

Report to the Cabinet

Report reference: C-045-2010/11
Date of meeting: 6 December 2010



Portfolio: Leader
Subject: Executive Constitution
Responsible Officer: Ian Willett (01992 564243)
Democratic Services Officer: Gary Woodhall (01992 564470)

Recommendations:

- (1) To note the outcome of public consultation regarding the form of Executive Constitution to be operated by the Council from May 2011;
- (2) That a report be submitted to the Council recommending which of the two options for an Executive Constitution should be adopted, namely:
 - (a) Cabinet with Leader; or
 - (b) Cabinet with Elected Mayor
- (3) That public notice be given of the adoption of the preferred resolution after the December Council meeting.
- (4) To note that the Government intends to publish new legislation which will amend the law on executive constitutions and require further public consultation.

Executive Summary:

This report sets out the results of public consultation under Section 33 of the Local Government and Public Involvement in Health Act 2007 concerning the form of executive constitution to be adopted by the Council in May 2011. This consultation requires the Council to pass a resolution by 31 December 2010 on the preferred form of executive, taking account of the responses received.

Reasons for Proposed Decision:

The decision on the form of executive constitution is a statutory requirement under Section 33 of the 2000 Act must be made by 31 December 2010.

Other Options for Action:

None considered.

Report:

1. The Council is required by Sections 33A-0 of the Local Government Act 2000 (as amended by the Local Government etc Act 2007) to consult the public about the form of executive constitution which the Authority intends to operate from the Annual Council meeting in May 2011.

2. The Council is required to pass a resolution by 31 December 2010 giving effect to its choice of executive constitution. In considering the results of the consultation the Council is required 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 local authority’s functions are exercised in regard to a combination of economy, efficiency and effectiveness.”

3. The Act also specifies the way in which the consultation is to be conducted. The Government has, however, given further advice on this aspect of the legal requirements (see below).

Ministerial Guidance

4. A copy of a letter dated 7 July 2010 from Mr Grant Shapps MP, the Minister for Housing and Local Government, is attached at Appendix 1. In this letter, he draws attention to the following:

(a) that the Government plans to introduce new proposals as part of its Localism Bill, including provisions regarding the terms of office of Leaders, an option to revert to the Committee system and on elected mayors;

(b) that this new legislation will mean that any Executive Constitution agreed with effect from May 2011 may be altered within “a year or two”; and

(c) that, in view of (a) and (b) above, the cost of advertising should be kept to a minimum.

Public Consultation

5. A copy of the consultation material produced is attached as Appendix 2. In accordance with the Government’s wishes, this was published on the Council’s website and placed on deposit at the Council’s information centres. Public notices in the press were avoided on grounds of cost and instead the website statement was supplemented by 3 press releases during the process.

6. The consultation period (which is required to be of 3 months duration under the Act) opened on 15 August 2010 and closed on 16 November 2010.

Results of Consultation

7. These are set out in Appendix 3, which is divided into separate schedules: the first detailing responses which favour the elected mayor and the second where there is support for the continuation of the present Leader & Cabinet system. In summary, 52 persons voted for the continuation of the Leader and Cabinet constitution, whilst 56 voted in favour of the Elected Mayor option. The total number of respondents was 108.

What the Authority Has to Do Now

8. The Council must now decide on which form of constitution it wishes to adopt: either:

(a) the Leader and Cabinet option; or

(b) the Elected Mayor and Cabinet option.

9. If the Cabinet wishes to recommend (b) above and the Council adopts this, the Authority cannot pass the resolution without a referendum which confirms that proposal. This element of the process depends on the choice made under paragraph 8 above

10. The Council's resolution must set out the following:

(a) **Timescale for Implementation** - for the Leader and Cabinet involved, this would be the period up to the Annual Meeting. For the Elected Mayor, this would be (i) subject to a referendum result and (ii), a convenient date for mayoral elections.

(b) **Transitional Arrangements** – for the Leader and Cabinet option, it is suggested that none are required; for the Elected Mayor, the transitional phase would cover the period for a referendum, an election which would set the date for the implementation of the new Constitution (a period which would involve substantial re-drafting). It is likely that this period would be up to 2 years.

(c) **“Fall Back” Position** – if the Elected Mayor option is to be pursued, prepare a “fall back” position in the event that a referendum rejects that option; and

(d) **Economy, Efficiency and Effectiveness** – consider whether the selected option achieves economy, efficiency and effectiveness in provision of Council services – in this regard, the transitional phase in changing to an Elected Mayor constitution and the likelihood that the current options are only likely to be temporary in nature are factors which should be considered.

The Effect of a Petition for an Elected Mayor

11. If a petition for a mayoral referendum were to be received, the signatures would have to be verified against the electoral register. The current total is 4,800. From the date of receipt, the petition must be validated within one month.

12. Once verified, a referendum would be held 6 months after the date of receipt of the petition. A mayoral election would take place at least three months after the referendum (in May or October in the relevant year).

Resource Implications:

No additional resources were required for the purpose of this consultation. The question of the cost of a Mayor Election/Referendum is dealt with in a separate report on the agenda for this meeting.

Legal and Governance Implications:

The Council is currently operating under the Leader and Cabinet model. Under current legislation, a decision to adopt the Elected Mayor option would require a referendum and, if public support were forthcoming, a mayoral election would follow.

Safer, Cleaner and Greener Implications:

None.

Consultation Undertaken:

Local residents via the website.

Background Papers:

None.

Impact Assessments:

Risk Management

None.

Equality and Diversity:

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? N/A

What equality implications were identified through the Equality Impact Assessment process? N/A

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group? N/A