

	
Executive	6 th July 2010
Report of the Head of Civic, Legal and Democratic Services	

CHANGING EXECUTIVE ARRANGEMENTS

Summary

1. The Council is obliged to change its executive arrangements from next May. The new arrangements need to be determined by full Council before the end of this year and there is a requirement for public consultation prior to the decision making. This report seeks support for the proposed consultation arrangements.

Background

2. The Local Government Act 2000 required most local authorities to operate executive arrangements using one of three model forms of executive provided for in the Act:-

- elected mayor and cabinet
- leader and cabinet
- elected mayor and Council manager

The majority of Councils, including the City of York, opted for the leader and cabinet model.

3. The Local Government and Public Involvement in Health Act 2007 now requires local authorities in England to operate one of two models, namely:-

- elected mayor and cabinet
- “new-style” leader and cabinet executive (England).

4. The new arrangements take effect in York’s case on the third day after the 2011 Council elections. The new Government has announced an intention to legislate to allow Councils to return to a Committee system. The detail behind this is unclear and the amending legislation is unlikely to be in place before York has to comply with the existing provisions.

5. Under the **elected mayor model**, the executive consists of:-

- a mayor elected by the local authority electorate for a four year term,
and
 - between two and nine councillors of the authority appointed to the executive by the elected mayor.
6. Under the **new style leader and cabinet model**, the executive consists of:-
- a councillor of the authority (“the leader”) elected as leader of the executive by the Council, and
 - between two and nine councillors of the authority appointed to the executive by the leader.
7. The new style leader and cabinet executive differs from the existing leader and cabinet model in a number of other ways:-
- the leader is appointed for his current term of office as a Councillor rather than appointed annually. It is though possible to make provision in the Constitution for the Council to be able to remove the leader earlier;
 - the leader rather than the Council determines the size of the executive;
 - the leader rather than the Council appoints the members of the executive and can remove them at any time;
 - the leader must appoint one member of the executive to be deputy leader who will act as leader if the Leader is unable to act. The deputy leader’s term of office will be co-terminus with that of the leader (provided that the deputy leader remains a councillor). However, the leader can remove the deputy leader from office;
 - the leader and not the Council will determine the arrangements for the delegation of executive functions.

With one important difference the powers of the leader and those of an elected mayor are now the same.

8. The key difference in terms of powers is that under the leader and cabinet model, the executive recommends the budget and strategic policies to the council which may approve, amend or overturn them by a simple majority. Under the mayor and cabinet model, the executive submits the budget and strategic policies to the Council. Council can only amend or overturn the proposals by a two-thirds majority.
9. The other significant difference is that an elected mayor (unlike the leader) is not a councillor and would be directly elected by the whole city electorate rather than having his/her own ward.

Consultation

10. Even if the Council is minded to opt for the new-style leader and cabinet model certain legal steps must be taken. In summary these require:-

- Consultation with local government electors and other interested persons in York.
- Following that consultation the Council must draw up proposals for the change.
- The Council must pass a formal resolution to make the change.
- The proposals must be published in accordance with legal requirements

The resolution must be passed no later than 31 December 2010.

11. There was previously a requirement that before the Council could implement proposals for an elected mayor there must be a referendum. This has changed and now the holding of a referendum is discretionary unless the authority's current form of executive was itself approved in a referendum (which was not the case in York). This does not affect the requirement to hold a referendum if at least 5% of the local electorate petitions for a referendum on the council's governance arrangements.

12. There is no guidance on the steps which must be taken to meet the legal requirement that "reasonable steps" to consult local government electors before publishing proposals.

13. Case law though requires that public consultation must:-

- (i) be undertaken when the decision that is being consulted upon is still at a formative stage (i.e. no pre-determined decision has been made and the public body is not merely paying "lip-service" to its obligation to undertake a consultation);
- (ii) include sufficient information to allow interested parties to consider the decision that is being consulted upon and formulate their response;
- (iii) allow adequate time for interested parties to consider and respond to the consultation;
- (iv) take all the responses from the interested parties conscientiously into account when the ultimate decision that is the subject of the public consultation is taken.

14. It is proposed that the consultation should include the following:-

- (i) consultation with each political group;
- (ii) issuing a press release at the beginning of the consultation period and inviting a response to the consultation document;

- (iii) putting copies of the consultation document in public buildings such as local libraries;
- (iv) putting an article Your City (circulated early August)
- (v) putting a copy of the consultation document on the Council's website and publicity as to the consultation on the Council's website;
- (v) consultation through the Without Walls Partnership.
- (vi) An informative to Ward Committees

Proposed Timetable

- 15. Public Consultation Mid July to mid September 2010
- 16. Report with draft proposals to Executive 21st September 2010
- 17. Report with draft proposals to Audit and Governance Committee 29th September 2010
- 18. Report with draft proposals to Council on 7th October 2010
- 19. The new form of Executive implemented after the local government elections in May 2011.

Options

- 20. There is a statutory obligation to change the Council's executive arrangements and to undertake public consultation before doing so. At this stage the options available relate to the timing and method of consultation. In due course Council will have to determine which of the two models of executive it wishes to adopt.

Analysis

- 21. The proposed consultation arrangements will meet legal requirements and provide ample opportunity for views to be put forward by those who may wish to do so.

Corporate Priorities

- 22. Proper and lawful decision making arrangements are integral to the Council delivering all of its priorities but are particularly linked to the effective organisation priority.

Implications

- 23.

(a) **Financial** – No specific implications

- (b) **Human Resources** – No specific implications
- (c) **Equalities** – No specific implications
- (d) **Legal** – Implications are described within the report
- (e) **Crime and Disorder** - No specific implications
- (f) **Information Technology (IT)** - No specific implications
- (g) **Property** - No specific implications
- (h) **Other** – None

Risk Management

- 24. The key risk is failure to comply with legal duties and this is addressed within the report.

Recommendations

- 25. Members are recommended to give support to the proposed consultation arrangements described within the report.

Contact Details

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	Report Approved	<input checked="" type="checkbox"/>	Date 23/6/10
Specialist Implications Officer(s) None			
Wards Affected: <i>List wards or tick box to indicate all</i>			All <input checked="" type="checkbox"/>
For further information please contact the author of the report			

Background Papers:

All relevant background papers must be listed here. None