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## Report of the Assistant Chief Executive (Corporate Governance)

Date: 16 September 2009

Subject: Executive arrangements: proposals

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### Electoral Wards Affected:

Ward Members consulted  
(referred to in report)

### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

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## Executive Summary

1. At its meeting on 8 September 2009, the General Purposes Committee considered a report from the Assistant Chief Executive (Corporate Governance) advising it of the results of the consultation on changes to the Council's executive arrangements. That is, changing to an Elected Mayor and Cabinet executive, or to the "new-style" Leader and Cabinet form.
2. The results of the consultation exercise are summarised in paragraph 3.1 of this report, the main points being that:
  - the general public expressed a preference for the Elected Mayor and Cabinet form (although the response rate was relatively low and fell far short of the 5% of the electorate which would be required to support a petition for a referendum on leadership arrangements); and
  - those Town and Parish Councils and Leeds City Council Councillors who expressed a view, expressed a strong preference for the Leader and Cabinet form.
3. The General Purposes Committee made recommendations to full Council about the proposals to be drawn up for the change in form. The principal recommendations were:
  - to draw up proposals to change to the "new-style" leader and cabinet form;
  - that the proposals for change should not be subject to a referendum;
  - that no amendment should be proposed to the current allocation of "local choice" functions between the Council and the executive;
  - that the current arrangements for the Leader to be removed by resolution of the Council by simple majority be retained; and
  - that the proposals should provide for the Leader in office at the time of the elections to remain in place until the annual meeting in 2010.
4. The General Purposes Committee also instructed the Assistant Chief Executive (Corporate Governance) in consultation with group leaders, to draft proposals reflecting

their recommendations, to be considered by full Council at its meeting on 16 September 2009. These are attached to this report as Appendix 1.

5. This report therefore requests full Council to draw up proposals for a change in form, as set out in Appendix 1, and incorporating the timetable and local choice allocation set out in Appendix 2 and 3.
6. In deciding which of the two options to adopt, the Council should take into account the results of the consultation, but should also have regard to the extent to which the proposals, if implemented, would be likely to assist in securing continuous improvement in the way in which the Council's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
7. The General Purposes also recommended that the Assistant Chief Executive (Corporate Governance) be authorised to take the necessary steps requisite to carrying out the Council's legal requirements in relation to this matter, and this report therefore also asks full Council to authorise the Assistant Chief Executive (Corporate Governance) accordingly.

## 1.0 Purpose Of This Report

1.1 This report sets out recommendations to full Council from General Purposes Committee, in relation to proposals for changing its executive form; and requests full Council to draw up the proposals.

## 2.0 Background Information

2.1 At its meeting on 30 October 2008, the Constitutional Proposals Committee received a report on new executive arrangements, introduced by the Local Government and Public Involvement in Health Act 2007.

2.2 The 2007 Act:

- 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
- requires the authority to resolve to change the form of its executive to one of these forms by **31 December 2009**.

2.3 That report set out the differences between the forms, the main ones being:

- the **Elected Mayor** is directly elected, has a four year term and cannot be removed by resolution of the Council; but
- the **Leader** is elected by the Council, will generally have a four year term<sup>1</sup>, and may be removed by resolution of the Council<sup>2</sup>.

2.4 To change the form of its executive, the Council has to:

- **consult** before drawing up proposals for a change in form;
- **draw up proposals**;
- decide whether the change should be subject to approval by a **referendum**;
- **publicise** the proposals;
- **hold the referendum** if they have decided there should be one;
- **resolve** to change the form;
- **implement** the new governance arrangements; and
- **publicise** the new arrangements.

2.5 At its meeting on 18 November 2008, full Council instructed the Assistant Chief Executive (Corporate Governance) to begin the consultation process, subject to consultation with group leaders about the consultation plan.

2.6 The consultation exercise has now been completed and detailed results considered by the General Purposes Committee at its meeting on 8 September 2009.

2.7 At that meeting, the Committee also made recommendations about how the Council’s executive form should be changed, and instructed the Assistant Chief Executive (Corporate Governance) in consultation with group leaders, to draft proposals reflecting their recommendations, to be considered by full Council. The draft proposals are set out in appendix 1 to this report.

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<sup>1</sup> This Council has election by thirds, so this will not be the case if the Leader has less than 4 years left as a councillor when elected as Leader.

<sup>2</sup> if the Council makes provision to do this in its executive arrangements.

### **3.0 Main Issues**

#### **3.1 The consultation exercise**

3.1.1 The consultation process involved:

- General public (including through the Citizens' Panel);
- Parish and Town Councils;
- Leeds City Council Councillors;
- Leeds Members of Parliament;
- Key Partners; and
- Independent and co-opted Members of the Leeds City Council.

3.1.2 The general public expressed a preference for the Elected Mayor and Cabinet form<sup>3</sup>. However, the results did not show an overwhelming preference for the Elected Mayor and Cabinet form. The response rate was relatively low, and fell far short of the 5% of the electorate which would be required to support a petition for a referendum on leadership arrangements.

3.1.3 Those Town and Parish Councils and Leeds City Council Councillors who expressed a view, expressed a strong preference for the Leader and Cabinet form. These stakeholders are themselves directly involved in the democratic process.

3.1.4 The responses received from other stakeholders (key partners, independent and co-opted Members and other groups), were too low to be statistically significant in terms of each distinct type of stakeholder, although they should be taken into account in terms of overall responses.<sup>4</sup>

#### **3.2 The proposals**

3.2.1 Following the consultation process, the Council must now draw up proposals for the change in form.

3.2.2 In drawing up the proposals, the Council must consider the extent to which the proposals, if implemented, would be likely to assist in securing continuous improvement in the way in which the Council's functions are exercised, having regard to a combination of economy, efficiency and effectiveness<sup>5</sup> - that is, their primary best value duty.

3.2.3 The Council must have regard to the results of the consultation, and take them into account<sup>6</sup>. The Council is, however, entitled to take other factors into account,

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<sup>3</sup> When the responses of the Citizens' Panel are collated with the other responses from individual members of the general public, 395 of individual respondents preferred the Elected Mayor and Cabinet option, while 324 respondents preferred the Leader and Cabinet option.

<sup>4</sup> Of the 2 responses received from the 34 Key Partners consulted, both preferred the Elected Mayor and Cabinet form. Of the 3 responses received from the 9 independent/co-opted Members consulted, 1 preferred the Elected Mayor and Cabinet form, and 2 the Leader and Cabinet form. Of the 3 other groups who responded as members of the general public, 2 preferred the Elected Mayor and Cabinet form, and 1 the Leader and Cabinet form. No responses were received from Members of Parliament.

<sup>5</sup> Section 33E(7) Local Government Act 2000

<sup>6</sup> The report to the General Purposes Committee on 8 September contained further detail about the weight to give to the preferences expressed.

(including the different features of each form) in drawing up the proposals, and indeed must do so, in exercising the duty set out above.

- 3.2.4 Cost is one such relevant factor. Although an election for Mayor would be run in tandem with Council elections, additional costs would arise. Also, the supplementary voting system can be more costly<sup>7</sup>. There are also potential by-election costs where a candidate elected as Mayor is also elected as a councillor.
- 3.2.5 In relation to these additional costs, the Council should however consider the extent to which these costs may be offset by any improvements secured by a change to the Elected Mayor and Cabinet form.
- 3.2.6 Changing to the “new-style” Leader and Cabinet form would involve minimal additional expenditure, as changes to current arrangements would be minimal.
- 3.2.7 The General Purposes Committee recommended Council draw up proposals to change to the “new-style” leader and cabinet form.

### 3.3 Timetable and transitional arrangements

- 3.3.1 The proposals must include:
- a timetable with respect to the implementation of the proposals; and
  - details of any transitional arrangements which are necessary for the implementation of the proposals.
- 3.3.2 The General Purposes Committee recommended to Council that its proposals incorporate the timetable attached as appendix 2 to this report.
- 3.3.3 In relation to transitional arrangements, the General Purposes Committee recommended to Council that that the proposals should provide for the Leader in office at the time of the elections to remain in place until the annual meeting in 2010.

### 3.4 Local Choice Functions

- 3.4.1 The proposals must also deal with the allocation of functions between the executive and the authority. No concerns have been raised to date with the Assistant Chief Executive (Corporate Governance) about the current allocation of “local choice” functions.
- 3.4.2 The General Purposes Committee recommended that no amendment should be proposed to the current allocation of “local choice” functions between the Council and the executive, as set out in appendix 3 to this report.

### 3.5 Referendum

- 3.5.1 The Council has discretion whether or not to make its proposals subject to a referendum. A referendum would require the general public to endorse the proposed form, and would promote community engagement in the issue. However, given the low level of interest shown by the public about leadership arrangements, it

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<sup>7</sup> By way of illustration, the costs that were directly attributable to the mayoral election in Mansfield in 2007 amounted to £40,000 (Source: Nottinghamshire County Council report of the Chief Executive to County Council, 4<sup>th</sup> December 2008)

may be considered that there is insufficient justification to incur the substantial costs which would arise<sup>8</sup>.

3.5.2 The General Purposes Committee recommended that the proposals should not provide for the change to be subject to a referendum.

### 3.6 Arrangements to remove the Leader

3.6.1 If the Council is minded to draw up proposals to move to a Leader and Cabinet form, the Council **may** also make arrangements to remove the Leader at any time. If the Council did not make any arrangements for in-term removal, the Leader would remain in office for their full term.

3.6.2 Article 7 of the Constitution (which relates to the Executive) already provides for removal of a Leader in-term by resolution of the Council. This is currently by a simple majority, in accordance with Council Procedure Rules.

3.6.3 The General Purposes Committee recommended to Council that the current arrangements for the Leader to be removed by resolution of the Council by simple majority be retained.

### 3.7 Constitutional amendments

3.7.1 Constitutional amendments will be required, whichever form the Council decides to adopt. If Council decides to move to the “new-style” Leader and Cabinet form, the main amendments would be to:

- Article 7 to insert provision for a deputy Leader (which the Leader will have to appoint);
- Council Procedure Rules, to reflect the change in term of office from one year;
- Executive Procedure Rules, including an amendment to reflect that the Leader may choose to delegate functions to individual Executive Members<sup>9</sup>.

3.7.2 There will also be a number of consequential minor amendments throughout the constitution.

3.7.3 The timetable set out in appendix 2 to this report provides for these amendments to be considered by full Council when it meets to approve the new form in November 2009. The amendments would be of effect from the date the new arrangements are implemented, that is, three days after the elections in 2010.

### 3.8 Delegation to the Assistant Chief Executive (Corporate Governance)

3.8.1 At its meeting on 18 November 2008, full Council delegated authority to the Assistant Chief Executive (Corporate Governance) to carry out the consultation process, and also to publicise statutory notices and implement the new form.

3.8.2 For completeness, and the avoidance of doubt, it is recommended that the Assistant Chief Executive (Corporate Governance) now be given a more general authorisation in relation to this matter.

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<sup>8</sup> The Electoral Services Manager has advised that a referendum would cost a minimum of £750,000, which would have to be borne by the Council.

<sup>9</sup> Currently, the Council precludes this, but will no longer be able to do so whichever new form is adopted.

3.8.3 The General Purposes Committee recommended that the Assistant Chief Executive (Corporate Governance) be authorised to take the necessary requisite steps to carry out the Council's legal requirements in relation to amending the Council's executive form.

#### **4.0 Implications For Council Policy And Governance**

4.1 The Council has complied with its community engagement policy, and the principles of good governance, in engaging in robust consultation over the form of executive.

4.2 The form of executive is one of the most fundamental aspects of the Council's governance arrangements. Amendments to the constitution will be required.

#### **5.0 Legal And Resource Implications**

5.1 The Council is now required to draw up proposals to move to a new form of executive, publicise those proposals, and formally resolve by 31 December 2009 to adopt its new form.

5.2 The resource implications arising from each of the two forms have been addressed in paragraph 3 of this report.

#### **6.0 Conclusions**

6.1 In drawing up its proposals, Council must take into account the results of the consultation exercise, together with other relevant considerations. It has a duty to consider the extent to which the proposals, if implemented, would be likely to assist in securing continuous improvement in the way in which the Council's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

6.2 Appendix 1 to this report sets out draft proposals for consideration by full Council, together with appendix 2 (timetable) and appendix 3 (current allocation of local choice functions). All appendices reflect the recommendations made to full Council by the General Purposes Committee on 8 September 2009.

#### **7.0 Recommendations**

7.1 Council is recommended to:

- draw up the proposals as set out in appendix 1 to this report, incorporating the timetable set out in appendix 2 of this report, and the allocation of local choice functions set out in appendix 3; and
- authorise the Assistant Chief Executive (Corporate Governance) to take the necessary steps requisite to carrying out the Council's legal requirements in relation to this matter.

#### **Background documents**

- Report to Constitutional Proposals Committee 30 October 2008
- Report to full Council 19 November 2008

- Citizens' Panel report dated 12 June 2009
- Consultation survey and responses
- Consultation guidelines 2000
- Report to General Purposes Committee 8 September 2009