



Member-led Governance and Accountability

Executive summary

1. This report was produced by Buckinghamshire County Council's Finance, Performance and Resources select committee, which comprises the following elected Members: Brian Roberts (chairman), Bill Chapple, Trevor Egleton, Steven Lambert, David Martin, David Shakespeare, Alan Stevens and David Watson. The remit of the committee includes Corporate Policy, Business Transformation and Local Democracy.
2. The purpose of this report is to set out our views and recommendations around how the local authority can continue to be Member led as more services are commissioned and provided through contracts. We have drawn on a range of evidence in preparing this report. Our findings have resulted in recommendations in the following areas:
 1. Member support
 2. Communication
 3. Member roles in commissioning
 4. Member development
 5. Member roles in contract management
 6. Consistent contract management
 7. Visibility of contract information
 8. Change management
 9. Major contract extensions
 10. Joined up public sector accountability functions
3. The Finance, Performance and Resources portfolio will continue to monitor and consider the Future Shape programme and issues around governance, accountability and the role of elected Members. We would welcome thoughts or comments from Members on any of these issues. The Scrutiny team telephone number is 01296 387186; email scrutiny@buckscc.gov.uk.

Recommendations

Recommendation 1: Member support – *We recommend that a) as far as practicable within existing resources, advice and support for Members is brought together into a single 'one stop shop', and b) this Member Support function provides an agreed standard of service to Members. This could include a clear expectation that officer reports are provided in a timely manner, timescales around responses to Member queries, and timescales for providing action points and minutes following meetings.*

Recommendation 2: Communication – We recommend that consideration is given to how all Members can be consulted with and informed about proposals and decisions that affect their local divisions as a matter of course, without resulting in significant additional email traffic. This could include looking at the option of having a regular Member bulletin, or perhaps using an internal social network as an alternative to email.

Recommendation 3: Member roles in commissioning – We recommend that the commissioning cycle clearly identifies Member involvement opportunities, specifically in relation to different Member roles including Cabinet, Scrutiny and Local Members.

Recommendation 4: Member Development – We recommend that consideration is given to the commissioning and commercial skills that all Members will need, and that Member Development learning programmes are updated accordingly.

Recommendation 5: Member roles in contract management – We recommend that a protocol is developed that sets out how Members should work with Contract Managers in order to impart local knowledge and provide democratic oversight and appropriate challenge.

Recommendation 6: Consistent contract management – We recommend that the Contract Management Framework is applied consistently across all contracted services and that all information relating to high value and / or high risk contracts is held centrally in one place (the Contract Management Application).

Recommendation 7: Visibility of contract information – We recommend that professional advice is sought regarding Members having a Contract Management Application role that enables them to have visibility and oversight of contract information. This information would have to be treated as confidential and access should be dependent on Members receiving an appropriate level of training.

Recommendation 8: Change management – We recommend that there is a central function and a clear governance structure responsible for managing major change projects in accordance with Prince 2 methodology.

Recommendation 9: Major contract extensions – We recommend that Cabinet Members are responsible for decisions relating to the extension of high value, high risk contracts.

Recommendation 10: Joined up public sector accountability functions – We recommend that the Council explores options for co-ordinating accountability functions with other public sector providers, which could include the creation of a Local Public Accounts Committee for Buckinghamshire.

Background

4. Buckinghamshire County Council is committed to being a Member-led organisation, where elected Members make the major decisions, set the direction of the Council and are ultimately accountable for services. The County Council comprises 49 elected Members who each represent a geographical division. The Leader of the Council (the leader of the controlling political group) selects a Cabinet of up to ten Members (currently eight) which forms the executive and is responsible for making key decisions. The remaining elected Members make up the non-executive, although eight of these are Deputy Cabinet Members with some executive powers. Non-executive Members can have a variety of strategic roles including membership of statutory and select committees. All Members also have a local role which can involve being a community leader, a representative of the County Council at a local level, and a representative of their local area at County Council level.
5. A Future Shape model is currently being proposed which aims to ensure that the local authority is able to best meet the future challenges of reduced funding and increasing demand for expensive statutory services by fundamentally changing the structure and operation of the organisation. The Future Shape describes a lean Headquarters function and a number of 'commercially minded' semi-autonomous Business Units, providing services to the public through a range of different Delivery Units, including trusts, local authority trading companies, outsourced providers and partnership arrangements. An Operating Framework will set out the local authority's internal policies that define how the Headquarters, Business Units and Delivery Units will work together as 'one council'.
6. This inquiry was established because the Future Shape is likely to have implications for the democratic accountability of services, and for how Members can interact with service providers to achieve desired outcomes. We sought to highlight ways in which the roles of elected Members can be preserved and enhanced in future, to ensure that the local authority can continue to be Member-led and that local democratic influence is not lost. However, a number of our recommendations should be considered regardless of whether the Future Shape programme business case is agreed by Cabinet.
7. Key areas we sought to address were:
 1. How the different roles of elected Members (set out in Appendix 1) are likely to change, identifying challenges and recommending ways of addressing these;
 2. How to ensure robust governance, democratic accountability and an appropriate degree of Member influence and control of arms-length service providers;
 3. To highlight skills/training needs for Members in a commissioning role.
8. This paper links to all the of the Council's Strategic Plan priorities directly or indirectly, in particular: Priority 8 – 'To ensure your local Council and its Councillors protect the interests of Buckinghamshire residents at local, regional and national levels'.

Methodology

9. In conducting this inquiry we reviewed and considered a range of evidence including:
 1. 'Future Council – the role of elected Members and public service accountability' scrutiny conference;

2. Member workshops on;
 - i. 'Transformation and the Future Shape'
 - ii. 'What does it mean to be an elected Member'
 - iii. 'New skills and support for Members'
 - iv. 'Accountability and the role of the non-executive'
3. A Contract Management presentation including a demonstration of the Council's new Contact Management Application (CMA) software;
4. We reviewed the Member Journey Report. A journey mapping project was undertaken to map and understand how Members currently attempt to resolve local issues on behalf of their residents. 12 Member Journeys were produced and the key findings are summarised in the briefing report.
5. Evidence provided to select committees;
6. 'Future Councillor' roundtable event organised by the New Local Government Network (NLGN);
7. A literature review including;
 - i. A Local Public Accounts Committee for every place: a proposal from CfPS – Centre for Public Scrutiny (CfPS), December 2013
 - ii. Buckinghamshire County Council Constitution, April 2013
 - iii. Buckinghamshire County Council Commercial Services Strategy 2012-15, May 2012
 - iv. Buckinghamshire County Council Contract Management Framework, May 2012
 - v. Commissioning for better public services – LGA, July 2012
 - vi. Procurement Task and Finish Group Report – Buckinghamshire County Council's Overview and Scrutiny Commissioning Committee, April 2011
 - vii. Re-thinking Governance Toolkit – CfPS, Jan 2014
 - viii. Shared Services and Commissioning – CfPS, May 2011
 - ix. Transport for Buckinghamshire (Ringway Jacobs contract) – Buckinghamshire County Council's Environment, Transport and Locality Services Select Committee, December 2013

10. Having reviewed this evidence, our report brings together our views and comments under the following headings:

1. Member roles
2. Member support
3. Commissioning
4. Contract management
5. Governance and decision making

Member Roles

11. Our starting point was to consider the different roles that elected Members have and how these may be affected by the Future Shape programme and by the local authority increasingly becoming a buyer rather than a provider of services.

12. We expect the provision of services through different delivery options to change the roles of elected members as set out in Appendix 1 (these are County Councillor roles and do not include political roles or roles in other organisations). The possible changes we identified have a number of implications for governance and accountability. We identified the following as being the key challenges that we should seek to address:

1. Ensuring that Members' strengths and local knowledge can influence decision making processes.
2. Ensuring that contracted services are democratically accountable and responsive to service users;
3. Ensuring that governance arrangements are fit for a commissioning Council;

13. These challenges are underpinned by the need for effective Member support structures, and for Members to be equipped with the skills and training they need in a commissioning Council.

Member Support

14. We noted from the Member Journey Report that there are currently a number of different routes or 'ways in' to the organisation for Members seeking to resolve local issues. These include Local Area Technicians (LATs), Locality Officers, Democratic Services Officers and Cabinet Members. We support bringing Member-facing roles together as far as possible into a Member Support function that provides a clear pathway for resolving local issues. Strong support for a 'one-stop-shop' for all Member needs was also expressed during the New Skills and Support for Members workshop. We feel that this could be a good opportunity to define the minimum standards of service that Members can expect to receive from supporting officers and service providers, for example in terms of response timescales to queries, and in the production of minutes and action points following meetings. Where relevant, this standard of service could be codified in the Operating Framework to ensure that it is applied consistently across the Headquarters, Business Units and Delivery Units, so that they operate as 'one organisation' in supporting and responding to Members. It may also be necessary for these standards to be written into contracts, in which case the local authority should be clear and upfront with providers from the start, as there are likely to be costs attached. However, there may also be benefits for providers in engaging with Members and understanding local issues.

15. The Member Journey Report highlights the need for all Members to receive pertinent information from service providers about decisions that affect their local areas, and to be kept informed about any issues that they are involved in. While this should be current practice in relation to Cabinet Member decisions, thought should be given to how Members receive information and are consulted with about operational decisions taken by semi-autonomous Business Units and Delivery Units. As far as possible, communication to Members should be brought together in one place in order to minimise

email traffic, perhaps using a digital solution. Again, how Business Units and Delivery Units engage with Members is something that should be set out in the Operating Framework. Proactive, regular communication will enable Members to be well informed when communicating with residents and where necessary, to explain decisions and the local impacts of these. Anecdotally, Members have said that there is nothing worse than learning something from a resident that they feel they should already know as a County Councillor.

Recommendation 1: Member support – *We recommend that a) as far as practicable within existing resources, advice and support for Members is brought together into a single ‘one stop shop’, and b) this Member Support function provides an agreed standard of service to Members. This could include a clear expectation that officer reports are provided in a timely manner, timescales around responses to Member queries, and timescales for providing action points and minutes following meetings.*

Recommendation 2: Communication – *We recommend that consideration is given to how all Members can be consulted with and informed about proposals and decisions that affect their local divisions as a matter of course, without resulting in significant additional email traffic. This could include looking at the option of having a regular Member bulletin, or perhaps using an internal social network as an alternative to email.*

Commissioning

16. The County Council’s Commercial Services Strategy defines commissioning as being:

‘the strategic activity of reconciling needs with available resources and current services to facilitate the improvement of services...together with the effective management and monitoring to ensure identified needs are being met by effective service delivery’.

17. The strategy includes a commissioning cycle that was originally developed by the Institute of Public Care. This cycle is made up of four areas that are seen as being equally important; Analyse, Plan, Secure Services and Review. However, it does not explicitly set out the different roles of Members in commissioning.

18. An LGA publication entitled ‘Commissioning for better public services’ sets out the role of Councils and Councillors in commissioning:

‘Councillors’ democratic mandate, accountability and knowledge of their place and residents mean they are uniquely placed to provide the leadership required to focus on community wide strategic outcomes and ensuring fair representation of different interests.

This accountability and closeness to communities mean councils can lead an informed public debate about choices and decisions to be made, for example:

- *Priorities and resource allocation choices – “what do we need to do and what might we stop doing?”*
- *How outcomes could be improved by doing things differently or working in partnership with other local agencies.*
- *Expectations of and capacity for the balance between public-funded activities and community self-help.*
- *What services might be subject to charges.*

As democratically elected representatives responsible for spending public money, councillors also provide the primary route for holding the range of service providers to account and protecting the rights of users and tax payers’.

19. At the NLGN roundtable event, John Nicholson, chair of the NLGN Effective Commissioning group, set out the role of elected Members in ‘political commissioning’. This was described as ‘Elected Members / representatives, supported by Corporate Directors, translating the needs, expectations and aspirations of their communities into desirable outcomes’. John Nicholson identified some challenges for Members in political commissioning, in terms of both their strategic and local Member roles:

Strategic:

- Defining priorities and outcomes
- Balancing immediate and long-term outcomes
- Less (direct influence over) resource
- Ceding delivery decisions to contracted bodies
- Accepting the need to do less

Local:

- Accepting a more hands-off role
- Managing expectations of electors
- Respecting strategic outcomes and priorities

20. John Nicholson highlighted early engagement, accessible information and individual Member training as being key ways of supporting Members in commissioning.

21. During a select committee Future Shape update in October 2013, we heard that the local authority’s approach to commissioning will involve looking at the outcomes that it needs to deliver for local people, and developing approaches to delivering these. This will be fundamental to how the new model works and there will be a lot of Member involvement. Members will bring in their knowledge and understanding of what’s needed in their locality, influence the commissioning agenda and make sure that delivery units are delivering the right services to local people and are tackling the issues that people are facing. This approach and Member involvement seems to be consistent with the roles of Members in commissioning described above, so the strategic and local challenges that John Nicholson identified are likely to apply.

22. The Accountability and the Role of the Non-executive workshop sought to explore how democratic accountability can be applied to a range of providers, and what the role of the non-executive should be. It was felt that while specifying clear outcomes is of crucial importance in commissioning, Members could be involved in each stage of the commissioning cycle to some extent, particularly where they can contribute their local knowledge, have democratic oversight, and provide appropriate challenge. It was felt the commissioning cycle should be 'mapped' to Member input opportunities, including Cabinet Member, scrutiny and local Member roles.

23. In the New Skills and Support for Members workshop it was felt that further consideration needs to be given to the types and levels of commissioning and commercial skills that Members require, in order to best prepare them for their role in a commissioning authority.

Recommendation 3: Member roles in commissioning – *We recommend that the commissioning cycle clearly identifies Member involvement opportunities, specifically in relation to different Member roles including Cabinet, Scrutiny and Local Members.*

Recommendation 4: Member Development – *We recommend that consideration is given to the commissioning and commercial skills that all Members will need, and that Member Development learning programmes are updated accordingly.*

Contract management

24. We heard in a contract management presentation that the local authority is estimated to have 4,600 contracts in place. A contract segmentation exercise categorised 41 of these as being platinum contracts, which are defined as high value and high risk. Effective contract management is critical to ensuring that the local authority achieves the best outcomes and value from contracts, and is able to manage its exposure to commercial, contractual and reputational risk. Buckinghamshire County Council's Contract Management Framework describes contract management as being:

'a management process that ensures the contract yields the outcomes and benefits envisaged and that any market advantage secured during the tendering phase of the procurement process are realised and improved further through proactive performance management during the term of the contract'

25. The following quote is from a Centre for Public Scrutiny (CfPS) policy document outlining the potential challenges of local authorities becoming buyers rather than providers of services:

'Accountability is increasingly delivered through contract management... This means that accountability will follow funding, with the withholding of payment or the charging of penalties being used as a sanction for poor performance rather than more traditional, political means. There is the risk that democratic oversight could diminish in influence. Similarly, while local people, and service users, may be able to see high-level data about

service delivery, the nature of this form of working may make it very difficult to influence the way in which they receive services, because the organisation being commissioned to deliver the service is accountable primarily to the commissioning body or organisation, not directly to local people'

26. Concerns were raised during Member workshops that the role and accountability of elected Members could be diluted as more services are contracted out. A suggestion was made that Members should have visibility of the Council's new Contract Management Application (CMA). This would allow Members to view performance data, compliments, complaints, extension dates, whether and how any issues are being addressed, and who the Contract Manager is.
27. We received a Contract Management presentation that included a demonstration of the CMA system. Following the presentation, the following questions were put to us:
- What involvement do you want in Contract Management?
 - What level of access to the Application?
 - Who will pay for licenses?
 - Do we need to develop a protocol?
28. In response to these questions, we feel that Contract Managers need to be solely responsible for managing contracts and liaising with suppliers. However, Members should be engaged at the right times and have clear ways of raising issues and concerns through Contract Managers. Contract Managers said that this would be beneficial to them in terms of understanding how effectively contract arrangements are working in practice. We feel that in a Member-led authority, Cabinet Members should be clearly responsible for decisions to extend platinum contracts. We also heard from Contract Managers that Cabinet Member attendance at annual review meetings for platinum contracts could also be helpful. We agree that having a view-only CMA role would enable Members to have an appropriate degree of visibility and oversight of contract information. Together with having clear ways of raising issues and concerns, this access would help to make contracted services more transparent and accountable, and ensure an appropriate degree of Member influence and control. CMA licencing costs should be paid for from a corporate Member IT support budget. CMA access would enable Members to have sight of commercially-sensitive information, so we would suggest that a protocol is developed which clearly defines Member roles and responsibilities in relation to contract management. Issues around commercially sensitive information should also be covered in the Members' Code of Conduct.
29. We support continued moves towards the local authority becoming best in class at Contract Management, and in building skills internally rather than buying them in. There is a risk that the investment made to date, opportunities to generate income from the CMA, and democratic accountability could all be undermined if corporate control and oversight of contact arrangements is removed or weakened in the Future Shape. We therefore recommend that the Contract Management Framework, which seeks to create

a consistent approach to contract management, is applied across all contracted services. We are keen to ensure that all contract information is held centrally in one place, although we heard at the Contract Management presentation that it may not be viable, or may take some time, to extend this principle to low value, low risk bronze contracts. These should be core requirements in the local authority's Operating Framework in order to ensure clear lines of accountability and an appropriate degree of Member influence and control of arms-length service providers.

30. A concern was raised during the Environment, Transport and Locality Service select committee's review of the Transport for Bucks contract about the risks of contracting out services that are then sub-contracted to other providers, who may not be approved by or directly under contract to the local authority. We feel that sub-contracting can potentially come with reputational risks and create issues around the accountability of service provision. These issues should be carefully considered, with a view to mitigating these risks and concerns

Recommendation 5: Member roles in contract management – We recommend that a protocol is developed that sets out how Members should work with Contract Managers in order to impart local knowledge and provide democratic oversight and appropriate challenge.

Recommendation 6: Consistent contract management – We recommend that the Contract Management Framework is applied consistently across all contracted services and that all information relating to high value and / or high risk contracts is held centrally in one place (the Contract Management Application).

Recommendation 7: Visibility of contract information – We recommend that professional advice is sought regarding Members having a Contract Management Application role that enables them to have visibility and oversight of contract information. This information would have to be treated as confidential and access should be dependent on Members receiving an appropriate level of training.

Governance and decision making

31. We understand that corporate governance is a key work-strand in the design and construction phases of the Future Shape programme. We feel that the Future Shape programme presents an opportunity to ensure that the Member-led ethos is embedded into the local authority's governance and decision making arrangements, in particular, the new Operating Framework.

32. CfPS Rethinking Governance guidance highlights the importance of good governance and effective decision making, stating that:

'The difficult funding situation for local government means that councils are increasingly having to make decisions that will have profound, far-reaching implications both for the

way that they and their partners deliver services, and on the lives of local people... This is why, now more than ever, good governance is vital. Councils have a responsibility to ensure that decision-making is as effective as it can be: decision making should critically benefit from the perspective of all councillors, but also be accountable, and involve the public'.

33. During a Future Shape select committee update we heard that there are likely to be new and different opportunities for Members in the Future Shape. This will include Member roles on the boards of supplier organisations. We feel that these roles should be carefully considered as there may be potential conflicts of interest where a Member is both a commissioner of a service and a member of the service provider's board.
34. During a Future Shape briefing session, the Cabinet Member was questioned about how change will be managed in future. As more services become delivered through contract arrangements, we would stress the importance of having robust change management practices in place because the risks of not doing so are potentially huge. A central function should be responsible for managing change activity across the whole range of contracts in accordance with Prince 2 methodology. This would include a change management framework, an over-arching change activity plan and a clear governance and decision making board being in place. This will help to ensure that change activity is prioritised centrally and the organisation has sufficient capacity to manage change.
35. We note from a report by the County Council's Environment, Transport and Locality Services select committee that there was some ambiguity around whether a decision to extend a platinum contract followed the Council's decision making process. We feel that there needs to be clarity around where the responsibility for making major contract extension decisions lies. In a Member-led commissioning authority, Cabinet Members, rather than Officers, should be responsible and accountable for these decisions.
36. We were concerned during a recent Budget Scrutiny process that some Cabinet Members seemed to suggest that certain budgetary changes had been imposed on them rather than negotiated with them. We stress the need for Cabinet Members to be engaged and consulted throughout decision making processes as a matter of course, in order to ensure that they can be accountable for these decisions. We also noted that changes to the working arrangements of Local Area Technicians, who are employed by a partner organisation but work closely with Members, were implemented without consultation or communication with Members who were directly affected. Again, in a Member-led authority, Members should be consulted on organisational and operational decisions and changes that affect them or their divisions, and consideration should be given to how this is done.
37. The CfPS Shared Services and Commissioning policy briefing identifies increased commissioning and shared service agreements as being two major trends in public sector reform. Both of these trends have implications for governance and accountability:

'As more services are delivered in different ways and by different people, rather than by the services units of a "municipal" council, effective management and governance of these arrangements will be crucial. Scrutiny can play a central part in this process'.

38. Scrutiny at Buckinghamshire County Council is currently undertaken by four themed select committees. We feel that this is a sound model for providing robust, Member-led scrutiny in a commissioning authority. Select committees can hold decision makers to account and monitor and review how well services are achieving desired outcomes and meeting local needs.
39. Looking ahead, we feel there may be a case for joining up accountability functions across the public sector in Buckinghamshire. We reviewed a paper from the Centre for Public Scrutiny (CfPS) that proposes the creation of Local Public Accounts Committees, with oversight over all public expenditure in the local area. We note the potential benefits of such an arrangement in terms of enhancing place-based accountability. The CfPS state that these committees should be chaired by a sitting councillor and have a majority of councillor membership. However, non-executives from partner bodies should also sit on these committees. If established, A Local Public Accounts Committee for Buckinghamshire could potentially replace the local authority's Finance, Performance and Resources select committee, so as not to add an additional governance structure with an overlapping remit.

Recommendation 8: Change management – *We recommend that there is a central function and a clear governance structure responsible for managing major change projects in accordance with Prince 2 methodology.*

Recommendation 9: Major contract extensions – *We recommend that Cabinet Members are responsible for decisions relating to the extension of high value, high risk contracts.*

Recommendation 10: Joined up public sector accountability functions – *We recommend that the Council explores options for co-ordinating accountability functions with other public sector providers, which could include the creation of a Local Public Accounts Committee for Buckinghamshire.*

Conclusion

40. It became clear during our evidence gathering that the current direction of Council services and the proposed Future Shape have a number of implications for the role of elected Members. This report is intended to provide a helpful contribution to future planning by highlighting Member concerns and recommending ways of ensuring that democratic oversight and influence are not diminished. The recommendations are for Cabinet to consider and, if agreed, we look forward to monitoring progress over the coming months.



Appendix 1 - Roles of Members

Role	Responsibility	Functions	Expected Changes	Possible Challenges
Policy maker	Executive Member	Define outcomes, commissioner, mandate, decisions, accountability, partnership decisions.	More services are commissioned through different provider models; Priorities and outcomes increasingly defined through contracts; Services directly accountable to commissioners rather than local people.	Less direct influence over resource; Ceding delivery decisions to contracted bodies; Ensuring contracted services are democratically accountable and responsive to service users; Balancing immediate and long-term outcomes; Whether/how to build 'social value' into commissioning; Whether/how to involve expert providers in determining outcomes; Due diligence of voluntary/unpaid services.
	Non-executive Member	Contribute to defining outcomes, critical friend, scrutiny of decisions, review progress of providers, partnership working.		
Committee Member	Select committee Member	Scrutiny, critical friend, challenger, assessment, policy review and development, partnership working.	More external and contract scrutiny; Pre-decision scrutiny - contributing to desired outcomes; Governance framework may need amending.	Scrutiny of a range of different provider models and contract arrangements; Ensuring robust scrutiny throughout the commissioning cycle, from sought outcomes to reviewing progress; Ensuring the governance framework is fit for a commissioning Council.
	Statutory committee Member	Governance, audit, corporate planning, etc.		
Local Member	Community leader	Building capacity, local champion, etc., partnership interface.	Increased role of community and voluntary sector in local service provision; Less direct influence over service delivery.	How to capture Member's strengths & local knowledge in the commissioning cycle; How to increase community involvement in services; Accepting a more hands-off role; Respecting & communicating strategic outcomes & priorities; Managing expectations of local residents and partners.
	Council representative	Communicating/explaining Council decisions and local impacts.		