



Special Meeting of Full Council
23 November 2009

**Report from the
Borough Solicitor**

For Action

Wards Affected:
None

Change of Executive Arrangements

1.0 Summary

- 1.1 This report sets out the changes which are required to be made to the Council's executive arrangements under the Local Government and Public Involvement in Health Act 2007.

2.0 Recommendations

That members;

- 2.1 Agree that the Council will adopt a new style Leader and Cabinet executive model as the executive arrangements.
- 2.2 Agree that the new executive arrangements shall include provision for the Leader to be removed from office by a vote of no-confidence.
- 2.3 Agree that the changes in executive arrangements set out above will take effect on 9th May 2010.
- 2.4 Authorise the Borough Solicitor to make the necessary changes to the Constitution to implement the agreed changes to the executive arrangements.

3.0 Detail

Background

- 3.1 The Council is required by the Local Government and Public Involvement in Health Act 2007 ('the Act') to change from its current Leader and Executive model to a new style Leader and Cabinet model or to a Mayor and Cabinet model. Continuing with the status quo is not an option. The decision must be

made by the Council no later than 31st December 2009 at a meeting specially convened for this purpose.

- 3.2 The main difference between the two new models (Leader or Mayor) is the means by which they are elected; the Mayor is elected by the residents, whereas the Leader is elected by the council. In both cases they remain in post for 4 years, although in relation to the Leader model, there is an option for the Council to remove the Leader by a vote of no confidence. In both models the Leader or Mayor appoints between 2 and 9 members to the Cabinet, chooses their portfolios and decides how executive functions will be carried out (whether by the executive, a member of the executive, a committee of the executive, or officers).
- 3.3 There are some notable differences between the current arrangements and the new arrangements; most particularly that Full Council will not elect the executive under the future arrangements, nor determine its size, or how decisions of the executive will be made. These matters will be for the elected Mayor or Leader to decide.

The statutory process that has been followed

- 3.4 The Act requires a process of consultation with residents, and thereafter the preparation and publication of proposals for change before the Council passes a resolution to change the executive arrangements.
- 3.5 A preference for the Leader and Cabinet model was indicated at a working group of leaders of the three largest political groups and other members.
- 3.6 Public consultation was duly carried out between 15th July and 23rd August through the use of online consultation and publicity in the Brent Magazine. In total the Council received nine responses to the consultation, with four indicating support for a directly elected Mayor, four supporting the Leader and Cabinet model, and one stating more information was necessary to reach a decision. The responses to the consultation are attached as Appendix 1.
- 3.7 Members will note that there has been little public support demonstrated in Brent for a move to a directly elected Mayor. Residents have been able to petition the Council to hold a referendum on the issue of changing to a Mayoral system since 2002 but no such petition has ever been submitted and the recent consultation with residents has also shown no significant support for such a change.
- 3.8 Section 33E of the Local Government Act 2000 requires the Council, when drawing up the proposals for change, to consider “the extent to which the proposals, if implemented, would be likely to assist in securing continuous improvement in the way which the local authority’s functions are exercised, having regard to a combination of economy, efficiency and effectiveness”.
- 3.9 There is little evidence about the relative benefits of either the Mayoral or the Leader model. The government’s own research does not indicate one model as being preferable over the other

“Researchers have concluded that strong executive leadership and strong scrutiny, with a high degree of independence between the two, has been the model most closely identified with effective performance”
- *Vibrant Local Leadership ODPM (2005)*

- 3.10 Under the current options for executive arrangements only 12 Councils in England and Wales have operated a Mayoral model. There is some evidence that a directly elected Mayor of a Council has a higher profile than a Leader and has an increased ability to act as a focal point for debate (*How are Mayors measuring up – July 2004*) but there is no evidence that this translates to a more effective style of Leadership.
- 3.11 Members will note some of the perceived advantages and disadvantages of the two systems. For example, under the Leader model, the Leader is elected by the members of the Council and therefore enjoys the support of the majority of the members of the Council. A Mayor is not elected by the Council, but by the voters directly. He or she could be an independent member, or a member of a group that does not enjoy the support of the majority of members on the Council and this may, in some situations, lead to conflict between the Mayor, who is responsible for executive functions, and the Council, who broadly speaking is responsible for setting the budget and the policy framework. The personality of the Mayor can be a positive factor, but it can also be viewed that individual interests may distract from the Council’s business. There are also divided views on whether the public or the Council are better placed to choose a suitable leader.
- 3.12 There would be some additional costs by adopting the Mayoral model as a separate election would need to be held to elect a Mayor.
- 3.13 The current executive arrangement of Leader and Executive closely resembles the new style Leader and Cabinet model and has been used by the Council since 2002. During that time the Council has improved its CPA rating from a 2 star ‘fair’ Council in 2002 to a 3 star ‘improving strongly’ Council in 2008. The last corporate assessment report said that

“The Council demonstrates strong community leadership through councillors, officers and partnership working...Political and managerial leadership is good.”

There does not appear to be either good reason, or a desire on the part of residents or politicians, to change to a directly elected Mayor.

- 3.14 The Act requires that, having taken into account the responses to the consultation and the matters set out above regarding effective and efficient decision making, the Council draws up and publishes the proposals for change in advance of a resolution being passed. The proposals based on the preference indicated by the cross party working group were made available at the Town Hall One Stop Shop for inspection by the public from 20th October 2009 until 20th November 2009 and on 22nd October 2009 a notice was published in the Willesden and Brent Times advising residents that the proposals were available for inspection.

- 3.15 The Council is now required to pass a resolution to adopt the proposals and the new executive arrangements. A second press release will then be issued in accordance with the Act.

Characteristics of the leadership and cabinet model

- 3.16 The Act largely dictates how the Leader and Cabinet executive model must operate
- The Leader is elected by the Council for a term that ends on the day of the annual meeting after the next election i.e. four years
 - The Leader must appoint at least 2 and as many as 9 other members of the Council to be the members of the Cabinet
 - The Mayor and Deputy Mayor cannot be members of the Cabinet
 - The Leader allocates portfolios to the members of the Cabinet
 - The Leader may carry out any executive function personally, or may delegate executive functions to the Cabinet, a committee of the Cabinet, individual members of the Cabinet, or officers
 - The Leader must appoint a Deputy Leader who shall act in his or her absence
- 3.17 The Act allows the Council to agree that the executive arrangements provide for the Leader to be removed from office by a vote of no-confidence. It is recommended that members agree to include such a provision.
- 3.18 The changes to the Constitution required to give effect to these new requirements will be made by the Borough Solicitor.

Date for implementation

- 3.19 Section 33G of the Act requires the Council to have implemented the change in executive arrangements by the 3rd day after the Council election in May 2010. Subject to that the Council can agree its own timetable for implementing the changes.
- 3.20 It is recommended that a new Leader be elected following the election in May 2010 and take office under the new arrangements. He or she would then appoint the new Cabinet and delegate portfolios and functions to the Cabinet, Highways Committee, individual members or officers under the new arrangements. There appears to be little benefit for the Council in carrying out this process before the Council election in May next year and it is therefore recommended that the change to the executive arrangements takes effect from 9th May 2010.

4.0 Financial Implications

- 4.1 None.

5.0 Legal Implications

5.1 Schedule 4 of the Act requires the resolution making a change in governance arrangements to be made at a meeting specially convened for that purpose and with notice of the object of the meeting.

5.2 Although the new arrangements transfer some functions from the Council to the Leader they do not alter the underlying split in functions between the Executive and Council that was introduced by the Local Government Act 2000. It therefore remains the case that broadly speaking the Council is responsible for adopting the budget and the policy framework and the Executive is responsible for all other (non-regulatory) matters. Any change to this would require a complete overhaul of the executive arrangements and extensive changes in the legislation.

5.3 Other legal implications are dealt with as they arise in the report.

6.0 Diversity Implications

6.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications.

7.0 Background Information

Local Government and Public Involvement in Health Act 2007

Contact Officer:

Anybody wishing to inspect this document should contact:
Terry Osborne, Borough Solicitor's Office, Room 16, Brent Town Hall, Forty Lane, Wembley, HA9 9HD, Tel: 020 8937 1292.

Terry Osborne
Borough Solicitor