matters within the Council's powers and duties.

Scrutiny

A set of further scrutiny committees would be established by the Council. The precise role and remit of these could vary from year to year. Some might scrutinise a Leadership Team/cabinet portfolio, as under present arrangements. Others might operate more on a 'task and finish' basis, working on issues that needed detailed examination, policy development or urgent cross-party problem-solving.

One of these scrutiny bodies would be permanent and would undertake oversight of financial audit, constitutional, and employment issues.

Regulatory committees

The regulatory committees (planning, licensing) would continue broadly as at present.

The Council

The full council would operate as present, including the arrangements for the public to attend and speak on local issues during the first part of the meeting.

Forward Plan

The format of the 'forward plan' would be significantly revised, to give the public genuine advance warning of new policy proposals and initiatives coming over the horizon. At early stage of policy formulation, the Forward Plan could alert the public to consultation exercises or 'Green Papers' at early stage of policy formulation as well as 'proposed decisions'.

For 'proposed decisions' the summaries of these would be in plain English and would explain the context of each proposal (financial, legislative, potential Impact on different parts of the Borough). Colour coding could be used to distinguish between decisions of higher and lower importance.

The Opposition Whip could be given the opportunity to review and comment on the summaries to be included in the Forward Plan. This would ensure that potentially contentious issues were highlighted to the public, as well as to all councillors, well in advance.

The online format would be made as user-friendly as possible, allowing the public to track items through remaining stages of decision-making.

Key Decisions

Under such a system there would remain scope for particularly urgent or more routine decisions not delegated to officers to be processed as 'Key Decisions'. As at present these would be made by individual lead members/cabinet members, on the basis of published reports from officers. But with a 3 weekly or monthly cycle of a cabinet/Leadership Committee and an 'overview' committee, the number of Key Decisions should drop significantly.

Advantages and variances from current RBKC arrangements

- Proposed decisions would go through a single centralised 'call-in' process, rather than being farmed out to half a dozen scrutiny committees. This would make it easier for the public (and backbench councillors) to keep track of what was happening, month by month.
- The system ensures that non-contentious decisions are made swiftly and at a meeting open to the public, while contentious decisions are held back for further discussion. A traditional committee system, operating to a (say) 6 week cycle would be slow by comparison.
- The 'informal' Leadership Team/cabinet meetings would be an honest reflection of the fact that space for private policy deliberation is an integral feature of any governmental system. Such a model is closer to the central government Cabinet and Parliamentary system which the public recognise and understand. (As Wikipedia notes, the term 'cabinet' comes from the name for 'a relatively small and private room'). When 'cabinet' systems were first proposed for local government, the original intention was that these should meet in private. Campaigning via various bodies led to changes in the executive models in the 2000 Act. This

led to a continuation of informal pre-meetings or briefings, similar to those which had rendered the traditional committee system non-transparent and misleading for the public (as the CfPS paper notes). Such practices conceal from the public the reality of how decisions are made in a political environment.

- The central 'overview' committee would provide a check on the decisions proposed by the executive. Its wide membership gives an opportunity for 'deputies' and opposition lead spokespersons to have a substantive role in decision-making – working collectively across all council services rather than on a single portfolio. This would help to develop the experience and knowledge of a wider range of councillors beyond those in the cabinet/leadership team.
- The 'scrutiny' side of the system would concentrate on more in-depth examination of issues, along with 'task and finish' work on any major issues that surface. Less risk of a work programme being assembled simply to keep a committee meeting for meeting's sake during the year.
- The transition from the current RBKC system would be relatively straightforward and would not require a referendum or an extensive preparation period for May 2020. Some elements might be possible to introduce for May 2019.
- If the forward plan process can be redesigned and re-formatted in a way that online publication is user-friendly, this would make a big difference in public perception of how the council works. This would need culture change in some parts of the council, to ensure that summaries of forthcoming decisions are genuinely informative rather than (seemingly) deliberately obscure as at present.
- The number of Key Decisions made by individual portfolio holders would diminish significantly. This is the part of the system which the public a) find hardest to track and follow and b) see as a way of concealing unpopular decisions

Possible disadvantages or other consequences

- The sheer number of proposed decisions to be processed each cycle through a centralised executive and overview committee could prove overwhelming. This did not prove to be the case when this type of system was introduced in LBHF.
- Increased awareness by the public of decisions flowing through the system could increase demands for consultation and engagement. While this might lead to frustration at times, from officers and executive councillors, the quality of final decision-making should improve. There are too many examples in recent years (unrelated to Grenfell) of RBKC decisions that have had to be reversed or reconsidered with resultant abortive work and costs.

The annexe overleaf is an extract from the Audit Commissions Comprehensive Assessment of the Royal Borough for 2009 (the last year this exercise was conducted). Even in the days when RBKC was being rated very highly for its overall performance as a local authority (a decade ago) its outward communication to the public, and resident involvement in decision-making, were not seen as its strongest points. Nor was the Borough seen as being well prepared for a major emergency.

Henry Peterson
December 2018

Annexe

Extract from 2009 Comprehensive Area Assessment of RB Kensington and Chelsea (the CAA regime, led by the Audit Commission was shut down by the Coalition Government when the decision was made to abolish the Audit Commission in 2010)

How well do priorities for Kensington and Chelsea express community needs and aspirations?

Local public services have a strong track record of understanding and providing what residents want. In the recent Place Survey (a survey of residents across England but analysed by area) nine out of ten respondents from Kensington and Chelsea said that they were satisfied with their local area as a place to live. This is an outstanding result, and is an increase in satisfaction since 2007.

Individual public services are highly regarded, including GP services, hospital services, police and fire. Local services, particularly refuse collection, door step recycling and keeping public land clear of litter all have high levels of public satisfaction.

Five out of six residents believe that people from different backgrounds get on well together. This is high compared to other areas of London and a particularly important result considering the diverse nature of the area where a hundred languages are spoken in schools.

The Kensington and Chelsea Partnership is made up of people from the Council, the local health services, police, fire brigade, social landlords and people elected from voluntary and community groups. This Partnership has developed an ambitious plan – sustainable community strategy that tries to meet the needs of local people in Kensington and Chelsea. The plan was drawn up after extensive consultation with local people and is based on a good understanding of the make up of the community and its needs.

To prepare the plan, an exercise was carried out to identify challenges and opportunities in the borough over the next 20 years. Overall, consultation with local people is good and there is a strong focus on understanding what residents' want and trying to deliver this by all organisations working together.

One example of providing what the community wants is the funding of an additional 76 Police Community Support Officers – PCSOs – to deter anti-social behaviour. Another example is that the children's centres in the area provide a wide range of services for parents all in one place, including child minding, child health services and benefits advice.

More than half of residents do not feel well informed about public services. Also, nearly three out of four residents do not feel that they know what to do in a large scale emergency such as flooding (this information was collected before the Swine Flu). Partners are now exploring new ways of communicating with residents to get important messages across and finding ways to involve more residents in decision making. The effects of this work will need to be monitored.