

CABINET

4 December 2008



Local Government and Public Involvement in Health Act 2007 - New Executive Arrangements

Report of Lesley Davies, Acting Director of Corporate Services [Cabinet Portfolio Member for Corporate Services, Councillor Michele Hodgson]

1 Purpose of Report

This report follows consultation on the adoption of new executive arrangements as required by the Local Government and Public Involvement in Health Act 2007 (the 2007 Act), as reported to Cabinet and County Council earlier this year. The report invites Cabinet to make recommendations to the County Council in relation to the leadership model to be adopted in 2009.

2 Background

2.1 Members will recall that the 2007 Act has amended the Local Government Act 2000 to change the choices available to local authorities in relation to their executive arrangements. The choices available to authorities are now:

- (1) A Leader and Cabinet Executive; or
- (2) A Mayor and Cabinet Executive.

The Council formerly adopted a Leader and Cabinet Executive in 2001 under the provisions of the Local Government Act 2000, but must now change to one of the above, as the current Leader and Cabinet Executive is no longer an option. The new Leader and Cabinet Executive option involves changes as follows:

- the Leader elected by the Council and normally holding office for a four year term;
- Executive Members may only be appointed by the Leader of the Council.

2.2 My report to Cabinet of 18 September gave details of the legislation, issues and process that must be followed.

2.3 The County Council on 1 October received a report with recommendations from the Constitution Working Group and resolved that consultation be undertaken in accordance with the 2007 Act on proposals to change to the new style Leader and Cabinet Executive.

3 **Consultation**

- 3.1 Details of the consultation were posted on the Council's New Era website and a press release was issued on 7 October. This resulted in coverage in a number of local newspapers and a radio interview with Durham FM. The consultation period ran for approximately 4 weeks.
- 3.2 The consultation generated five responses only. These are available for inspection in the Members' Resource Centre. One of the responses appears to relate purely to the Durham City Mayor and requests that the role is continued. The remaining responses are evenly divided between favouring the leader and cabinet model and the Mayor and cabinet model, as summarised below:

Elected Mayor with Cabinet

- concern expressed about the new Unitary Council being too bureaucratic and less responsive to local needs, suggesting this may be counteracted with a directly elected mayor with cabinet
- suggestion that a directly elected mayor with cabinet is more democratic.

Leader with Cabinet

- position of mayor should be reserved for Durham City
- respondent has reviewed the operation of councils who have adopted (a mayor with cabinet) arrangement "and find they are self-centred political animals, who have scant regard for their constituents".

4 **Proposals for Change**

- 4.1 Following the consultation, the Council must now determine its proposals for its executive arrangements.
- 4.2 Members will recall the key features of the two executive models. The new Leader and Cabinet Executive model is very similar in practice to the Council's current model. Under the new Leader and Cabinet Executive, a Leader will be elected by the members of an authority and will hold office for a four year term. The Leader will determine the number and appointment of other Executive Members (between 2 and 9). The Leader will appoint a Deputy Leader and may remove the Deputy and other Executive Members.

- 4.3 The Council may include provision for the Council to remove an Executive Leader by resolution during the four year term. If that power is adopted, and such a resolution was to be passed, a new Leader would have to be appointed at the same time or at a subsequent meeting. The Council will need to consider whether it is advisable to adopt a power to remove a leader mid-term for future reference.
- 4.4 The Constitution Working Group in considering these proposals was of the view that such a provision should be included, within a framework regulating its operation. This further detail will be examined as part of the wider review of the Constitution currently under way.
- 4.5 Under the Mayor and Cabinet Executive, the Mayor is directly elected, also for a four year term, and cannot be removed from office by the Council. Also a two-thirds majority is required to overturn a Mayor's budget or major policy proposals. An elected Mayor also has power of appointment and removal of the Deputy Mayor and Executive Members.

5 Continuous Improvement

- 5.1 In determining its proposals, the Council is required to consider the extent to which they would be likely to assist in securing continuous improvement in the way in which the authority's functions are exercised having regard to economy, efficiency and effectiveness. When the matter was considered by Cabinet and the County Council earlier this year, Members felt that the Leader and Cabinet Executive would ensure the Council's Leader has the clear support of the full Council and the opportunity to ensure Executive roles are undertaken by those who will be most effective. It places strong leadership in the hands of a Leader supported by an Executive chosen for their ability to fulfil their roles. The new Leader and Cabinet Executive is one of the options considered by the Government to provide strong leadership in local authorities. Under the current similar Leader and Cabinet Executive model the Council has consistently been a high performing authority in the delivery of services and community leadership, assessed as four star and improving well by its external assessors.

6 Next Steps

- 6.1 Cabinet is asked to consider the outcome of the consultation and to make recommendations to the County Council in respect of the new leadership model. The necessary consequential constitutional changes will be picked up as part of the exercise currently underway for the purposes of the transition to unitary status.
- 6.2 The Local Authorities (Functions and Responsibilities) Regulations 2000 specify how the functions for which the Executive are responsible are determined. The current arrangements agreed by the Council regarding local choice functions (those which may or may not be the responsibility of the Executive) are attached at Appendix 2. The Council must, in deciding upon its proposals under the 2007 Act, state the extent to which those functions are to be the responsibility of the Executive under the new arrangements. It is suggested that it be recommended to the County Council that the arrangements as currently agreed be confirmed for the time being but that these be re-examined under the constitutional review currently underway.

7 **Recommendations**

- (a) That Cabinet recommend to the County Council proposals for the new executive arrangements for the Council in accordance with the 2007 Act, and that all necessary public notice be given. The proposed changes must be determined by the County Council before the end of December 2008.
- (b) If Cabinet is minded to recommend the Leader with Cabinet model, that the Council be also recommended to adopt a provision for removal of the Leader during his/her term of office, within a framework regulating its operation as set out in paragraph 4.4 above.
- (c) In accordance with paragraph 6.2 above to recommend to the County Council that the arrangements for local choice executive functions and responsibilities under the 2000 Regulations be confirmed for the time being and re-examined as part of the review of the constitution currently being undertaken.

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Appendix 1: Implications

Local Government Reorganisation

(Does the decision impact upon a future Unitary Council?)

If adopted, the Proposals will be implemented on 1 April 2009.

Finance

None

Staffing

None

Equality and Diversity

None

Accommodation

None

Crime and disorder

None

Sustainability

None

Human rights

None

Localities and Rurality

None

Young people

None

Consultation

Consultation has been carried out as set out in the report.

Health

None

B. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

The Executive will discharge all of the Council's functions which by law are executive functions, together with the following local choice executive functions:

- The making of appointments under paragraphs 2 to 4 (appointment of members by relevant councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996.
- The appointment of any individual –
 - to any office other than an office in which he is employed by the authority;
 - to any body other than –
 - (i) the authority;
 - (ii) a joint committee of two or more authorities; or
 - to any committee or sub-committee of such a body,and the revocation of any such appointment.
- The discharge of the Council's functions relating to the control of pollution and the management of air quality.
- The making of agreements with local authorities and other bodies for the placing of staff at the disposal of those other authorities or bodies.