

# Executive Committee

No specific Ward Relevance

22 July 2009

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## CONSTITUTION - ADOPTION OF NEW EXECUTIVE ARRANGEMENTS

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(Report of Head of Legal, Democratic & Property Services)

### 1. Summary of Proposals

To consider a new form of governance for the Council's Executive arrangements, to be implemented after its elections in May/June 2011. The Council must consult the public and other interested persons before drawing up proposals for a change in governance, and resolve by 31 December 2010 which of the 2 governance models it proposes to adopt.

### 2. Recommendations

The Committee is asked to **RESOLVE** that

- 1) the legislative position regarding the governance models for executive arrangements from 2010 be noted;
- 2) a further report be received to consider the outcome from the consultation at 3) below and to draw up the Council's proposals for a change in governance; and

to **RECOMMEND** that

- 3) authority be delegated to the Head of Legal, Democratic and Property Services to consult electors and other interested parties in respect of the two potential governance models; and
- 4) a report be received at a specially convened meeting of the Council before the end of December 2010 to determine proposals for a change in the Council's governance model and make the necessary formal Resolution for this to take effect from the 3rd day after the 2011 local elections.

### 3. **Financial, Legal, Policy, Risk and Sustainability Implications**

#### Financial

- 3.1 The costs of consultation can be minimised by putting it on the Council's website and / or by including it in "Redditch Matters". If the proposals include the elected Mayor and Cabinet Executive model, there will need to be a referendum. If this is the case, a further report will be needed setting out the means and potential costs of holding a referendum.

#### Legal

- 3.2 The Local Government and Public Involvement in Health Act 2007 inserts new provisions into the Local Government Act 2000 which make changes to the form of executive arrangements which the authority can have. The legal implications of these changes are set out in the report. Dependent on the form of Executive arrangements which is eventually selected, the Council's Constitution will need to be changed to reflect the arrangements chosen.

#### Policy

- 3.3 There are no direct policy implications although the change in executive arrangements will result in a change in the way in which appointments to the Executive Committee are made.

#### Risk

- 3.4 If the Council fails to make the change in governance arrangements in accordance with the timetable or if it appears to the Secretary of State that the Council will fail to comply with the legislative requirements, the Secretary of State can make an order specifying that the Leader and Cabinet Executive arrangements will apply. In the transitional period between the 31 December 2010 and 3 days after the May 2011 elections, the current executive arrangements would continue to apply.

#### Sustainability / Environmental

- 3.5 No impact.

### Report

#### 4. Background

- 4.1 The Local Government and Public Involvement in Health Act 2007 followed the previous White Paper (Strong and Prosperous Communities) and requires a “strong leader” in governance terms.
- 4.2 This person will be either the Leader of the Council appointed by the Council or a directly elected Mayor. All of the executive functions of the Council will technically vest in the new-style Leader or Mayor, who will decide how those powers are to be discharged. He or she will appoint the Executive Committee directly and allocate responsibility for the discharge of executive functions - whether by him or herself, the Executive Committee collectively, individual members of the Executive (i.e. Portfolio Holders), or officers. Non-executive functions (e.g. Planning, Overview and Scrutiny, Licensing and Standards) remain unaffected.

Note: This new office and function of ‘Mayor’ would be entirely separate from the existing position of Mayor who is currently the Civic leader of the Borough.

- 4.3 In common with other District Councils, the Council must:
- a) decide by the end of December 2010 which governance model to adopt for executive arrangements, and
  - b) implement the new model 3 days after the 2011 elections.

#### 5. Key Issues

- 5.1 The current leader and cabinet (Executive) model is no longer an option. All authorities with existing leader and cabinet models will therefore have to adopt a new governance model. County Councils and Unitary authorities have already had to change their governance arrangements.
- 5.2 There are only **2 options**:
- a) An **elected Mayor and Cabinet executive** (as currently adopted by a small number of authorities):
    - i) A Mayor is elected directly by the electorate for a 4 year period
    - ii) Proposals to adopt this model are subject to referendum
    - iii) At least 2 councillors must be appointed to the Cabinet by the Mayor

or

- b) A **“new style” Leader and Cabinet executive**
  - i) A Leader is appointed by Council for a 4 year period
  - ii) At least 2 councillors must be appointed to the Cabinet by the Leader
  - iii) Councils can choose whether to adopt procedures to allow the removal of the Leader during the 4 years

- 5.3 If the Council does not make a governance decision by the end of December 2010, it will by default have to draw up and adopt the new-style Leader and Cabinet model to take effect after the 2011 elections. If necessary, the Secretary of State can order this.
- 5.4 The vast majority of local authorities have to date favoured the leader and cabinet model. The Government may offer more incentives for directly elected mayors (e.g. the recent White Paper suggested that an elected mayor would be expected to chair the LSP).
- 5.5 A new-style Leader will have a strengthened role and become directly responsible for the discharge of executive functions as he or she wishes to arrange it. The Leader must also appoint a deputy.
- 5.6 Under the new-style Leader model, a Council appoints the Leader who then appoints the Executive and allocates responsibilities. Executive Members will no longer be appointed by or removed by Councils and Councils will no longer fix the size of Executive (the maximum of 10 members remains) nor areas of responsibility.
- 5.7 For stability (particularly aimed at Councils with elections by thirds), all Leaders will have a fixed term of office for 4 years - subject to any provision made for early removal. Whether a Leader can be removed once appointed is a secondary choice for those Councils adopting the new Leader and Cabinet model.
- 5.8 These would be significant technical variations from the current Leader model, but not the leap that the original executive arrangements were. These are high-level models and it is open to Councils to make or retain their own detailed arrangements under them e.g. for annual reports from the Leader and individual Executive Committee members, question time etc.
- 5.9 Councils continue operating existing models until the end of the transitional period (which for District Councils is just after the elections in May 2011).
- 5.10 The processes are subject to guidance and detailed regulations but so far there is nothing from Government on the detail. However, the Council must:

- a) take reasonable steps to consult the electorate and other interested persons in the district before drawing up proposals for its governance model
- b) in drawing up proposals, consider the extent to which they would be likely to assist in securing continuous improvements in the exercise of its functions, having regard to economy, efficiency and effectiveness
- c) make the proposals open to public inspection, and place an appropriate notice in newspapers.

5.11 The Council must come to a formal resolution on its governance structure at a special meeting before the end of December 2010. In order to allow sufficient time for proper consultation and formulation of proposals, it is proposed that a special meeting of the Council is convened on 14 June 2010 to do this.

### 6. Other Implications

Asset Management	-	None identified
Community Safety		None identified.
Human Resources	-	Staff time will be involved in carrying out consultation with electors and other interested parties
Social Exclusion	-	None identified.
Sustainability	-	None identified.

### 7. Lessons Learnt

None.

### 8. Background Papers

Local Government Act 2000  
Local Government and Public Involvement in Health Act 2007  
White Paper - Strong and Prosperous Communities

### 9. Consultation

There has been no consultation other than with relevant Officers of the Council. However, consultation on the two models will have to be carried out with electors and other interested parties.

**10. Author of Report**

The author of this report is Sue Mullins (Head of Legal, Democratic & Property Services and Monitoring Officer) who can be contacted on extension 3210 (sue.mullins@redditchbc.gov.uk) for more information.

**11. Appendices**

None.