

**REPORT OF THE CONSTITUTION REVIEW WORKING GROUP
No. 3/2009-10**

COUNCIL 14 DECEMBER 2009

Chair:
Councillor Kober

INTRODUCTION

- 1.1 This report covers the consideration given by the Constitution Review Working Group at our meeting on 20 October 2009 to the item entitled "Update on the Implementation of New Executive Leadership Arrangements".

ITEM FOR DECISION

2. IMPLEMENTATION OF NEW EXECUTIVE LEADERSHIP ARRANGEMENTS

- 2.1 We considered a report which reminded Members of the two options for the new executive leadership arrangements under the Local Government and Public Involvement in Health Act 2007 (the 2007 Act). The 2007 Act has amended sections 11 and 14 of the Local Government Act 2000 which deal with the permissible forms of executive leadership and the discharge of executive functions.
- 2.2 The two options are (i) a Leader elected by the Councillors at full Council ("the Leader"), or (ii) a Mayor directly elected by the local electorate ("the Mayor"). We noted that both options involved a 4 year term and the vesting of all executive functions in the Leader/Mayor to exercise or delegate at their discretion. The choice between Leader or Mayor would not affect the other governance arrangements in the Council.
- 2.3 The report sets out the decisions taken to date. On 18 May 2009 full Council approved a form of "open-ended" first stage public consultation inviting views on the choice between the Leader or the Mayor options. That Council also agreed a timetable for the consultation and decision-making on the new executive leadership arrangements and agreed that the Constitution Review Working Group ("CRWG") should have Member oversight of the process.
- 2.4 The responses to the first stage public consultation were considered by full Council on 20 July. Of the 590 responses, 325 favoured the Leader option and 265 favoured the Mayor. Members then approved formal proposals for new executive leadership arrangements based on the Leader option subject to a second stage public consultation. These proposals are set out in Appendix 2 to this report.

- 2.5 In drawing up these formal proposals Members complied with their specific statutory duty 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 Council's functions were exercised, having regard to a combination of economy, efficiency and effectiveness. Members noted the benefit to the effective running of the Council following from the greater likelihood of shared priorities between the majority of Councillors and a Leader elected by them as compared with a popularly elected Mayor.
- 2.6 Full Council on 20 July were advised of the low level of public response to the first stage consultation. Members asked for a more extensive second stage consultation. Details are provided below in paragraph 2.7. There appeared to be very little public demand for a referendum which would have cost in the region of £250,000.
- 2.7 We were advised that the second stage public consultation ran from 6 August until 9 October. In accordance with the legal requirements, the proposals were advertised in local newspapers and made available for public inspection at the Civic Centre. In addition, the proposals were publicised: - on the Council website with an on-line survey, in a double page article in the Haringey People, by posters with a leaflet and tear-off slip at libraries and customer service centres, by notices at Area Assemblies, by a press release, by letters to partners and community organisations, by letters to first stage respondents and by an item and debate at the Youth Council.
- 2.8 At our meeting on 20 October we noted that 108 responses had been received in total from outside the Council. Of these 74 favoured the Leader option, 22 favoured the Mayor option and 12 made other comments not clearly on one side or the other. Many responses expressed distrust of the Mayor option which was seen as less accountable over a period of 4 years. More details of the responses to the second stage public consultation are set out in Appendix 1 to this report.
- 2.9 While the low level of public response on this important issue is disappointing, the main conclusion from the public consultations is that there is far less support for the Mayor option which would be the more radical departure from current governance arrangements.
- 2.10 We were advised that in the absence of a referendum, Members were not bound by the numerical weight of preferences expressed for either option but could have regard to other factors. But Members should bear in mind their statutory duty to consider how far the proposals in Appendix 2 would assist in securing continuous improvement in the exercise of Council functions, as fully set out in paragraph 2.5 above.
- 2.11 On 20 October we gave further consideration to the proposals set out in Appendix 2 to this report. The key points are as follows:

- (i) the Leader will be elected by full Council for a 4 year term instead of only one year as at present;
- (ii) the Leader may be removed from office during that term by a vote of no confidence carried by a simple majority of Councillors;
- (iii) The Leader, not full Council, will appoint the Cabinet Members and fix their portfolios;
- (iv) There will be at least 2 but no more than 9 Cabinet Members. The Leader will have power to replace or remove them at any time and to vary portfolio responsibilities;
- (v) The Leader must appoint a Deputy Leader able to exercise the Leader's powers in the absence or incapacity of the Leader;
- (vi) The Leader will be able to exercise all the "executive-side" functions of the Council or to delegate them to individual Cabinet Members, Cabinet Committees or officers. These delegations can be revoked at any time;
- (vii) The Local Choice Functions will continue unchanged as will all the non-executive functions delegated to Committees, Sub-Committees or officers. There is a legal requirement to state the position with regard to the Local Choice Functions, so they are listed at the end of the proposals in Appendix 2 to this report.

2.12 We noted the requirement for the proposals to include transitional arrangements from the old form of executive leadership arrangements to the new form and the duty to implement the new form of leadership after the May 2010 Council elections. As set out in paragraph 8 of Appendix 2, the Leader in office before the elections will remain in office until the Annual Meeting of the Council in May 2010 unless that Leader has ceased to be a Councillor or ceased to be within the majority political group. In those events, the Chief Executive would have delegated powers to take genuinely urgent decisions between the elections and the Annual Meeting of the Council in consultation with the representatives of the largest political group or groups on the new Council.

2.13 We were advised that the reference to the possible delegation of executive functions to Ward Councillors by the Leader when the relevant legislation came into force, would not be included in the proposed changes before full Council in December. The delegations to Ward Councillors had been included in the second stage public consultation to show the scope of potential future change under the new model but this was not within the matters for decision now.

2.14 We noted legal advice that the full Council was under a duty to pass a resolution to adopt new executive leadership arrangements at a meeting specially convened for this purpose before the end of 2009. In default of a resolution by this deadline, the Secretary of State would have power to impose the new form of Leader and Cabinet executive model on the Council by Order.

- 2.15 After the passing of the resolution by full Council, further work would be needed to amend the Constitution in accordance with the chosen option. We noted that reports on these detailed Constitution amendments would come to CRWG with a view to adoption by full Council in February 2010.
- 2.16 Since the CRWG meeting on 20 October, the report and responses to the second stage of public consultation have been made available to both political groups at their November meetings. No further comments have been received by officers.

WE RECOMMEND

1. That Members resolve:
 - (i) to change the executive leadership arrangements to the new Leader and Cabinet executive model as proposed in Appendix 2 to this report, and
 - (ii) to adopt the timetable for implementation and transitional arrangements set out in paragraphs 7 and 8 of Appendix 2 to this report, and
 - (iii) to give notice of these proposals as required by legislation, that is, by making them available for public inspection at the Civic Centre and by press notice.

APPENDIX 1

1. **Headline Totals (excluding staff policy group)**

	Leader	Mayor	Comments
Total	74	22	12

2. **Full Breakdown of Results**

2.1 Group Consultation

2.1.1 Staff Policy Group

We had a good discussion. Some of the issues raised were:

- How would a stronger/executive leader affect partnership working? Would it change the way theme boards work?
- How would this affect the role of cabinet members/frontline councillors?
- It was noted that although the leader would be the executive, the way that they operate could vary significantly – with differing impacts on working and decision-making.

2.1.2 Youth Council

The issue was presented at Youth Council using the electronic voting pads. 35 young people were consulted with.

Q. 1 Which leadership model would you prefer to see in Haringey?

- Leader – 30 (86%)
- Mayor – 5 (14%)

The general feeling was that they wanted to promote a more collegiate approach to decision making and the idea of one person being the focal point was less appealing. The fact that the leader relied on political backing and could be more easily removed was also attractive.

2.2 Responses via leaflet

My comments...	Leader	Mayor	Comment only
A directly elected mayor would be very dangerous for the community. I agree with the recent decision to go for an indirectly elected leader	1		
Indirectly elected leader	1		
An indirectly elected leader sounds great	1		
Indirectly elected leader	1		
Indirectly elected leader	1		
Indirectly elected leader	1		
Indirectly elected leader	1		
Indirectly elected leader	1		
Indirectly elected leader	1		
Indirectly elected leader	1		
Indirectly elected leader	1		
Indirectly elected leader	1		
I think that an indirectly elected leader would be the best. I agree with the recommendations	1		
Indirectly elected leader preferred. Strongly opposed to directly elected Mayor.	1		
Support option 1 – an indirectly elected leader	1		
Indirectly elected leader	1		
Indirectly elected leader	1		
Indirectly elected leader	1		
An indirectly elected leader model would be the most preferable model as it offers continuity and flexibility in the decision making process	1		
I prefer an indirectly elected leader system, elected by councillors	1		
An indirectly elected leader would be more accountable to residents. I agree with the decisions made by full council earlier in the year	1		
Agree with adoption of the model for an indirectly elected leader	1		
An indirectly elected leader is the best option to sustain local democracy	1		
I prefer to be governed by the indirectly elected leader	1		
I would like to retain the indirectly elected leader	1		

Total

25

0

0

2.3 Responses by letter and email

Total

Leader	Mayor	Comments
<u>5</u>	<u>2</u>	<u>5</u>

2.4 Responses via the website

"My opinion about the leadership model is....."	Leader	Mayor	Comment only
1, "A leader elected from elected councillors provides more accountability plus stronger checks and balances on executive power"	1		
2, "A DIRECTLY ELECTED MAYOR WOULD BE THE MOST DEMOCRATIC OPTION"		1	
3, "that resident are not being given the chance to decide on the new model by having a referendum. The councillors preferred model is very convenient when the political power is so polarised between political parties. But I think having a directly elected Mayor would actually be a better way forward."		1	
4, "directly elected mayor"		1	
5, "The best of the two options available."	1		
6, "That a mayor should be directly elected. This appears the only way to salvage the appalling reputation of Haringey Council...! It seems unfair that the employees and officers of the council should have to function under this burden of public contempt, and an internally elected mayor can only attract further accusations of unaccountability. It worked for London - so why not Haringey. Please allow the borough a fresh start, with a clearly accountable figurehead - no more jobs for the boys (and girls) on the council, courtesy of the old leadership pulling the strings behind the scenes. If you don't realise the PR disaster that you are creating, and the unexpected windfall gift you are freely handing to labour opponents and critics of the council's more regrettable past actions, then you really need your heads examining!"		1	
7, "fine"	1		
8, "The best model to adopt. Most accountable. Less prone to nepotism and fraud."	1		
9, "After many years of living in Haringey I do not trust any decision the Council makes and therefore would not trust the council to decide on a leader. We the residents need to decide."		1	
10, "Let us , the rate payers of Haringey elect the mayor"		1	
11, "Should be the same as Doncaster"		1	
12, "Directly elected mayor"		1	
13, "neither suits, but a directly elected mayor is a terrible idea, as it will mean an increase in electoral costs."			1
14, "Not the optimal solution. To have a leader on the role for 4 years is a very bad idea as this leader may not be sufficient/competent or may not develop links with the community as he/she should do."			1
15, "It's very anonymous, and offers poor visibility and accountability in a Council system which seems to be aloof, authoritarian, and perhaps slightly corrupt"			1
16, "That the current proposal is not best suited to provide democratic accountability so the other possibility _ directly elected mayor - should be chosen."		1	
17, "that it is the right model for Haringey"	1		
18, "It's my opinion that the directly-elected mayor system is not appropriate for Haringey - or, indeed, for any other London Borough. It is at root a concept that is populist and encourages electors to place their faith in the perceived qualities of individuals rather than in the outcome of rational			1

consideration of issues concerning the borough."			
19,"Given that there are only two options, I prefer the leader to be chosen by the councillors."	1		
20,"Your ist [sic] option with a leader delegating to cabinet member, seems the best way forward"	1		
21,"a leader chosen by councillors would be best"	1		
22,"that the indirectly elected leader is the better of the 2 options that are available to the council"	1		
23,"I prefer the leader (chosen by councillors) model because this is the more democratic model. The alternative could lead to some ""celebrity"" being elected who has no understanding of local government or Haringey's needs."	1		
24,"That we should have an Indirectly Elected Leader"	1		
25,"I prefer the leader and cabinet model. I do not think an elected mayor provides sufficient democratic accountability"	1		
26,"What is wrong with the present set-up that it needs changing. Why is this option not being offered/considered? It seems to me this new system is one being imposed on us by the central government rather than one decided locally."			1
27,"very important."			1
28,"I would like to see a directly elected mayor"		1	
29,"I prefer the directly elected leader model [sic] where the public elect a Mayor rather than the councillors doing so"		1	
30,"I believe there should be an indirectly elected leader"	1		
31,"indirectly elected leader"	1		
32,"It is inferior to the directed elected mayor as it entrenches a political cabal and the mayor is chosen by a party machine. The leader will have too much power for this to be acceptable."			1
33,"There should be a mayor directly elected by the people, not by the councillors. This is more democratic than letting the council choose who to appoint, and leads to more accountability and more involvement of local people in local politics. It is also a threat to vested interests, which strikes me as a good thing."		1	
34,"My preference is for a Directly Elected Mayor. It is disappointing that the initial consultation was not advertised and was limited to such a small sample (590), from which the Council then determined their preferred approach. It is also interesting to note that the majority of Haringey staff chose for the directly elected mayor."		1	
35,"I would prefer a directly elected Mayor"		1	
36,"I favour an elected mayor model as I think it makes the mayor more accountable to the residents than a leadership model"		1	

Total**14****15 7**

APPENDIX 2

PROPOSALS FOR NEW EXECUTIVE LEADERSHIP ARRANGEMENTS

1. Starting from the Annual Council meeting in May 2010, the Leader of the Council will be elected from among the serving Councillors for a 4 year term instead of for one year only as at present.
2. The 4 year term is to be subject to the existing constitutional provisions for the early ending of the Leader's term after resignation, after ceasing to be a Councillor and after the carrying of a vote of no confidence at full Council by a simple majority of Councillors then present.
3. The other Cabinet Members, apart from the Leader, will no longer be elected annually by the full Council nor will their number be fixed at 9. Instead, the Leader will appoint between 2 and 9 Cabinet Members from among the serving Councillors and will determine their portfolio responsibilities, if any. The Leader will have power to replace or remove Cabinet Members and to vary or delete their portfolio responsibilities at any time.
4. The Leader must appoint a Deputy Leader from among the Cabinet Members and will have power to replace the Deputy Leader at any time. The Deputy Leader will have power to exercise the Leader's powers if that office is vacant or if the Leader is unable to act at any time.
5. All executive functions of the Council are to be vested in the Leader. The Leader may decide to delegate functions to other Cabinet Members, acting individually or collectively as the Cabinet meeting, or the Leader may delegate to Cabinet Committees or to officers. The Leader will be able to revoke such delegations at any time in order to take decisions personally. The powers of non-executive Committees and the delegation of non-executive powers to officers will not be affected.
6. The Local Choice Functions (functions which may be designated as executive or non-executive at the option of each Council) will continue unchanged in accordance with the attached Schedule derived from Part 3, Section A of the Council's Constitution.

7. The new executive leadership arrangements, as proposed above, will be implemented on the third working day after the May 2010 Council Elections but subject to the transitional arrangements set out in paragraph 8 below.
8. The transitional arrangements necessary for implementation are as follows. The Leader in office immediately before the May 2010 Council Elections shall remain in office until the Annual Meeting of the Council in May 2010 unless, after the Elections, the Leader has ceased to be a Councillor or ceased to be within the political group having an overall majority of Councillors. In those events, the Leader shall not continue in office and delegated power is granted to the Chief Executive to exercise all the executive functions of the Council but only in cases of genuine urgency and in consultation with the representative of the largest political group of Councillors (or groups in the event of a parity of Councillors). This delegation to the Chief Executive shall cease upon the election of the new Leader.

SCHEDULE – “LOCAL CHOICE FUNCTIONS” FROM PART 3, SECTION A OF THE COUNCIL’S CONSTITUTION

Function	Whether Executive or Non-Executive	Where allocated or delegated
1. Any Function under a Local Act (except a function specified or referred to in Reg. 2 or Schedule 1)	Non-Executive	General Purposes Committee except for functions under the Alexandra Park & Palace Acts & Order 1900-1985 which are delegated to the Alexandra Park & Palace Board and the General Manager AP&P
2. The determination of an appeal against any decision made by or on behalf of the authority	Non-Executive	General Purposes Committee (for the avoidance of doubt this does not include internal reviews of homelessness decisions)
3. The appointment of	Non-Executive	The Full Council

Function	Whether Executive or Non-Executive	Where allocated or delegated
review boards under sub-section 34(4) of the Social Security Act 1998 (determination of claims and reviews re: Housing Benefit and Council Tax Benefit)		
4. The making of arrangements for appeals against exclusion of pupils	Executive	Head of Local Democracy & Member Services
5. Making arrangements for admission appeals	Executive	Head of Local Democracy & Member Services
6. Making arrangements for appeals by governing bodies	Executive	Head of Local Democracy & Member Services
7. Any function relating to contaminated land	Executive	Cabinet Member for the relevant portfolio within his/her delegated powers, otherwise to the Cabinet Meeting
8. Discharge of any function relating to the control of pollution or the management of air quality	Executive	Assistant Director Planning & Regeneration in the Directorate of Urban Environment
9. Service of an abatement notice in respect of a statutory nuisance	Executive	Assistant Director Planning & Regeneration in the Directorate of Urban Environment
10. Passing a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply to the Council's area (resolution to require Council consent to operating loudspeakers in streets)	Non-Executive	General Purposes Committee
11. Inspection of the Council's area to detect any statutory nuisance	Executive	Assistant Director Planning & Regeneration in the Directorate of Urban Environment
12. Investigating any	Executive	Assistant Director

Function	Whether Executive or Non-Executive	Where allocated or delegated
complaint as to the existence of a statutory nuisance		Planning & Regeneration in the Directorate of Urban Environment
13. Obtaining information as to interests in land under section 330 Town and Country Planning Act 1990	Executive	Head of Legal Services
14. Obtaining particulars of persons interested in land under section 16 of the Local Government (Misc. Prov.) Act 1976	Executive	Head of Legal Services
15. Making agreements for the execution of highway works under section 278 of the Highways Act 1980	Non-Executive	Assistant Director, Frontline Services and Head of Sustainable Transport except where referred to the Planning Committee in connection with the determination of a planning application
16. The appointment (and revocation of such appointment) of any individual (a) to any office other than his normal employment by the Council (b) to any body other than (i) the Council or (ii) a joint committee of two or more authorities or (c) to any committee or sub-committee of such a body	Executive	The Full Council in the case of Member appointments (but Cabinet may make HSP appointments). The Chief Executive makes officer appointments.
17. Making agreements with other local authorities for placing staff at the disposal of other local authorities	Executive	Chief Executive
18. Functions under sections 106, 110, 111 and 113 of the Local Government and Public	Executive	The Cabinet Meeting except that the duty to publish information about the LAA is

Function	Whether Executive or Non-Executive	Where allocated or delegated
Involvement in Health Act 2007 relating to local area agreements		delegated to the Assistant Chief Executive, Performance, Partnerships and Communications Policy,

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