

CITY OF PLYMOUTH

Subject: Changes in Executive Arrangements
Committee: Council
Date: 6 December 2010
Cabinet Member: Council Leader
CMT Member: Director of Corporate Support/Monitoring Officer
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Part: 1

Executive Summary:

The report sets out the framework for decision making following the consultation into the required changes to the Council's executive arrangements resulting from the Local Government and Public Involvement in Health Act 2007. The report only includes information which is available at the date of writing the report. The final results of the consultation and therefore a formal recommendation, will be reported to the meeting.

Corporate Plan 2010 – 2013 as amended by the four new priorities for the City and Council:

None directly from this report.

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

There are only minor costs directly associated with meeting the legislative requirements for the Leadership Model. These will relate primarily to consultation such as advertisements and associated materials. These will be met from existing resources. Should a directly elected Mayor model be introduced, there would be the additional costs of holding a Mayoral election alongside the ordinary Local Government elections in May 2011.

Other Implications: e.g. Section 17 Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc.

None directly from this report.

Recommendations & Reasons for recommended action:

A recommendation will be prepared and made available following the consideration of the consultation results and other relevant factors. The recommendations will be circulated at the meeting..

Alternative options considered and reasons for recommended action:

The alternative options are set out in the body of the report.

The Council would be in breach of the legislation if it failed to bring into effect the change in executive arrangements within the timescale specified by the legislation. If the Council failed to implement required changes, the Local Government and Public Health Involvement in Health Act 2007 provides for the Secretary of State to intervene and prescribe by order the application of Leader and Cabinet Executive Model.

Background papers:

The legislative requirements (forming the background to this report) are set out in the report.

Sign off:

Fin	DJN 101 1.01 0	Leg	1032 0/DV S.	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member: Tim Howes											

1. Introduction

1.1 Members will be aware that the Local Government Act 2000 allowed the Council to choose one of three specified forms of Executive arrangements. These were:

- A Mayor and Cabinet Executive
- A Leader and Cabinet Executive, or
- A Mayor and Council Management Executive

1.2 Plymouth City Council adopted the Leader and Cabinet Executive.

1.3 The 2000 Act allowed the Executive Members to be appointed by the Leader or the Council. Plymouth City Council's Constitution provides for Executive Members to be appointed by the Leader of the Council.

1.4 The Local Government and Public Involvement in Health Act 2007 Act amended the 2000 Act by narrowing the choices available to the Council for executive arrangements to:

- A Mayor and Cabinet Executive, where the Mayor is directly elected by the public for a four year term and Cabinet Members are appointed by the Mayor from Members of the Council.
- A Leader and Cabinet Executive, where the Leader is elected by Members of the Council for a period of four years, or until the Leader's current term of office as Councillor ends. Cabinet Members are appointed by the Leader from Members of the Council.

1.5 The main difference between the two forms of Executive Arrangements are set out in appendix A to this report.

1.6 For the Leader and Cabinet Executive the actual change in the form of the executive in operation at the Council at the moment is very limited, but the key differences are:

- The Leader's term of office is extended beyond the 4th day after the local elections to run up to the day of the first annual meeting after the Leader's normal day of retirement as a Councillor
- During his/her term of office, the Leader will automatically cease to be Leader upon death or disqualification, the Council may also provide that the Leader may be removed by a resolution of the Council.
- There is a requirement for the Leader to nominate a deputy Leader, or in his/her absence the remaining Cabinet Members, may act if the Leader is unable to act or the post of Leader is vacant. Whilst an old-style

Leader may appoint a deputy, currently the only powers which can be exercised by a deputy Leader are the “portfolio responsibilities” of the Leader, as opposed to the statutory functions which are conferred by statute solely on the Leader, such as appointing or removing other Cabinet Members or objecting to senior officer appointments or dismissals.

- 1.7. Executive arrangements by a local authority which provide for a leader and cabinet executive may include provision for the council to remove the leader by resolution. There are no recommendations being made regarding the inclusion of this provision.

2. Consultation

- 2.1. The Council is obliged to take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area. There is no prescription on what form that consultation should take.
- 2.2. In October 2010 the Council agreed to consult on proposals for these new executive arrangements. The preferred option to put out for consultation was the Leader and Cabinet model. In advance of the Council meeting, the Herald had already reported on the recommendations from Cabinet and therefore brought the matter effectively into the public domain. This avoided the need for a separate public advertisement. The publication and consultation that has been undertaken is:
 - Public reports to both Cabinet and Council
 - Issuing of press releases regarding proposals
 - Publishing the proposals on the Council's web-site.
 - Providing information for articles in the Herald
 - An on-line consultation process
 - Making partners aware of the proposals
- 2.3. As stated, a public consultation process was set up on the Council's web-site. Unfortunately, the link to the consultation portal was lost during part of the consultation period. The link has now been re-established and the consultation process extended. The Herald has recently raised the profile of this public consultation which has resulted in increased interest in the matter.
- 2.4. In the absence of web-consultation, the public have of course not been prevented from contacting the council directly on the matter.
- 2.5. Given the fact that the consultation has not concluded at the time of writing this report, the Monitoring Officer will be providing a summary of the consultation results at the meeting.

3. Decision on new executive arrangements

- 3.1. Under the statutory provisions, the Council has to determine its preferred option for executive governance arrangements by the 31st December 2010 (for implementation from May 2011). If the Council fails to decide, then the fallback position is the Cabinet and Leader model.
- 3.2. Having taken reasonable steps to consult with local government electors for, and other interested persons in, Plymouth, Council must now agree proposals to move to one of the two available forms. The results of the consultation will be reported to the meeting.
- 3.3. The Council must have regard to the results of the consultation, and take into account the number of responses and the preferences expressed. However, ultimately the Council must make a decision in favour of what it believes is most *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*.
- 3.4. In making this judgement on "continuous improvement" and which executive governance model is appropriate, the Council can take into account the Council's improvement journey to date. This would include for example, matters such as the improvements in the Council's financial position, the CAA inspection result, the improvement in Children's and Adult Services and the recent "Best Achieving Council of the Year" award.
- 3.5. Cost is another relevant factor to be taken into account. In relation to the additional costs arising from an Elected Mayor and Cabinet model, the Council should consider the extent to which these costs may be offset by any improvements secured by a change to the Elected Mayor and Cabinet model.
- 3.6. In making their decision, the Council may also wish to bear in mind that the Localism Bill is about to be published which will include additional options on governance including a possible return to the old committee system. There is therefore a possibility that the Council might choose a different form of executive arrangements now, and then repeat the process again on consideration of the Localism Bill and subsequent legislation.
- 3.7. In addition, the Localism Bill will it is understood, include proposals for Mayoral referenda in 12 English cities in 2012. Whilst Plymouth is not one

of those 12 cities, it is possible that Plymouth might be included in a future phase.

- 3.8. The Council could put its preferred option for executive arrangements out to a referendum. Additional costs would arise from holding a referendum, should the Council choose to do this. The Electoral Services Manager has advised that a referendum would cost approximately £250,000-£300,000. This cost would be reduced if the referendum were to coincide with an election but due to the timescales involved this would not be possible.
- 3.9. Following its decision, the Council is required to draw up the proposals which include the proposed changes to the Constitution, the timetable for implementation and any transitional arrangements. Once those proposals have been drawn up the Council must make them available to the public and advertise that they are available. There will be a recommendation that the Monitoring Officer is instructed to draw up these proposals once the Council has agreed which model to adopt.
- 3.10. The recommendation which will be prepared after the close of the consultation period, will be based upon the above factors and recommend the form of executive arrangements which is 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. However this is a matter upon which full Council must resolve.

Appendix A

	Current 'strong Leader' and Cabinet model	New 'strong Leader' and Cabinet model	Elected Mayor
Appointment and term of office	Leader appointed by full council annually	Leader appointed by full council for a 4 year term (or until the expiry of the leader's term of office as a councillor)	Elected directly by the electorate for a 4 year term
Removal	The Council may, by resolution, remove the Leader from the office	Councils may include procedures which would allow the removal of the leader from office during the 4 year period by resolution of the council: It is suggested that this is by voting at full council, which requires only a simple majority (Section 44C of the Act).	Cannot be removed during his/her term of office
Executive Functions	Leader agrees the delegation of executive functions	All executive functions would be vested in the Leader who can then delegate.	All executive functions would be vested in the Mayor who can then delegate
Appointment of Cabinet	Leader appoints the Executive Members and notifies Council. Leader allocates Portfolio Holder responsibilities	Council appoints Leader who then appoints his/her Executive Members and allocates responsibility.	Mayor appoints his/her Cabinet Members and allocates responsibility
Deputy	No legal requirement to have a Deputy Leader	Legal requirement to have a Deputy Leader.	Legal requirement to have a Deputy Leader.

	Current 'strong Leader' and Cabinet model	New 'strong Leader' and Cabinet model	Elected Mayor
Budget and Policy Framework	A simple majority of members present at the Council meeting need to vote to overturn a decision or recommendation of Executive.	No change	A majority of two thirds of the members present at Council need to vote to overturn a decision or recommendation.