GOOD CORPORATE GOVERNANCE SYSTEMS WHICH ARE EFFECTIVE AND UP-TO-DATE INTEGRITY ACCOUNTABILITY INCLUSIVITY AND OPENNESS

modernisation through the prism key decisions to implement the choice of new political structure

audit commission
All councils are undergoing major change as a consequence of the modernisation agenda for local government. Each council with a population in excess of 85,000 must select a new model of political management from a menu of 3 possibilities:

- a directly elected mayor and cabinet;
- a leader and cabinet; and
- a mayor and city manager.

English Councils with populations of less than 85,000 and all councils in Wales may devise alternative arrangements that streamline local decision making.

The detailed effect of these changes on the style and culture of councils, officer and member relationships and the impact on the community has yet to emerge. However, in implementing these new arrangements, councils are necessarily taking detailed decisions about their new way of working. As a contribution to the debate surrounding these decisions, the Audit Commission has published three discussion papers:

- *We Hold These Truths to Be Self-evident* (Ref. 1), which locates the modernisation agenda in recent local government history and points out the characteristics of a successful new local constitution;
- *May You Live in Interesting Times* (Ref. 2), which examines the implications of the modernisation agenda for the role of officers; and
- *To Whom Much Is Given* (Ref. 3) which examines the implications of the modernisation agenda for the role of members.

A briefing note for members – *Councils ‘Through The Looking Glass’* (Ref. 4), is also available. The choice of political structure is not an end in itself, but one of a number of steps on the path to the council’s answer to the question, ‘What sort of council do we want to be?’ This question has been the subject of much advice to councils, notably in the Local Government Management Board’s paper *Fitness For Purpose* (Ref. 5), that has strengths which remain valid despite the passage of time since its publication. Its key overarching messages (BOX 1) should be debated locally, before detailed local decisions are made about internal processes, external relationships and institutional structures. Once a council is clear about the sort of organisation it wants to be, the questions embedded in the three discussion papers should help to determine how it will interpret its answers, through the opportunities that are offered by political restructuring.
**Box 1**

**Key Messages From *Fitness For Purpose***

- It is important that organisational form reflects purpose. That purpose should be grounded in a vision of an explicit government role for local government, linked to a vibrant democracy and focused on local objectives.

- Even within the existing range of centrally imposed constraints, there is room for choice which should not be underestimated.

- Local authorities should be encouraged to engage in explicit, politically led processes of strategic choice about the kind of authority they want to be.

- Different authorities are likely to prioritise objectives such as efficiency, accountability and the community in different ways, leading to different strategic choices.

- Different strategic choices imply different approaches to issues such as consumerism, decentralisation, contracts and citizenship.

- There is no single model of ‘good’ local authority management and organisation – but ‘fitness for purpose’ is key.

- Effective organisational design requires a clear starting point, but it also requires realism about the scope for applying the principles concerned.

- A clear understanding of ‘where you are’, ‘where you want to be’, and ‘how you are going to get there’ is essential for effective change.

*Source:* Fitness For Purpose, LGMB, 1993
All three of the Audit Commission’s discussion papers take the principles of good corporate governance – accountability, integrity, openness and inclusivity, in systems that are effective and up-to-date as their key points of reference [EXHIBIT 1]. The papers raise critical questions that must be answered locally. The questions raised in the three papers have been gathered together in this checklist as a tool for local use, to assist councils in ensuring that careful consideration is given to such matters in their local settlements [EXHIBIT 2]. The checklist largely addresses the Leader/Cabinet model, but all questions are equally relevant to Mayoral models. The Audit Commission does not claim that the checklist is exhaustive, but any comprehensive checklist should include all of the questions set out below.

**EXHIBIT 1**

**Modernisation through the prism**

The suite of ‘modernisation’ discussion papers

- The impact of political restructuring on councils
- Openness and inclusivity
- Effective and up-to-date
- Accountability
- Integrity

*Source: Audit Commission*
Councils could respond to the questions with radical answers or through minor adjustments to their previous way of working. Where a mayoral approach is taken to political restructuring, significant change to the council’s structures, processes, style and culture is likely. But the moment of moving to a leader/cabinet model is also a key opportunity to re-examine the council’s accountabilities, processes and capacity. It would be disappointing if councils failed to use the moment of political restructuring to address such important questions, even if they conclude that they do not, at this time, wish to make major changes.

**EXHIBIT 2**

Critical decisions in implementing new arrangements

- the executive
- the scrutiny function
- officer structures
- the cultural climate
- inter-party activity
- external relationships
- investing in change
- leading the modernisation process
- leadership in the community
- organised for leadership
- constructive scrutiny
- scrutiny activities
- ethical principles
- ethical procedures
- ethical structures

*Source: Audit Commission*
Choosing detailed council structures

Consulting the community, perhaps holding a referendum and adopting one of the four models of new political structure are substantial tasks. But they are simply processes to choose the highlights of the new arrangements. They give the council the equivalent of ‘outline planning permission’. But many detailed consequential decisions need to be addressed before the council can sign off a ‘detailed planning permission’ for its new approach. Critical aspects flow from the council’s choice of structure. The chosen executive structure will provide essential reference points for the structure of the scrutiny function and for officer structures.

The executive
- Who will choose (and dismiss) the cabinet? – leader, group or council?
- Will the cabinet be single or multi-party?
- Who will assign portfolios to the cabinet? – leader or collective decision?
- How powerful will the leader be?
  - How much latitude will portfolio holders enjoy?
  - What decisions will executive members be able to take individually?
  - Will the leader hold no portfolio or be responsible for, say, finance and/or external partnerships?
  - Will the leader monopolise media contact or share it across the cabinet?
- What roles will other executive members have?
  - Will one member be responsible for Best Value processes?
- Will there be collective responsibility and collective decision taking; or, individual responsibility and individual decision taking?
- Will there be a local Chancellor of the Exchequer responsible for the council’s finances and separate from the role of leader?
- Will portfolio responsibilities be service, client group, area or issue based?
- Will the portfolios of cabinet members coincide with chief officer responsibilities?

The scrutiny function
- Will the scrutiny function organise its work by services, issues, areas or client groups?
  - What balance should be struck between standing committees with portfolio monitoring responsibilities and task committees?
  - How will the chairs of scrutiny committees be selected?
  - Will minority members be used as committee chairs?
- How will the Audit Committee relate to the scrutiny function?

Officer structures
- To what extent will the staff remain a single unified body, or will they re-align under the differentiated political structure?
  - Will the chief executive be predominantly a ‘chief of staff’ to the executive, or a ‘head of paid service’ to the council?
– Can the monitoring and the finance officers operate ambiguously between the executive and scrutiny functions, or will separate advisory capacities become necessary?
– Will it be possible for officers to give undivided commitment to the delivery of the policy objectives of the executive and still enjoy the confidence of the scrutiny function to offer uninhibited advice and support when those policies are under investigation?
– Will the executive be supported by a dedicated ‘No 10’ policy unit that is separate from the main departmental structures?
– Will the scrutiny function be supported by an investigative secretariat that is separate from the main departmental structures?
– Will the roles of ‘political advisors’ need to change to align them to the executive/scrutiny split as well as to party political divisions?
– Who will support and advise the Standards Committee and its independent element?

Choices relating to the council’s style and culture

Choices of structure are important, but choices of style, culture and process are often even more important if an organisation is to be successful. The moment of restructuring is a golden opportunity to examine the council’s previous mode of working and to make important choices.

The cultural climate

• What are the values of this council?
• Has the council’s local constitutional settlement set a framework between the executive and scrutiny roles so that a balanced deployment of both consensus and confrontation will realise constructive change?
• Has the local constitutional settlement clarified how challenge will be used to encourage innovation?
• Who can legitimately ask the ‘difficult questions’, and how will council procedures ensure that they are answered?
• Is debate in the council as open as possible?
  – Is the council clear about the circumstances in which private discussion is appropriate, and does it need to seek to minimise those occasions?
Is the council protective of its views through covert behaviour, when open explanation would be better?

Is openness a characteristic of members’ relationship with officers?

Does the council allow its officers to provide advice openly, to all members of the council, whether in scrutiny or on the executive, without fear or favour?

Inter-Party Activity

When decisions are taken, are they based on an objective assessment of community priorities, or is party political advantage the driving force?

In negotiating council decisions and, in particular, in inter-party or executive_scrutiny deliberations, is personal animosity suspended in the interests of better decisions?

Is inclusivity a feature of the party political chemistry?

While being a forum for party competition, does the council nevertheless respect the principles of democracy and facilitate the proper civic activity of rivals?

Is the executive accessible to opinions, proposals and ideas that would benefit the local community, regardless of their source?

Does the council legitimise dissent or ridicule it?

How does the council harness party political rivalry in the service of the council’s efforts to maintain defensible propriety?

Can party political antagonism be suspended at the appropriate times and on appropriate issues?

Has the council a climate in which there are times, in appropriate discussions, when it is OK to be wrong?

Is success celebrated as equally, if not more so, as failure is criticised?

External relationships

Has the council taken serious steps to understand its reputation in the local community?

Does it know what it is like to be a partner organisation to the council?

Has it asked other organisations in the community – private, public and voluntary – about their experience of dealing with the council?

Is protectiveness of the council’s authority and power a cause of equivalent behaviour in potential partners?

Has it ‘swallowed its own propaganda’, and needs the shock of a reality check to improve attention to its community links?

Does it actively create alliances, partnerships and access routes for all interested players to contribute inclusively?

Does it seek to build capacity in the community to assist civic activity and engagement beyond the council?

Is the democratic accountability of the council all-important, or does it recognise plural accountability with other organisations that operate in the community?
– What steps has the council taken to engage ‘hard to reach’ groups?
– Does it shun groups who disagree with it and favour those who act as allies?

Investing in change

• What is the true attitude of the council to the modernisation agenda?
  – Does the council believe that improvement is necessary for other councils, but not for itself?
  – Is the council convinced of the possibility of self-improvement or is it intrinsically defensive?
  – Does the council subscribe to the view that the solution to every problem is simply spending more money?

• How can the council invigorate its performance through access to new ideas?
  – By what means will freshness be brought to the challenge process by admitting substantial roles for service users, the local community, peers, inspectors and central government?
  – What latitude will councillors give officers to introduce radical alternatives, particularly relating to service procurement?

• Will the council be responsive or defensive to critical reports from auditors and inspectors?

• How will members and officers be equipped and trained to realise the potential of the modernisation agenda and their new local constitution?
  – What training provision and budget will be available to members in both the executive and scrutiny roles to equip them to operate in the new environment?
  – What investment is the council making in training its existing staff in the radical consequences of the new local constitutional settlement?
  – How will the council become an attractive workplace in order to recruit talented officers?
  – How can the council contribute to a revival of esteem in public service, so that a new generation chooses it for their career?
Key leadership processes

The modernisation agenda generally, and political restructuring in particular, are intended to create new streamlined opportunities for local democratic leadership. Adopting a new structure is the first step, but further key decisions need to be taken to determine how leadership will operate both internally, to improve the performance of the council, and externally to meet the community’s needs and realise its opportunities.

Leading the modernisation process

- Who has responsibility in the council for moving the modernising agenda forward?
- How will the council’s leadership inspire the whole council with a belief in its ability to increase its contribution to the performance of the community?
- Does the council go through the appearance of best value processes, without living out their substance?
- Does the new local settlement offer a convincing basis on which the council can consistently improve performance?
  - How will attention and energy be sustained in the relentless search for improvement in the council’s performance?
  - How will the executive ensure that best value is given the authority and attention it deserves?
  - What targets for significant changes in performance will the executive set?
  - What steps has the council taken to modernise its approach to effectiveness?
- Does the council have a Local Strategic Partnership, a local Public Service Agreement and participation in the Neighbourhood Regeneration programme? If not, why not?
- How will cabinet members co-ordinate their engagement with the community?
- What protocols between members exist for media handling?
- Will the executive issue positive invitations to scrutiny committees to examine particular issues?
- Should there be greater use of outside consultants and secondees to introduce fresh thinking and challenge into the council?

Leadership in the community

- What is the attitude of the council to other agencies (including those of central government), community groups, local businesses, neighbouring councils, inspectors and auditors?
  - Does the council treat local organisations in the same fashion as it complains that central government treats itself?
  - Is the council’s relationship with other parties, adult or paternal, open or closed?
  - Does the council give serious influence to local organisations in the determination of the community strategy?
  - Does the council follow the ‘letting’ route – letting out information, letting in influence, letting go of control?
– Among the officers, how will contact with the community be co-ordinated and relayed to the executive and to the scrutiny function?

Organised for leadership

• How will the boundary between political executive action and managerial responsibility be determined?
  – To what extent will decisions be defined as distinctively political or managerial?
  – Will a relationship between the executive and officers that is based on employment law and ‘on merit’ appointment procedures be sufficient for the executive to invest responsibility for the achievement of policy objectives in officers?

• To what extent will the local imperative on increasingly visible politicians ‘to make a difference’ allow officers to manage?

• To what extent will cabinet members, now able to take decisions individually, choose to make managerial decisions?

• What access will statutory officers have to the deliberations of the political executive?

• What local procedures will be put in place to ensure that executive decisions, whether collective or individual, are lawful, financially sustainable and properly recorded?

• Which officer will have lead responsibility for the success of Best Value?

Key scrutiny processes

Scrutiny is a new emphasis for local government and new skills will need to be learned. Recognising the key choices available, selecting the style of approach to be taken and organising effectively for constructive activity are key steps in ensuring that members who are involved in the scrutiny function enjoy a fulfilling role in the restructured organisation.

Constructive scrutiny

• What will be the dominant theme locally – one council, or scrutiny versus the executive, or a balance between these extreme positions?

• How will the power of the scrutiny process be brought to bear in contributing constructively to the council’s effectiveness and to local partnership behaviour?

• Will the scrutiny function, in part, work with the executive to investigate matters of community concern?

• How strong will collective responsibility be in scrutiny committees?
  – Have the political parties suspended the whip for scrutiny committee activities?
  – How important is consensus?
- Will minority reports be a possibility?
- Will scrutiny reports acknowledge difference and dissent among the views of committee members?

Scrutiny activities
- Will the scrutiny function embrace a responsibility to be ‘challenging’?
- How will the scrutiny function remain in touch with, and accountable to, the community?
  - How will the views of the community be reached?
  - Will meetings take place in locations other than the Town Hall?
  - Will officer witnesses at scrutiny enquiries defend their advice to the executive, or the decisions of the executive?

- Will the ‘scrutiny’ function report to the community, as well as reporting to the council?
- What access will the scrutiny function have to media resources?
- Will access to media resources be afforded to dissenting or minority views? How will the public relations team cope when the executive and the scrutiny function hold different views on a public issue?
- Will the chief officers be witnesses before, or advisors to, scrutiny committees?
- Will senior officers aid the scrutiny function by asking questions or aid the executive in answering them?
- Where will the scrutiny function secure advice on legal and financial issues?

Ethical arrangements

As well as the restructuring of executive and scrutiny roles, councils are simultaneously establishing strengthened ethical arrangements to uphold standards, ensure that appropriate local checks and balances are in place, and to implement their duty to promote equality locally. These responsibilities should be discharged with careful regard to the entirety of the modernisation agenda, and key decisions need to be taken to ensure that effective ethical principles are underpinned by the appropriate ethical machinery.

Ethical principles
- Is this council known for its regard for personal dignity, respect for diversity, dedication to public service, unimpeachable management of money and as a custodian of human rights?
- Is this an honest council?
  - Are decisions taken in accordance with the formal processes of decision taking or is covert decision taking denied?
– Does the person who is formally accountable for a decision have the responsibility for that decision or are they ‘fronting’ for someone else?
– Are manipulation, intimidation and bullying absent?
– Are officers pressured to offer advice or to remain silent against their better professional judgement?
– Is it safe to be a ‘whistleblower’?

Ethical procedures

• Does the local constitutional settlement define the respective roles of officers and members, so that all know the boundaries of appropriate behaviour?
• Will a position of objective and professional impartiality be sustainable for officers in the face of member behaviour within the new local constitutional settlement?
• What protocols will guide officers who serve both the executive and scrutiny functions?
• Are appointments made against objective criteria?
  – Are posts awarded entirely ‘on merit’, or are personal and political considerations influential?
  – Are equal opportunity principles evident, or are they suspended when it is politically expedient to do so?
  – Are staff permitted to hold personal political views, outside of the authority, which differ from those of the majority party?
• Are integrity processes well established, so that ignorance of proper procedure and inadvertence are never the reason for failures of integrity?
– Is the hospitality register up-to-date, accessible and understood by all who should register in it?
– Is the declaration of members’ interests similarly up-to-date, accurate, accessible and understood?
– Does the council have effective learning processes to benefit from external reports, particularly those from the ombudsman, auditors and inspectors?
– Who has responsibility for championing equal opportunity principles and processes?
• Is it clear to members and officers where they should turn if they feel that their integrity is under challenge?
  – How will the concerns of whistleblowers be examined?
  – How will the rights of those subject to allegations be protected?

Ethical structures

• Has the Standards Committee:
  – Been constituted in a way that recognises that its stewardship role transcends party political considerations?
  – Incorporated a truly independent element, which is respected in the community, has unfettered access to council business, and is effectively advised?
  – A rolling workload, which goes beyond the production of protocols and codes and receiving reports from adjudicating officers, but is also proactive in promoting a culture of integrity throughout the authority?
• Has the Audit Committee been given significant stature in the new local constitutional settlement as a focus for:
  – The oversight of high standards of financial accountability and reporting?
  – Sponsoring the work of internal audit in maintaining and improving local financial practice?
  – Acting as the audience for the external auditor?
  – Promoting an anti-fraud culture in the council?

And finally

Having provided answers to these questions, what plans does the council have for reviewing and improving the operation of its new arrangements, in, say, one year’s time?
References


