

# Birmingham City Council

## Report to Cabinet Committee – Group Company Governance

17 April 2019



**Subject:** Membership and Governance of the Cabinet Committee  
**Report of:** City Solicitor  
**Relevant Cabinet Member:** The Deputy Leader  
**Relevant O &S Chair(s):** Chair of the Co-ordinating O&S Committee  
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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 reviews the membership and governance of the Cabinet Committee – Group Company Governance.

### 2 Recommendations

- 2.1 That this Committee agrees to:

- Increase the quorum of the Committee to 2 Cabinet Members and a member of the Opposition and notifies Cabinet accordingly;

- Recommend to Cabinet that formal substitution arrangements be introduced for Cabinet Members and members of the Opposition on this Committee;
- Subject to the above changes to the quorum and substitution arrangements being agreed, request the City Solicitor to submit a report to Full Council recommending 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 At its first meeting, this Committee determined that the quorum for its meetings would be a Cabinet Member and a member of the Opposition. This Committee has met on 10 occasions and all of its meetings have been quorate.**

#### **3.3 The membership of the Cabinet Committee has been noted by Members at its first meeting of the Municipal Year. On 2 occasions when the named Member has been unable to attend, it has been agreed 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 always make 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 Recommended Proposal**

- 4.1 Option 1 – continue with the current position of 4 Councillor members of the Committee, a quorum of a Cabinet Member and a member of the Opposition, and informal substitution arrangements. The concern is that this could lead to a situation in which the Committee is inquorate or that, if a difference of opinion arose between the Cabinet Member and the member of the Opposition, the decisions would effectively be taken by the Chair using their casting vote.
- 4.2 Option 2 – continue with the current position of 4 Councillor members of the Committee, but increase the quorum to 2 Cabinet Members and a member of the Opposition, and introduce formal substitution arrangements. This option would resolve the above concerns, but would require a recommendation to be submitted to Cabinet and a change to the Constitution to be agreed by the City Council.
- 4.3 Option 3 – increase the number of Councillor members to 5 or more Councillors, including additional Cabinet Member(s) or a mix of additional Cabinet Member(s) and member(s) of the Opposition, as appropriate. At the same time, the quorum would be increased as in Option 2 and formal substitution arrangements could be introduced, if required. This option would resolve the above concerns, but would require a recommendation to be submitted to Cabinet and a change to the Constitution to be agreed by the City Council.
- 4.4 The recommended option is Option 2 as it would resolve the concerns set out in this report without requiring an increase in membership of the Committee. In recommending Option 2, it is also recommended 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.

## **5 Consultation**

- 5.1 Consultation is to be undertaken with the City Solicitor and the Deputy Leader.

## **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. Options 2 and 3 above would remove that risk.

## **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 influences 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”