

**Report of City Solicitor**

**Report to General Purposes Committee**

**Date: 9 May 2012**

**Subject: Election and term of office of the Leader**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. The “strong Leader” form of governance under the Local Government Act 2000, required executive arrangements to provide for a Leader’s term of office to end on the day when the Council holds its first annual meeting after the Leader’s normal day of retirement as a councillor – usually, therefore, a four year term of office.
2. Executive arrangements by a local authority could also provide for the Council to remove the Leader by resolution. Current executive arrangements include the power to remove the Leader during their term.
3. The 2000 Act has now been amended. Under new section 9I, executive arrangements may decide the Leader’s term and must provide for the election of Leader, including where there a vacancy in the office. Under new Section 9IA, executive arrangements must include provision for the Council to remove the Leader by resolution.
4. Transitional provisions require the authority to include provisions within their executive arrangements under the new Section 9I and 9IA, as soon as reasonably practicable.

**Recommendations**

5. General Purposes Committee is asked to recommend full Council to:
  - confirm existing executive arrangements relating to current term of office for the Leader, and the power to remove the Leader during their term;

- agree that Council Procedure Rule 1 is amended to reflect the updated legislation and provide for the election of a Leader in the event of a vacancy; and
- note that the City Solicitor proposes to exercise her delegated authority to update Article 7 and Section 2A of Part 3 of the constitution to reflect legislative changes.

## **1 Purpose of this report**

- 1.1 This report asks Members to consider provisions within the Council's executive arrangements following amendments to the Local Government Act 2000.

## **2 Background information**

- 2.2 The "strong Leader" form of governance under the Local Government Act 2000, required executive arrangements to provide for the election of a Leader, and for the Leader's term of office to end on the day when the Council holds its first annual meeting after the Leader's normal day of retirement as a councillor. The Leader usually has therefore a four year term (depending on at what point in their term as a councillor they become Leader).
- 2.3 The current arrangements are reflected in Council Procedure Rule 1.1 and Article 7.
- 2.4 The "strong Leader" form also provided that executive arrangements may include provision to remove the Leader by resolution. Current executive arrangements include the power to remove the Leader during their term, as reflected in Article 7 and the summary of full Council functions at Section 2A of Part 3 to the constitution.
- 2.5 With effect from 4 May 2012, provisions about the election and term of office of the Leader are now contained in new Section 9I of the 2000 Act (as amended by the Localism Act 2011). This requires executive arrangements to provide for the election of a Leader including where there is a vacancy in the office. Executive arrangements may now also provide for the term of office of the Leader. This is subject to any regulations to be made<sup>1</sup> (although none have as yet been issued).
- 2.6 New Section 9IA (amended by the Localism Act 2011) provides that executive arrangements must provide for the Council to remove the Leader by resolution.
- 2.7 Transitional provisions require executive arrangements to include these provisions under section 9I and 9IA as soon as reasonably practicable.

## **3 Main issues**

- 3.1 Executive arrangements already provide for the Leader's term of office. The authority may now vary or choose to retain the existing provisions. The previous legislative requirement aimed to provide a degree of stability and continuity of leadership.
- 3.2 Executive arrangements already provide for full Council to remove the Leader during their term, and thus no variation is required to comply with the new requirements.

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<sup>1</sup> Under New Section 9ID of the 2000 Act

3.3 There is existing provision for the election of the Leader at the annual meeting (Council Procedure Rule 1). However, there is no specific reference to the election of a Leader in the event of a vacancy, as is now required. The City Solicitor therefore proposes that the position is clarified by inserting a footnote into the Council Procedure Rules, requiring the authority to elect a Leader in the event of a vacancy, at a subsequent meeting of full Council. The Rules also need to be updated to reflect the amended statutory provisions.

3.4 Statutory references within Article 7 and Section 2A of Part 3 of the constitution (summary of full Council functions) also need to be updated to reflect the legislative changes. The City Solicitor proposes to make these changes under her delegated authority.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

4.1.1 No additional consultation was considered necessary on this report, since the matter is being considered by this Committee, before being considered by full Council.

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 There are no equality issues arising from this report.

### **4.3 Council policies and City Priorities**

4.3.1 The Council's Code of Corporate Governance commits the authority to having clear responsibilities and arrangements for accountability.

4.3.2 The accountability of the Leader is secured by the Council's existing power to remove the Leader at any time.

### **4.4 Resources and value for money**

4.4.1 There are no resource implications arising from this report.

### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 A change to executive arrangements requires a resolution of the authority (that is, cannot be delegated<sup>2</sup>).

4.5.2 The authority is required to publish a notice in a local newspaper, outlining any changes to its executive arrangements<sup>3</sup>. The Chief Executive has been delegated authority to publish such a notice.

### **4.6 Risk Management**

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<sup>2</sup> Changing executive arrangements under Section 9KC is treated as a change in governance arrangements for the purposes of Chapter 4 of the 2000 Act, by virtue of Section 9OA (2), which triggers the requirement to publish a notice in Section 9KC.

<sup>3</sup> New Section 9KC of the 2000 Act

4.6.1 The constitution should be kept up to date and comply with legislation, to minimise risk of challenge.

## **5 Conclusions**

5.1 The authority is not required to amend the Leader's term of office, but it may do so. Existing arrangements in relation to the Leader's term of office may be considered to promote a degree of stability and continuity, whilst accountability is secured as full Council can remove the Leader during their term.

5.2 The constitution (including Council Procedure Rules) should be updated to reflect the requirement to appoint a Leader in the event of a vacancy, and the amended statutory references.

## **6 Recommendations**

6.1 General Purposes Committee is asked to recommend full Council to:

- confirm existing executive arrangements relating to current term of office for the Leader, and the power to remove the Leader during their term;
- agree that Council Procedure Rule 1 is amended to reflect the updated legislation and provide for the election of a Leader in the event of a vacancy;
- note that the City Solicitor proposes to exercise her delegated authority to update Article 7 and Section 2A of Part 3 of the constitution to reflect legislative changes.

## **7 Background documents<sup>4</sup>**

7.1 None

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<sup>4</sup> The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.