

Birmingham City Council

Report to Cabinet

25 June 2019



Subject: Membership and Governance of the Cabinet Committee
Group Company Governance

Report of: City Solicitor

Relevant Cabinet Member: Councillor Brigid Jones, Deputy Leader

Relevant O &S Chair(s): Councillor Carl Rice, Chair of the Co-ordinating O&S Committee

Report author: David Smith, Group Team Manager, Committee Services

Tel: 0121-303 4465

Email: david.smith@birmingham.gov.uk

Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, add Forward Plan Reference:		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential : n/a		

1 Executive Summary

- 1.1 This report advises the Cabinet of the outcome of a review of the membership and governance of the Cabinet Committee Group Company Governance. The review was undertaken in the light of concerns regarding the potential for meetings to be inquorate, the need to ensure a consistent approach and the need to build-up knowledge regarding group company governance matters.

2 Recommendations

2.1 Cabinet is recommended to:

- Agree that the quorum of the Cabinet Committee Group Company Governance be increased to 2 Cabinet Members and a member of the Opposition;
- Agree that formal substitution arrangements be introduced for Cabinet Members and members of the Opposition on the Cabinet Committee Group Company Governance;
- Agree that, subject to the substitution arrangements being agreed, the City Solicitor be authorised to make all necessary changes to the Constitution as appropriate.

3 Background

3.1 The City Council's Constitution states that:

"This Cabinet Committee will be established by the Cabinet with the following membership:

- The Deputy Leader
- Another Cabinet Member as deemed appropriate by the Deputy Leader
- To include non-executive directors from the wider business community (no voting).

The Membership of the Committee shall be based on cross party representation.

The quorum for the Committee shall be determined by the Committee and this must include a Cabinet Member and a member of the Opposition."

3.2 The Cabinet Committee determined at its first meeting that the quorum for its meetings would be a Cabinet Member and a member of the Opposition. The Cabinet Committee has met on 10 occasions and all of its meetings have been quorate.

3.3 However, there have been two occasions when the named Member has been unable to attend, and it had been agreed by the Cabinet Committee that a substitute could attend in their place. On the first occasion (13 December 2017), the meeting occurred shortly after the appointment of a new Leader of the Council and a new Cabinet and the meeting was attended by the new Leader and new Deputy Leader. On the second occasion (18 September 2018), it was agreed that the Secretary of the Liberal Democrat Group could attend in place of the Leader of that Group.

3.4 However, accepted good practice for Local Authorities ("Knowles on Local Authority Meetings" – ICSA Publishing Limited) is for there to be at least a Chair and 2 Members present at meetings, as a Chair could need to determine all decisions using their casting vote if only the Chair and one other Member was present.

- 3.5 There is the concern also that, if the Deputy Leader (as Chair) did not attend the meeting, an agreement would need to be reached between the remaining Cabinet Member and the member of the Opposition on which of them was elected as Chair by the meeting. The non-executive directors do not have voting rights.

4 Options Considered and Decision Reached

- 4.1 The Cabinet Committee considered options relating to an increase in the number of Councillor members of the Committee, an increase in the quorum, the introduction of formal substitution arrangements, or continuing the current arrangements.
- 4.2 The Cabinet Committee agreed to recommend to continue with the current position of 4 Councillor members of the Committee, but to increase the quorum to 2 Cabinet Members and a member of the Opposition, and to recommend to Cabinet that formal substitution arrangements be introduced. This option would resolve the above concerns, but would require a change to the Constitution to be agreed by the City Council.
- 4.3 It was also agreed to request that the membership of the Committee be clarified in the Constitution, confirming it is to include: the Deputy Leader; another Cabinet Member as deemed appropriate by the Deputy Leader; and one Councillor member from each of the Opposition Party Groups.
- 4.4 The need for substitutes arises from a need to ensure that Members have received relevant training, because of the continuing programme of company reviews. While the Cabinet Committee considered that the substitution arrangements could provide an opportunity for general Member development, it was recognised that the Committee formed part of the Executive and that the appropriate substitute for a Cabinet Member would be another Cabinet Member.

5 Consultation

- 5.1 Consultation has been undertaken with the members of the Cabinet Committee Group Company Governance who confirmed at their meeting on 17 April 2019 that they supported the recommendations set out in this report.

6 Risk Management

- 6.1 There is a risk to the City Council at present of meetings of the Committee being inquorate and of the Committee's decision-making being compromised with a quorum of a Cabinet Member and a member of the Opposition. The above changes would remove that risk. There is also a risk that a consistent approach would not be developed and Members would not be able to build-up knowledge regarding group company governance matters.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

7.1.1 The purpose of the Cabinet Committee Group Company Governance encompasses a role in ensuring that the business plans of individual companies comply with the Council's strategic direction.

7.2 Legal Implications

7.2.1 Part V of the Local Government and Housing Act 1989 makes provision for companies that are controlled or influenced by local authorities. Sections 95 of the Local Government Act 2003 empowers the Council to trade function-related activities through a company. The Council is required to comply with all legal and regulatory requirements of the Companies Act 2006 as it relates to shareholder/member owners of registered companies.

7.2.2 Establishing the Cabinet Committee Group Company Governance has improved the level of compliance in enabling the Council to have oversight of the activities of those companies that it either wholly owns or in which it has an interest. Risk of non-compliance was reduced and decision-making was made more transparent and better aligned with the legislative requirements.

7.2.3 The Group Company Governance Committee is a Cabinet Committee pursuant to the provisions of the Local Government Act 2000 and was formally set up by Cabinet on 26 July 2017. The Constitution of the City Council recognises the establishment of this Committee and sets out its membership and responsibilities.

7.3 Financial Implications

7.3.1 There are no financial implications arising from this report.

7.4 Procurement Implications (if required)

7.4.1 There are no procurement implications arising from this report.

7.5 Human Resources Implications (if required)

7.5.1 There are no human resources implications arising from this report.

7.6 Public Sector Equality Duty

7.6.1 There are no equality issues arising from this report.

8 Background Documents

8.1 The City Council's Constitution, September 2018

8.2 The Cabinet Committee Group Company Governance terms of reference 2018-19

8.3 Report to Cabinet, 26 July 2016 – "Group Company Governance"

8.4 Report to Cabinet Committee Group Company Governance, 17 April 2019