



Report of the Assistant Chief Executive (Corporate Governance)

Council

Date: 18 November 2009

Subject: Executive arrangements

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. At its meeting on 16 September 2009, Council drew up proposals for a change in governance arrangements, in accordance with the requirements of the Local Government and Public Involvement in Health Act 2007.
2. The proposals were that:
 - the “new-style” Leader and Cabinet form be adopted;
 - no amendment be made to the current allocation of “local choice” functions between the Council and the executive;
 - the current arrangements for the Leader to be removed (by resolution of the Council by simple majority) be retained; and
 - in terms of transitional arrangements, the Leader in office at the time of the elections should remain in place until the annual meeting in 2010.
3. The Assistant Chief Executive (Corporate Governance) publicised the proposals, and made them available to the public for inspection, in accordance with statutory requirements. No representations about the proposals were received.
4. At its meeting on 20 October 2009, General Purposes Committee made recommendations to Council, to change the Council’s executive arrangements as set out in the proposals (the changes to come into operation 3 days after the local elections in 2010).
5. The Committee also made recommendations to Council about a number of constitutional amendments which will be required as a result of the change in form. These would be of effect 3 days after the local elections in 2010.
6. This report asks the Council to: resolve to make a change in executive arrangements, as set out in the proposals; to approve the constitutional amendments set out in appendices

1 and 2 of this report, to be of effect 3 days after the local elections in 2010; and to note proposed amendments to the Executive Procedure Rules as set out in appendix 3.

1.0 Purpose Of This Report

1.1 To ask Council to resolve to:

- make changes to its executive arrangements, required by the Local Government and Public Involvement in Health Act 2007; and
- approve amendments required to the Constitution, as a result of these changes.

2.0 Background Information

2.1 The Local Government and Public Involvement in Health Act 2007:

- changed the forms of the executive (to a “new-style” Leader and Cabinet form, or an Elected Mayor and Cabinet form);
- provided a mechanism which allows an authority to change its executive arrangements; and
- required the authority to resolve to change the form of its executive to one of these forms by **31 December 2009**.

2.2 The new executive arrangements must by law come into operation 3 days after the local elections in 2010.

2.3 The Council carried out a consultation exercise with electors and other interested persons in the authority’s area, about changing its executive arrangements. The results of this were reported to Council at its meeting on 16 September 2009.

2.4 On 16 September 2009, Council drew up proposals for its change in executive arrangements. The main features of the proposals were:

- a change to the “new-style” leader and cabinet form;
- no amendment to be made to the current allocation of “local choice” functions between the Council and the executive;
- the current arrangements for the Leader to be removed by resolution of the Council by simple majority to be retained; and
- (in terms of transitional arrangements) the Leader in office at the time of the elections to remain in place until the annual meeting in 2010.

3.0 Main Issues

3.1 Further to the meeting on 16 September 2009, in accordance with statutory requirements, the Assistant Chief Executive (Corporate Governance) publicised the proposals, and made them available to the public for inspection. They were also published on the Council’s web-site.

3.2 No representations have been received following the publication of the proposals. It now remains for the Council to:

- **resolve to change the form;**
- **approve constitutional amendments** to reflect the change in form;
- **publicise** the new arrangements in accordance with statutory requirements; and
- **implement** the new governance arrangements, and the constitutional amendments.

3.3 At its meeting on 20 October 2009, General Purposes Committee considered a report from the Assistant Chief Executive (Corporate Governance) about executive

arrangements, including proposed constitutional amendments. The recommendations of the Committee are set out in paragraph 7 of this report.

3.4 Constitutional amendments

3.4.1 If the Council resolves to move to the “new-style” Leader and Cabinet form, the main amendments needed to the Constitution would be to:

- Article 7;
- the Council Procedure Rules; and
- the Executive Procedure Rules.

Article 7

3.4.2 This article relates to the Executive. The proposed amendments are set out in appendix 1 to this report. The amendments reflect the new statutory position relating to:

- the new term of office of the Leader; and
- the requirement for the Leader to appoint a Deputy Leader.

3.4.3 It is the responsibility of full Council to approve these amendments.

Council Procedure Rules

3.4.4 The proposed amendments are set out in appendix 2 to this report. The main amendment is a new footnote to Rule 1.1, to reflect the new statutory position that the Leader will not be appointed at every annual meeting.

3.4.5 In addition, an amendment is proposed to Rule 2.2 (order of business), to allow Council to receive communications from the Deputy Leader. The Rule already provides for communications from Executive Members, as well as from the Leader, but this amendment is recommended for completeness.

3.4.6 It is the responsibility of full Council to approve these amendments.

Executive Procedure Rules

3.4.7 The proposed amendments are set out in appendix 3 to this report. They include a provision to require a report to Council on the in-year removal of the Deputy Leader, in the same way that a report from the Assistant Chief Executive (Corporate Governance) to Council is required on in-year amendments to the delegation scheme. For completeness, it is also proposed that a report is also required on the in-year removal of other Executive Members – there is currently no specific provision for this.

3.4.8 The Rules also need to be amended to reflect that the Council will not lawfully be able to preclude the Leader from carrying out executive functions him/herself, nor from delegating them to an individual Executive Member¹.

3.4.9 Amendments to the Executive Procedure Rules are the responsibility of the Executive Board, and not of full Council. The Assistant Chief Executive (Corporate Governance) as Monitoring Officer is authorised to make any changes to any Part of

¹ There is no requirement for the Leader to move from the current system of delegation to the Executive as a whole, but when the new form has come into operation, this will be at the discretion of the Leader rather than a decision of full Council.

the Constitution which are required as a result of legislative change or decisions of the Council or Executive. She also has delegated authority in relation to corporate governance. Members are therefore asked to note the proposed amendments set out in appendix 3, and that the Assistant Chief Executive (Corporate Governance) proposes to amend the Rules under her delegated authority.

Other Amendments

- 3.4.10 There will also be a number of minor consequential amendments to the Constitution, to reflect the changes in legislation. The Assistant Chief Executive (Corporate Governance) proposes to do these under her delegated authority, in consultation with the Executive Member (Central and Corporate). Other amendments may also be required in due course, (for example, should the Leader choose to delegate to individual Executive Members), but these will be reported on at the time.
- 3.4.11 The amendments need to be of effect from the date the new arrangements come into operation (that is, three days after the local elections in 2010).

4.0 Implications For Council Policy And Governance

- 4.1 The form of executive is one of the most fundamental aspects of the Council's governance arrangements. Amendments to the Constitution will be required to reflect the new form and new statutory provisions.
- 4.2 The proposed amendments to the Constitution follow the wording contained in ODPM modular guidance, but updated where necessary to reflect changes in legislation since it was issued in 2001.

5.0 Legal And Resource Implications

- 5.1 The Council has followed the statutory procedure for changing its executive arrangements, by consulting, drawing up proposals to move to a new form of executive, and publicising them.
- 5.2 The Council is now required to formally resolve by 31 December 2009 to adopt its new form. The timetable published as part of the proposals, provided for this to be done on 18 November 2009. The law requires that the "new-style" Leader and Cabinet form, if adopted, must come into operation 3 days after the local elections in 2010.
- 5.3 By law, the Council will also need to publicise, and make available for public inspection, details of its new arrangements, as soon as practicable after passing its resolution. This function has already been delegated to the Assistant Chief Executive (Corporate Governance).
- 5.4 The resource implications arising from each of the two forms were addressed in previous reports to General Purposes Committee and Council.

6.0 Conclusions

- 6.1 No representations have been received in relation to the published proposals, and it would therefore be reasonable for the Council to resolve to adopt the executive arrangements as set out in its proposals, to come into operation 3 days after the local elections in 2010.

- 6.2 Consequential amendments to the Constitution to reflect the new arrangements will need to be approved, as set out above, to be implemented from the date when the new executive arrangements come into operation.
- 6.3 The proposed amendments to the Constitution relating to the revised term of office of the Leader, the appointment of the Deputy Leader, and amendments to reflect that the Leader may choose to carry out executive functions him/herself, or delegate to individual Executive Members, reflect the revised statutory position. The Council has no discretion about whether or not to approve amendments which reflect the change in law.

7.0 Recommendations

- 7.1.1 General Purposes Committee recommended to Council to resolve to adopt executive arrangements which:
- provide for the “new-style” Leader and Cabinet form²; and
 - retain the current provision for the Council to remove the Leader from office by resolution; and
 - retain the current allocation of “local choice” functions between the Council and the executive; and
 - come into operation 3 days after the local elections in 2010.
- 7.1.2 In relation to transitional arrangements, the General Purposes Committee recommended to Council that the Leader in office at the time of the elections should remain in place until the annual meeting in 2010.
- 7.1.3 General Purposes Committee recommended to Council to approve the following amendments to the Constitution, with effect from 3 days after the local elections in 2010:
- the amendments to Article 7, set out in appendix 1 to this report; and
 - the amendments to Council Procedure Rules 1.1 and 2.2, as set out in appendix 2 to this report.
- 7.1.4 General Purposes Committee also recommended to Council to note:
- the amendments required to the Executive Procedure Rules, as set out in appendix 3 to this report, and that the Assistant Chief Executive (Corporate Governance) proposes to use her delegated authority to approve the amendments with effect from 3 days after the local elections in 2010;
 - that the Assistant Chief Executive (Corporate Governance) under her delegated authority and in consultation with the Executive Member (Central and Corporate), proposes to approve any other necessary consequential amendments to the Constitution to give effect to the new executive arrangements, with effect from 3 days after the local elections in 2010; and
 - that the Assistant Chief Executive (Corporate Governance) will publicise the new executive arrangements, in accordance with statutory requirements.

² Leader and Cabinet executive (England)

Background documents

- Report to and minutes of Constitutional Proposals Committee 30 October 2008.
- Report to and resolution of full Council 19 November 2008.
- Report to and minutes of General Purposes Committee 8 September 2009
- Report to and resolution of full Council 16 September 2009
- Proposals for a change in governance arrangements
- Public Notice about the proposals
- Report to General Purposes Committee 20 October 2009