

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

COUNCIL - 29 JUNE 2010

| | |
|------------------------------|--|
| Title of report | NEW EXECUTIVE ARRANGEMENTS (1) CONSULTATION |
| Contacts | <p>Councillor Nick Rushton 01530 412059 nicholas.rushton@nwleicestershire.gov.uk</p> <p>Chief Executive 01530 454500 christine.fisher@nwleicestershire.gov.uk</p> <p>Corporate Director 01530 454520 alan.davies@nwleicestershire.gov.uk</p> <p>Head of Legal and Democratic Services / Monitoring Officer 01530 454762 elizabeth.warhurst@nwleicestershire.gov.uk</p> |
| Purpose of report | <p>The Local Government and Public Involvement in Health Act 2007 makes provision for new governance arrangements:</p> <ul style="list-style-type: none"> - a Directly Elected Mayor - "Strong" Leader and Cabinet Model. <p>A key implication for this Council is the requirement to move to one of the two forms of Executive and this must be subject to public consultation.</p> <p>The Council is requested to consider the consultation proposals within this report and note the views of Cabinet. The outcomes of the consultation exercises will be reported to a single item meeting of the Council before 31 December 2010.</p> |
| Strategic aims | Organisational Development. |
| Implications: | |
| Financial/Staff | There will be costs in relation to staff time and advertisement costs. These can be met from existing resources and budgets. |
| Link to relevant CAT | None. |
| Risk Management | Statutory responsibilities are being met. |
| Equalities Impact Assessment | Not applicable. Statutory process. |

| | |
|----------------------------------|---|
| Human Rights | Not applicable. |
| Transformational Government | Not applicable. |
| Comments of Head of Paid Service | The report is satisfactory. |
| Comments of Section 151 Officer | The report is satisfactory. |
| Comments of Monitoring Officer | As author of the report, no further comments. |
| Consultees | Strategy Group, Cabinet - 25.05.10. This report includes a statutory consultation process. |
| Background papers | The Local Government and Public Involvement in Health Act 2007 - http://www.opsi.gov.uk/acts/acts2007/ukpga_20070028_en_1 Cabinet report - 25.05.10 - http://agenda/aksnwleicester/images/att4672.pdf |
| Recommendations | <ol style="list-style-type: none"> 1. THAT COUNCIL NOTE THE REQUIREMENTS OF THE LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007 AND THE TWO OPTIONS FOR EXECUTIVE ARRANGEMENTS. 2. THAT COUNCIL NOTE THE INITIAL VIEWS OF CABINET SET OUT IN PARAGRAPH 12 OF THE REPORT. 3. THAT COUNCIL AGREE THE PROPOSED CONSULTATION PROCESS AND TIMETABLE FOR THE INTRODUCTION OF THE NEW EXECUTIVE ARRANGEMENTS. |

1. INTRODUCTION

- 1.1 The Local Government and Public Involvement in Health Act 2007 places certain requirements on the Authority to review its Executive arrangements and introduce one of the Executive Models available under the legislation. The legislation sets out a process and implementation date which must be adhered to.
- 1.2 This report looks at the first stage of the legal process of reviewing and introducing new Executive arrangements, proposes that a consultation process takes place from July 2010 to October 2010 (a period of 12 weeks) and that further reports be taken to Council and Cabinet as part of the review.

2. BACKGROUND

- 2.1 Under the provisions of the Local Government Act 2000, there were three Executive Models available to local authorities. Authorities had to adopt one of the following models:
- Mayor and Cabinet
 - Leader and Cabinet
 - Mayor and Council Manager.
- 2.2 The only exceptions to this were councils with a population of less than 85,000 in 1999 or where the authorities had held a referendum for one of the Mayor Models and there had been a “no” vote.
- 2.3 Within the Leader and Cabinet Model there was a considerable degree of local choice as to the relative strengths of Council and Leader in terms of where decision-making powers could lay. These ranged from what was commonly known as a “Weak Leader” pattern in which both the Leader and Cabinet members were appointed by Council and in which there were no individual delegations to Cabinet members. Under this pattern the Cabinet was the only member level Executive decision maker.
- 2.4 At the other end of the spectrum was a “Strong Leader” Model where Council elected the Leader, the Leader appointed the Cabinet and the Leader determined the degree of delegation of Executive powers to individual Cabinet members.

3. EXECUTIVE ARRANGEMENTS AT NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

- 3.1 In line with the provisions of the Local Government Act 2000, North West Leicestershire District Council adopted the Leader and Cabinet Model. The Council has decided how this should operate and this is set out in the Council’s Constitution. The current constitutional arrangements contain some of the elements of the “Strong Leader” Model as described above. For example, the Constitution already allows for the delegations of functions to an individual Cabinet member, or a Committee of Cabinet, and the Leader may determine the delegation of Executive functions.
- 3.2 In practice the current Leader has chosen not to exercise these provisions and all Executive decisions, not delegated to officers, are taken by Cabinet as a whole. However, in common with the “Weak Leader” Model the Leader and Cabinet are appointed by Council annually.

4. NEW EXECUTIVE ARRANGEMENTS - 2007 ACT

- 4.1 The Government’s White Paper on “Strong and Prosperous Communities” set out the case for further reforms to local government leadership arrangements, drawing on a survey undertaken in 2005 of councillors, officers and other stakeholders that supported the view that the arrangements introduced as a result of the 2000 Act facilitated visible and effective leadership.

4.2 The Local Government and Public Involvement in Health Act 2007 built on the White Paper and introduced the requirement for changes to the leadership arrangements in local authorities. These changes involve two possible models, both of which place all Executive powers in the hands of the individual. All councils currently operating Executive arrangements are required, by law, to change to one of two governance options.

4.3 The two options are:

- a Leader and Cabinet Model
- a Directly Elected Mayor and Cabinet Model.

5. THE NEW LEADER AND CABINET MODEL - "STRONG LEADER" MODEL

5.1 The new Leader and Cabinet Model is also commonly known as the Strong Leader Model. The main features of the model are:

- Council appoints the Leader for a four year term (in the case of councils operating whole council elections as at NWLDC). The Leader would be elected at the Annual Council following the District elections;
- the Leader would then be responsible for all Executive functions and would be responsible for:
 - appointing members of Cabinet for a four year term (in the case of councils operating whole council elections as at NWLDC);
 - determining the size of Cabinet (up to 10 members, including the Leader and Deputy Leader);
 - allocating portfolios or areas of responsibility to Cabinet;
 - the Leader can discharge any function of the Executive or allocate decision making powers to the Cabinet and individual Cabinet members;
 - removing and replacing Cabinet members. The Leader could make mid-term alterations to his Cabinet members.

5.2 These features would have been possible under the old Executive arrangements but are now mandatory under the new legislation.

5.3 The new Strong Leader Model also has three key differences which could not be achieved under the old model.

- The Leader's term of office starts on the day of his election by Council as Leader and ends on the day of the post election Annual Council meeting. Currently, the Leader's term of office ends (in common with all councillors) on the fourth day following District elections.
- During the Leader's term of office he or she will automatically cease to be the Leader upon death or disqualification but may only be removed by resolution of Council. Should the Council pass a resolution to remove the Leader then a new Leader must be appointed at the same meeting or a subsequent meeting. Under the current Executive arrangements councils had some discretion and flexibility in this and their constitutions may have provided other means for removing the Leader such as notification that he/she ceased to be the Leader of the relevant political group. North West Leicestershire's current Constitution already reflects the requirements of the new legislation in that it sets out similar circumstances in which

the Leader will cease to hold office, so, in this respect there will be little change. The Council may wish to consider making motions to remove the Leader, a matter that requires notice, a certain number of signatories, and a nomination for the vacated position, to reflect the significance of the decision before Council.

- The 2007 Act also now requires the Leader to appoint a member of Cabinet as his/her Deputy Leader. The law sets out the basis of that appointment as follows:
 - the Deputy Leader, unless he/she resigns or ceases to be a member of the Council holds office until the end of the Leader's term of office;
 - the Leader may remove the Deputy Leader from office during the term;
 - if the Deputy Leader's office becomes vacant, the Leader must appoint another Deputy from the Cabinet membership;
 - if for any reason the Leader cannot act or the Leader's office is vacant, then the Deputy Leader must act in his place.

5.4 Under the current arrangements, the old Leader and Cabinet Model, the Council has the discretion to have a Deputy Leader (as NWLDC does). However, the only powers which can be exercised by a Deputy are the portfolio responsibilities of the Leader and not the statutory functions that are conferred solely on the Leader. The 2007 Act places the office on a firm statutory footing.

6. DIRECTLY ELECTED MAYOR MODEL

6.1 Under the elected Mayor option, the electorate would vote for a Mayor who would hold office for four years.

6.2 The main implications of this model are as follows:

- there would need to be an election, administered and funded by this Council;
- as with the Strong Leader Model, once elected, the Mayor would be responsible for all Executive functions and would decide which of these functions should be delegated to other Cabinet members, Executive Committees or officers;
- the Mayor would not be an elected member of this Council and would have no electoral ward to represent. Therefore would be in addition to the existing 38 councillors. An elected member could stand as a candidate but would need to stand down as a member if elected as Mayor;
- the other (non Cabinet) councillors would have the same functions as at present and the Chairman's ceremonial role as figurehead of the Council would remain. The Mayor would not chair meetings of Council;
- the Mayor would appoint his/her Cabinet of between 2 and 9 councillors (10 including Mayor). They would be appointed for a 4 year term;
- the Mayor would be required to designate a Deputy to act in their place should the need arise and this person would need to be an elected member of NWLDC;

- significantly, unlike the Strong Leader Model, the Council could not remove the Mayor from office during the four year term. The Mayor could choose to resign. Changes in political balances in authorities would not impact on the term of office of the Mayor;
- the Mayor would receive an allowance, the amount of which would need to be set by the Independent Remuneration Panel;
- the elected Mayor could be a member of a political group or independent. The Mayor would, by their election, have a mandate to work to deliver on their election promises;
- the Mayor would be reliant upon NWLDC passing the annual budget and other major policy and strategic decisions and would need to work with councillors to ensure that these are approved.

7. IMPLEMENTATION - LEGAL REQUIREMENTS

- 7.1 At the end of the consultation process, officers will prepare proposals for change including a timetable for implementation and details of any transitional arrangements. In drawing up the proposals, the Local Authority 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 Local Authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 7.2 After drawing up the proposals, the Local Authority must:
- (a) secure that copies of a document setting out the proposals are available at their principal office for inspection by members of the public at all reasonable times, and
 - (b) publish in one or more newspapers circulating in its area a notice which:
 - (i) states that the Authority has drawn up the proposals,
 - (ii) describes the main features of the proposals;
 - (iii) states that copies of a document setting out the proposals are available at their principal office for inspection by members of the public at such times as may be specified in the notice, and
 - (iv) specifies the address of the principal office.
- 7.3 The new arrangements must be approved at a single item or special meeting of the Council by 31 December 2010, leading to implementation following the elections held in May 2011.
- 7.4 Once the Council has approved new Executive arrangements, it must cease operating under the old model and introduce the new model after the third day following the May 2011 District Council elections.
- 7.5 The Council's Constitution will also need to be amended in time for the implementation of the new Executive Model in May 2011, to reflect the new arrangements.
- 7.6 A timetable for the changes is attached at Appendix A.

8. CONSULTATION ARRANGEMENTS

- 8.1 Prior to the Council drawing up proposals for either model, the Local Government and Public Involvement in Health Act 2007 proposes that it must take reasonable steps to consult electors and other interested parties on the two options. The consultation period must last at least 12 weeks, must be limited to the two options and needs to be taken into consideration when the Authority develops its revised Executive arrangements.
- 8.2 The Council is required to pass a resolution to move to either one of the two models before 31 December 2010, for implementation in May 2011.
- 8.3 In view of the time required to develop the new procedural arrangements for introduction in May 2011 and in accordance with the Council's consultation arrangements, it is proposed that the consultation should run for twelve weeks, commencing in June / July 2010.
- 8.4 The Act is not prescriptive on what constitutes "consultation" and makes reference to taking reasonable steps to consult the local government electors for, and other interested persons in, the Authority's area. In light of this and having looked at what other authorities have done, it is proposed that the consultation exercise should include the following:
- all councillors
 - on the Council's website
 - an advert in the local newspapers
 - letters to key stakeholders and partner organisations.
- 8.5 The consultation exercise will be overseen and managed by Democratic Services and the costs of this consultation could be met within existing resources.

9. SHOULD A REFERENDUM BE HELD?

- 9.1 The Council is only obliged to hold a referendum if a petition signed by 5% of the electorate is received. However, if the Council were minded to adopt the Directly Elected Mayor Model it could choose to hold a referendum in any case. All local electors would have the chance of saying if they wanted this model or not. The wording of the question put to referendum is prescribed by law and the Council must abide by the voters' decision (even if there is a low turnout). The Council would also have to bear the cost of a referendum which would be in the region of £100,000 as no additional funding has been received.
- 9.2 The Council cannot hold a referendum if it is minded to adopt the Strong Leader Model as there is no legal basis for holding such a poll.

10. WHAT HAPPENS IF A MAYORAL REFERENDUM IS HELD AND IT IS A "YES" VOTE?

- 10.1 Candidates would be invited to stand for mayoral elections. If there are 3 or more candidates the Mayor is elected using the supplementary vote system. If there are only 2 candidates, the first past the post system is used. If only one candidate, this person would be elected as uncontested. Mayoral elections could be combined with local elections and those would therefore take place in May 2011. Again, the Council would bear the cost of mayoral election.

11. TRANSITIONAL ARRANGEMENTS

- 11.1 Under the Act, the Council must agree transitional arrangements for the period following the local elections up until the annual meeting of Council. Under these proposals, it is recommended that the existing Leader would remain in place (providing, of course, he/she is still a councillor) until the annual meeting after the 2011 elections, at which the new Leader will be elected. Whoever acts in place of the new Leader will have to act in accordance with the existing Constitution and within the parameters of the relevant regulations and statutory provisions.
- 11.2 Cabinet considered this report on 25 May 2010 and resolved that:
- (a) The requirements of the Local Government and Public Involvement in Health Act 2007 be noted.
 - (b) The proposals for consultation on the Council's future Executive arrangements, as set out under paragraph 3 of this report, be recommended to Council for approval.
 - (c) The two options for Executive arrangements be noted.
 - (d) The initial view of the Cabinet, that the Leader and Cabinet Model is the preferred option, be noted and considered by Council.
- 11.3 Cabinet understood and accepted the need to follow the legal process. There was some concerns expressed about the models in terms of the fixed terms of the Leader, Cabinet and the Mayor, whether the Elected Mayor Model would be better suited to bigger authorities and the additional costs of the mayoral system given that no additional funding had been received.

**SUGGESTED TIMETABLE FOR CARRYING OUT CONSULTATION AND
IMPLEMENTING THE NEW GOVERNANCE ARRANGEMENTS**

| DATE | ACTION REQUIRED |
|----------------------------|--|
| 2010 | |
| 25 May 2010 | Initial report to Cabinet outlining key issues, constitutional process and seeking initial views from Cabinet. |
| 29 June 2010 | Initial report to Council outlining key issues and consultation process. |
| 30 June 2010 | Consultation process begins. |
| 22 September 2010 | Consultation process ends. |
| September 2010 | Draw up proposals for preferred governance model. |
| 19 October 2010 | Report to Cabinet on results of consultation process and to agree recommendations to Council for adoption of preferred governance model. |
| 26 October 2010 | Specially convened meeting of Council to pass resolution adopting preferred governance model (or to pass a resolution requesting that a referendum be held). |
| October / November 2010 | If no referendum is to be held, then the Council publishes its proposals as statutorily required. |
| December 2010 | Referendum to be held (if the Council has resolved to hold one). |
| December 2010 | Specially convened meeting of Council to pass resolution to adopt the preferred governance model. (If the Council has held a referendum on this, then the resolution must be to adopt the model favoured as per the results of the referendum.) |
| 2011 | |
| 18 January 2011 | Report to Cabinet to make necessary changes to the Constitution. |
| 24 February 2011 | Report to Council to make any necessary changes to the Constitution. |
| 5 May 2011 | District Council elections. |
| 9 May 2011 | New Executive arrangements come into effect. |
| 24 May 2011 | Annual Council. |