

	
AUDIT & GOVERNANCE COMMITTEE	29th September 2010
Report of the Head of Civic, Democratic and Legal Services	

Changing Executive Arrangements

Summary

- 1.1 This report advises the Audit & Governance Committee of the results of the public consultation on changes to the Council's executive arrangements. The report seeks a recommendation from the Audit & Governance Committee to Council in respect of the new arrangements which the Council must adopt.

Background

- 2.1 At its meeting on 6th July 2010 the Executive received a report on the new executive arrangements introduced by the Local Government and Public Involvement in Health Act 2007. The report advised that the Act required the Council to resolve by 31 December 2010 to change to one of two model forms of executive, namely:

- an elected mayor and cabinet
- a "new-style" leader and cabinet

Under the new style of Leader and Cabinet:

- 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 the same.

- 2.2 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.
- 2.3 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.
- 2.4 Shortly before the Executive considered the July report it became apparent that the Government intended to change the law to enable Councils to return to a Committee system if they so wished. The Government has also indicated an intention to abolish the requirement to elect a Leader for four years.
- 2.5 Unfortunately the requirement to adopt new arrangements is set out in primary legislation and without those provisions being repealed the process must be followed through even though within a year or so alternative arrangements may be available.

The Consultation Exercise

- 3.1 By law “**Before** drawing up its proposals” for change to the form of the Executive, the Council “must take reasonable steps to consult the local government electors for, and other interested persons in” the Council’s area.
- 3.2 There is though no specific form or period of public consultation prescribed by law. In addition the Department for Communities and Local Government had previously decided not to issue any Guidance on the subject.
- 3.3 Following the Government’s announcement of their legislative intentions though, the Minister for Housing and Local Government wrote to Councils indicating that the Government’s expectation, in light of the circumstances, was for consultation at minimal cost. Specifically the Minister suggested that: “no more than a small newspaper article/advert or press release on your website may be proportionate and right in these circumstances”.
- 3.4 In fact the Council’s consultation has gone further than the minimal level suggested by the Minister (although still at minimal cost). It has included:

- An online consultation which ran from 16th July to 1st September 2010
- An informative at Ward Committee meetings
- A notice in the Central Library
- Detailed articles in the York Press on the 31st July and 28th August
- An article in the staff newsletter – News and Jobs
- Consultation with WOW Board Members
- Briefings to Councillors

3.5 The consultation resulted in 52 online responses and one letter. To put that in context when North Yorkshire County Council undertook their consultation exercise (counties having implemented the new arrangements in 2009) they received sixteen responses. Low response levels to these consultations (in some cases in single figures) have been the pattern in most areas where new arrangements have already been implemented.

3.6 In summary the results of the consultation were that 33 respondents supported a Leader and Cabinet Executive, 18 an elected Mayor and Cabinet and two made comment but did not formally express a preference (although in one case the comments may be interpreted as support for the elected Mayor option). Where comments were made these have been included in Annex one to the report which also includes an extract from the one letter received.

Time-table and transitional arrangements

4.1 There is a two stage decision making process. The Council must first agree and publish draft proposals. These must include:

- A time-table with respect to implementation of the proposals and
- Details of any transitional arrangements that are necessary for the implementation of the proposals.

4.2 The Council must then formally resolve at a special meeting to change its governance arrangements. It is proposed that the Council meets to make this decision on the 9th December 2010, the date of the scheduled Council meeting.

4.3 The Council must stop operating its current form of Executive and start operating the new form of Executive 3 days after the elections due to be held in May 2011.

- 4.4 There will therefore be a change-over period before a leader is formally elected at the annual meeting. In terms of transitional provisions the proposals could replicate the position which would otherwise have existed and provide for the leader in office at the time of the elections (if still a Councillor) to remain in place until the annual meeting in 2011.
- 4.5 If the Council were to decide to move to an elected Mayor and Cabinet form of Executive, the Mayor would take office immediately. Given the more significant change in form, further consideration would need to be given to transitional arrangements if the Council were minded to move to this form of Executive.
- 4.6 The draft proposals at appendix 2 provide a suggested time-table and includes the transitional arrangements described above for a Leader and Cabinet form of Executive.

Referendum

- 5.1 The Council may decide that its proposals should provide for the change in form of the Executive to be submitted to approval in a referendum. The results of any referendum would be binding on the Council.

Arrangements to remove the Leader

- 6.1 If the Council is minded to adopt the Leader and Cabinet form of Executive, the Council may also include provisions in its Constitution whereby the Council may remove the Leader from office at any time.

Options

- 7.1 The Committee may recommend to Council that the Council adopt proposals for either of the two forms of Executive described in the report. The Committee may also make recommendations as to whether there ought to be a referendum and whether or not to make constitutional provision for early removal of the Leader.

Analysis

- 8.1 In reaching a decision as to which form of Executive the Council should adopt the Council will be required to consider the results of the consultation exercise. The small sample indicates a preference for a Leader and Cabinet Executive. Perhaps the strongest message though to be gained from the consultations is that the Council's form of governance is not something which particularly troubles York Residents.

8.2 The Council is also legally 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, having regard to a combination of economy, efficiency and effectiveness.

8.3 The leadership of the Council is of crucial importance in securing continuous improvement in the exercise of the Council's functions. The City of York is an area with high levels of citizen satisfaction. There is no clear evidence that one model or the other results in better levels of service.

8.4 In considering whether or not to have a referendum the Council should have regard to the following:

- The results of the public consultation carried out by the Council.
- If the Council decides to adopt the Leader and Cabinet form of Executive, this does not prejudice the ability of York residents to make a petition calling for a referendum on whether or not to have an elected Mayor.
- Significant additional costs would arise if the Council chose to hold a referendum. Although difficult to assess accurately, it seems reasonable to assume that the costs for a stand alone referendum would be equivalent to a General election, so in the region of £225,000 to £250,000.

8.5 It is unfortunate that the Council is bound to make this change despite knowing that the law is about to change. Preserving the status quo pending that change in the law is not an option but the "new style" Leader and Cabinet Executive comes closest to it.

8.6 It would seem appropriate for the Council to reserve the option of removing a Leader during his or her term of office.

Corporate Priorities

9.1 The Council's leadership and governance arrangements are central to achieving the objectives within the corporate strategy.

Implications

10.1

- **Financial** – reference is made to the report of the significant financial implications if a referendum were held. No budgetary provision currently exists.

- **(Human Resources (HR))** – no implications.
- **Equalities** – no specific implications.
- **Legal** – implications are set out in the report .
- **Crime and Disorder** – no implications.
- **Information Technology (IT)** - no implications).
- **Property** - no implications.
- **Other** – none.

Risk Management

11.1 No specific issues arise.

Recommendations

The Committee is recommended:

- To make a proposal to Council as to the form of Executive which the Council should adopt.
- To propose that the timetable should be as set out in annex two.
- To propose that the Council should not instigate a referendum.
- That if the Committee is minded to support the Leader and Cabinet form of Executive, to recommend that Council make provision in the Constitution for removal of the Leader during his or her term of office and adopt the transitional arrangements set out in annex 2.

Reason: The Council is obliged by law to prepare a proposal as described within this report.

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Specialist Implications Officer(s) <i>List information for all</i> <table border="0" style="width:100%"> <tr> <td style="width:50%"><i>Implication ie Financial</i></td> <td style="width:50%"><i>Implication ie Legal</i></td> </tr> <tr> <td><i>Name</i></td> <td><i>Name</i></td> </tr> <tr> <td><i>Title</i></td> <td><i>Title</i></td> </tr> <tr> <td><i>Tel No.</i></td> <td><i>Tel No.</i></td> </tr> </table>					<i>Implication ie Financial</i>	<i>Implication ie Legal</i>	<i>Name</i>	<i>Name</i>	<i>Title</i>	<i>Title</i>	<i>Tel No.</i>	<i>Tel No.</i>
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Wards Affected: <i>List wards or tick box to indicate all</i>				All								

For further information please contact the author of the report	

Background Papers

None

Annexes

Annex One – Consultations responses

Annex Two – Draft proposals for change to Executive Arrangements

Annex One

Consultations responses

Which of the following options do you support? Please explain the reasons for your chosen option.

A leader and Cabinet Executive

To limit the power of an elected mayor

An elected Mayor and Cabinet Executive

Currently we have no idea at election time who is likely to be leader or who the cabinet will be and what their policies might be. This way we can vote directly for the Mayor and his/her policies.

I do not like either suggestions as both diminish the individual powers and responsibilities of the elected representatives. What is needed are City Councillors who are elected because of their knowledge, intelligence and wisdom; not their party political allegiance.

A leader and Cabinet Executive

I do not believe that a single individual can successfully represent the diversity of views and interests in the city and a period of four years is too long if things do not go well. Leaders are primus inter pares and tend to operate in a different way to those who are directly elected whether or not in a silly costume.

An elected Mayor and Cabinet Executive

I think there is no real connection between voters and the "management" side of the city council under present arrangements, and relatively few people bother to vote for councillors in any case. If a mayor stood on a manifesto for direct election, he would then be directly answerable as to how he delivered (or not) and there would be a much greater incentive to turn out and vote in an election for such a mayor.

A leader and Cabinet Executive

The Council is already a body chosen by election. Let them get on with what they are elected to do.

A leader and Cabinet Executive	I elect my members of the council to represent my interests but work with others who understand the subtleties of policy and details of budget to work on my behalf - which includes the ability to decide leader and cabinet and replace them if they choose. A directly elected mayor may not be replaced by the councillors and is more likely in my opinion to be populist than competent at policy.
A leader and Cabinet Executive	I worry about populist and possibly incompetent mayor being elected. As was the case with Doncaster and Hartlepool
An elected Mayor and Cabinet Executive	This is the more democratic option and it gives more power to the citizens of York as we will have a choice of who are council leader is. By having a Mayoral election, like the one they have in London the council will have to answer to the people more and we will have a choice on how our city is run and who is running it.
An elected Mayor and Cabinet Executive	We can remove an elected mayor from office
An elected Mayor and Cabinet Executive	Direct election is better than the behind closed doors dodgy dealing we see now
An elected Mayor and Cabinet Executive	Power should always be in the hand of the people at elections
A leader and Cabinet Executive	The leader of the council must be answerable to the electorate. An elected mayor who cannot be removed for four years does not satisfy this fundamental requirement. A leader who can be removed (albeit by full council vote) provides a flexible scenario and satisfies the above requirement. An elected mayor will confuse the public of York. We already have a mayor in the Lord Mayor who performs an entirely different role. An elected mayor system provides for cumbersome budget review if ever needed - with 2/3 vote required to overturn. This is not what we need - we need to be as nimble as we can be in these uncertain times.

An elected Mayor and Cabinet Executive	I have a strong preference for an elected Mayor, based on my desire for greater accountability for local government decisions and a more transparent decision making process. The present situation is unsatisfactory, as key decision makers such as [a Councillor] are accountable to the Ward of the City which elected them, and then only for decisions affecting voters of that Ward. For example, Councilor [] is not held to account by voters in other Wards of the City who were adversely affected by his decisions and their implementation (and there have been several of these).
A leader and Cabinet Executive	this option seems to have more flexibility, but I don't want the Lord Mayor status to be lost in York as this is so good for the tourist population, and once lost it will be gone for ever.
A leader and Cabinet Executive	Avoids any clashes between the mayor and the Council
An elected Mayor and Cabinet Executive	so people of York can have a say in who leads the Council
A leader and Cabinet Executive	The Lord Mayor of York is an honorary position given to a deserving Councillor. It should not depend on politics.
A leader and Cabinet Executive	I feel that the current system works well and holding additional elections would be an unnecessary expense.
A leader and Cabinet Executive	I don't like the idea of an elected mayor being unaccountable to elected members for 4 years and I don't like the idea of a mayor being separately voted on.
An elected Mayor and Cabinet Executive	We need a CEO who is not affiliated to any party or subject to the ruling group's whims.
A leader and Cabinet Executive	Neither is particularly democratic but leader and cabinet is more accountable
A leader and Cabinet Executive	To maintain the Status Quo which works very well. A figure head of a lord mayor elected from the councillors, with an executive leader and an executive committee

A leader and Cabinet Executive	All members should be elected and not handpicked - it would just be one more layer of government at a time we are trying to cut back public spending
A leader and Cabinet Executive	Option 2 is essentially what we have now. A Mayor would have to be a populist possibly without the support of any Councillors
An elected Mayor and Cabinet Executive	The opportunity to bring someone in from outside party politics
An elected Mayor and Cabinet Executive	Having lived in London, I can see the value and opportunity an elected executive can bring. This should help make decision-making more democratic and accountable. The general trend is towards elected Mayors as citizens generally demand a say in the way their city is run.
A leader and Cabinet Executive	Saves money and costs of yet one more badly supported election
A leader and Cabinet Executive	The idea of a directly-elected mayor is an outrage. What is the point of having 47 representative Councillors if there is a separate Mayor with extensive powers, especially over the budget ? And what happens if some maverick wins on the basis of a populist campaign ? One particular danger would be an attack on sensible Council projects coupled with cuts in Council Tax, leading to the sort of mess that California is now experiencing.
An elected Mayor and Cabinet Executive	Too much bureaucracy at present and an elected Mayor would have the power to approve things a lot quicker, as well as being accountable for his/her actions.
An elected Mayor and Cabinet Executive	I think a mayor should be voted by local people
A leader and Cabinet Executive	I am not very happy with either choice, but a leader and cabinet executive seems the least of the evils, and nearest to the present reasonable arrangements. A mayor elected by the whole community presupposes that the electorate knows the candidates well enough, and an election campaign that could easily not reveal the best person for the job. I am very concerned that most people in York have no idea about this consultation, and it seems those without computers are disenfranchised

An elected Mayor and Cabinet Executive

An elected Mayor is more democratic than having a leader 'selected' by councillors. Would also present opportunity to scrap current ceremonial post which is waste of taxpayers money.

A leader and Cabinet Executive

Having an election will only mean another expense

A leader and Cabinet Executive

Neither appear very democratic. Preferable of the two.

An elected Mayor and Cabinet Executive

worked fine for years

The present system with a leader elected by a majority of councilors has a democratic deficit. The policies and decisions of the leader and executive can be decided without consultation with the elected councilors. Such consultation may or may not take place since it depends on whether the political parties have a protocol and enforce it. The requirement for the leader to consult elected councilors on policy and decisions should be written into the empowering act, not left to the whim of the political parties. The current system where the leader can act behind a political caucus deprives the electorate of the power to influence policy through the councilors which they have elected. An elected mayor is directly responsible to his electorate, for any departure from or doubtful interpretation of the policies which he presented as the platform for his election

A leader and Cabinet Executive

I am concerned about the possible additional costs of holding an election for a Mayor and think the current approach is adequate. I prefer that the position of Mayor continues to be an honorary role, with benefits for the city in terms of tourism and raising the profile of the city's charities. Some elected mayors have not served their communities well and I wouldn't want York's image to be tarnished in a similar way

A leader and Cabinet Executive

I do not want to lose the current status that York has with a Lord Mayor who performs his/her role admirably. An elected mayor is bound to have a negative effect on this post.

A leader and Cabinet Executive

Important that leader is elected annually. Leader should have clear understanding of all York's policies - not be some single-issue obsessive!

A leader and Cabinet Executive

Putting a large amount of executive power into the hands of an elected mayor, who is not held in check by an elected council of which (s)he is a member, leads to arbitrary and irresponsible decision-making which can adversely affect the lives of residents without providing them with any early opportunity to seek redress via their local councillor. The personal qualities of the sort of people who seek this relatively unaccountable position of power can also be very questionable. Locally, here in York we have a historic post of Lord Mayor which would be sidelined and probably jeopardised by the appointment of an elected mayor.

An elected Mayor and Cabinet Executive

The introduction of a directly elected mayor would (if coupled with the necessary executive powers to enable the mayor to drive forward their manifesto commitments) potentially lead to greater accountability of the executive to the people of York. Unlike the present arrangements, there would have to be a clear election platform on which a successful candidate could then be judged and subsequently voted out if found wanting. A successful candidate would need to appeal to the wider York electorate and therefore have a vision for the city as a whole rather than simply be returned for a particular ward. There is also a general apathy towards local government, which is reflected in low turnout at local elections. The introduction of direct democracy has the potential to change this and invigorate local authorities. The expenditure of the council already covers payment for executive functions and a cabinet. Accordingly, whilst there would inevitably be additional costs associated with holding a mayoral election (which themselves could be minimised if held simultaneously with council ward elections) in assessing the overall net increase in costs of having a directly elected mayor it would be necessary to deduct the substantial amount of money that is already being spend under the current system on executive functions (which should either be transferred across to the mayor's office or abolished to avoid unnecessary duplication). In addition, it is likely that with the increased accountability of a directly elected mayor there would be increased political pressure to reduce council tax/business rates bill and therefore there would be an added impetus to further reduce administrative costs and find new efficiency savings. The existence of a directly elected mayor need not be mutually exclusive to the continuance of the traditional ceremonial role of the Lord Mayor.

A leader and Cabinet Executive

Personally I prefer our present system with a separation between the ceremonial and host aspects of the city's life, a person chosen as now, on a party rotation system, and the very responsible and demanding task of the Chief Executive, selected after careful advertising and interviewing as the person most likely to be able to fulfil this role. In other words please do not risk York being represented by a Borsari Johnson! Or even his predecessor.

Annex2

Draft Proposals for change to Executive Arrangements

1. The Executive form of the City of York Council should be “new style” Leader and Cabinet Executive (England)
2. The Council should have the power to remove the Leader by way of resolution by a simple majority.
3. No referendum should be held.

Transitional Arrangements

4. The Leader of the City of York Council who is in office at the time of the local elections on 5th May 2011, should remain in office until the Annual Meeting of the Council following the election.
5. The Scheme of responsibility for the Council’s Executive and local choice functions in the Council’s Constitution at the time of the Local Elections on the 5th May 2011 should remain in force until such time as they are amended by the Council’s new administration.

Time-table

6. The time-table for the implementation of the City of York Council’s proposals is set out below:-

Report on outcome of public consultation to Executive	21 st September 2010
Report on outcome of public consultation to Audit and Governance Committee	29 th September 2010
Report to Council and approval of draft proposals	7 th October 2010
Publication of Draft proposals	October/November 2010
Special Council meeting to agree new governance arrangements	9 th December 2010
Publicise new arrangements	Mid December 2009
New form of Executive comes into operation (and constitutional amendments implemented).	3 days after local elections 6 May 2010
Leader elected (if Council decides to accept Leader and Cabinet form).	First Annual meeting of Council after elections