



RESOURCES OVERVIEW AND SCRUTINY PANEL

Panel Report

Public

Date of Meeting: 17 JUNE 2010

Title: EXECUTIVE ARRANGEMENTS

Report of: ASSISTANT DIRECTOR (GOVERNANCE)

Report reference: GD.31/10

Summary:

The Public Involvement in Health Act 2007 requires the Council to choose a new form of Executive Arrangement and provides that a decision must be made by 31 December 2010. This Report outlines the legislation and the choice that must be made between a Leader and Cabinet model or arrangements with an Elected Mayor.

Recommendations:

Having regard to the requirements of the Local Government and Public Involvement in Health Act 2007 with respect to executive arrangements, it be recommended to Council that:

- (1) Council indicates it is minded to continue to operate the Leader and Cabinet Executive subject to the new requirements imposed by the said Act and pending the outcome of consultation;
- (2) Officers be authorised to carry out appropriate consultation on executive arrangements, indicating the Council's preferred model, as stated in (1), and also including reference to the alternative option provided for in the 2007 Act. The consultation should include information about the differences between the available options and also the implementation timetable; and

- (3) Following consideration of the consultation response, proposals be reported to a future Meeting of the City Council, no later than 31 December 2010, for the Council to resolve as to the form of executive arrangements to be operated by Carlisle City Council.

Questions for / input required from Scrutiny:

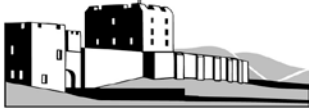
Resources Overview & Scrutiny Panel have indicated that they wish to consider the Report which is helpful as the Panel's view can be taken as part of the consultation process which is detailed within the Report.

The legislation requires the Council to go through the process of consultation as regards the Strong Leader/Elected Mayor options. The differences between the two regimes are stated within the Report.

Resources Overview & Scrutiny Panel are requested to consider the content of the Report and express their view.

Contact Officer: MARK LAMBERT

Ext: 7019



REPORT TO EXECUTIVE

PORTFOLIO AREA: Cross-cutting.

Date of Meeting: 4 June 2010

Public

Key Decision: Yes

Recorded in Forward Plan:

Yes

Inside Policy Framework

Title: EXECUTIVE ARRANGEMENTS
Report of: Assistant Director (Governance)
Report reference: GD16/10

Summary:

The Public Involvement in Health Act 2007 requires the Council to choose a new form of Executive Arrangement and provides that a decision must be made by 31 December 2010. This Report outlines the legislation and the choice that must be made between a Leader and Cabinet model or arrangements with an Elected Mayor.

Recommendations:

Having regard to the requirements of the Local Government and Public Involvement in Health Act 2007 with respect to executive arrangements, it be recommended to Council that:

- (1) Council indicates it is minded to continue to operate the Leader and Cabinet Executive subject to the new requirements imposed by the said Act and pending the outcome of consultation;
- (2) Officers be authorised to carry out appropriate consultation on executive arrangements, indicating the Council's preferred model, as stated in (1), and also including reference to the alternative option provided for in the 2007 Act. The consultation should include information about the differences between the available options and also the implementation timetable; and

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: None

- (3) Following consideration of the consultation response, proposals be reported to a future Meeting of the City Council, no later than 31 December 2010, for the Council to resolve as to the form of executive arrangements to be operated by Carlisle City Council.

Contact Officer: M D Lambert
Ext 7019

Ext:

1. INTRODUCTION

1.2 The Local Government and Public Involvement in Health Act 2007 requires every authority which operates a Leader and Cabinet model of Executive to change its executive arrangements in accordance with a statutory timetable. Carlisle City Council already operates a 'Strong Leader' model but the legislation, nevertheless, requires appropriate resolutions be made by the Council as there are, as detailed below, differences between the new regime and the currently existing one.

2 Legislative Background

2.1 The Local Government Act 2000 required all principal authorities to adopt 'executive arrangements' in one of three forms, namely:

- (1) Mayor and Cabinet Executive;
- (2) Leader and Cabinet Executive; or
- (3) Mayor and Council Manager.

2.2 Carlisle adopted the Leader and Cabinet Executive and, in particular, the Strong Leader model where the Council elect the Leader and then the Leader appointed the Cabinet and also determined the degree of delegation of powers to individual Cabinet Members. In Carlisle City Council the Cabinet is more often referred to as the 'Executive'.

2.3 Part 3 of the Local Government and Public Involvement in Health Act 2007 abolishes the Mayor and Council Manager model and, in England, replaces the Leader and Cabinet Executive model with the Leader and Cabinet Executive (England) model. This new model is a different legal form of executive to the style that currently exists in Carlisle, with the result that the transition to the new Leader and Cabinet Executive (England) model, as required by the Act, is a 'change to the form of executive', even where the authority is operating an old style Leader and Cabinet Executive (as is the case in Carlisle). Even when a Council operates such an old-style arrangement it is still obliged to go through the extended process set out in the Act, despite the actual change in the form of executive being very limited.

3 The New Leader and Cabinet Executive Model

3.1 The new Leader and Cabinet Executive Model (England) Model is very similar to the old "Strong Leader" model of a Leader and Cabinet Executive, but is different in three key respects which cannot be achieved under the old legislation.

3.2 In the new model as in the old-style Leader and Cabinet Executive, the Council elects the Leader and the Leader is then responsible for:

- Determining the size of the Cabinet;
- Appointing Members of the Cabinet;
- Allocating Portfolios and areas of responsibility to the various Cabinet Members;
- Allocating decision-making powers to the Cabinet and to individual cabinet Members; and
- Removing and replacing Cabinet Members.

3.3 In the new model, the Leader must be elected for a four year term of office (or up until the Leader's ordinary term of office as a Councillor expires where the Council holds elections by thirds or halves, and the Leader is elected at a time when he/she has less than four years still to run). This was possible under the old model but it was normal for the Leader to be elected for a one year term of office.

3.4 The three key differences referred to above which are required in the new Leader and Cabinet Executive (England) model but cannot be achieved under the old model are:

- The Leader's term of office is extended beyond the 4th day after the local elections to run up to the day of the first annual meeting after the Leader's normal day as retirement as a Councillor.
- During his/her term of office, the Leader will automatically cease to be Leader upon death or disqualification but may only be removed from office by a resolution of Council.
- There is a requirement for the Leader to nominate a Deputy Leader, and provision that the Deputy Leader, or in his/her absence the remaining Cabinet Members, may act if the Leader is unable to act or the post of Leader is vacant. Whilst our current arrangements have a Deputy Leader, the only powers that may be exercised by that person are the 'portfolio responsibilities' of the Leader as opposed to the statutory functions which are conferred by statute solely on the Leader, such as appointing or removing other Cabinet Members or objecting to senior officer appointments and dismissals.

4 Directly Elected Mayor and Cabinet

4.1 The alternative form of executive arrangement is for the Council to hold elections for a Directly Elected Mayor who would hold office for a term of four years. In this instance, as the Mayor would have been directly elected, there would be no option for the

Council to remove him/her during the period of office. The Mayor would appoint his/her own Cabinet consisting of between 2 and 9 Councillors and allocate all executive functions.

5 Differences between the Two Models

5.1 The main differences between the two models are as follows:

- There is a different means of election for each.
- Unlike the Leader, the Mayor cannot be removed from office by the Council or the controlling group.
- Under the Leader and Cabinet model the executive recommends the budget and strategic policies to 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 which can only amend or overturn them by a two thirds majority.

6 Timetable for Change

6.1 The legislation has a different timetable for the differing types of local authority. The City Council, as a non-metropolitan district, must pass the relevant resolution by 31 December 2010 and implement the change three days after the next local elections (i.e. May 2011). The change to the new Strong Leader model may only be made in accordance with the statutory timetable.

7 The Process for Change

7.1 The legislation is far from clear but, taken literally, there is a three stage process:

7.2 Before drawing up proposals for change the Council must 'take reasonable steps to consult the local government electors and other interested persons in the area'¹.

7.2.1.1 At this stage there is, of course, a choice of moving either to a Leader and Cabinet Executive (England) model or to a Mayor and Cabinet Executive model. Consultation without a proposal is unlikely to be effective so it would be sensible if the Executive recommended to Council, and Council resolved, that the City Council's preferred option was to consult on the basis that the authority would prefer, subject to the consultation, to move to a Leader and Cabinet Executive (England) model.

¹ Section 33G(6)

7.2.1.2 The extent of the consultation is not prescribed. It is recommended that there should be a brief statement of what the changes would mean with advantages and disadvantages of the Leader and Mayor structures and a recommendation that the Council should seek the views of a limited number of partner authorities and organisations, advertise on its website and place an advertisement in a local newspaper.

7.3 The Council (via its Executive) should then draw up proposals, which should be a schedule of proposed changes to the Constitution, the implementation timetable and any transitional arrangements. In drawing up the proposals the Council must have regard to any impact on economy, efficiency and effectiveness. Once the proposals have been drawn up, the Council must make them available to the public and advertise that they are available (although there is no provision for anyone to comment on them at this stage).

7.4 Finally, the Council must resolve to implement the proposals.

7.5 It is envisaged that the consultation period should take place during August and September with the results being processed through the Executive and on to Council in November or December 2010.

8 CONSULTATION

8.1 Consultation to Date: there has not been any consultation to date.

8.2 Consultation proposed: the consultation proposed is as detailed in the Report.

9 RECOMMENDATIONS

Having regard to the requirements of the Local Government and Public Involvement in Health Act 2007 with respect to executive arrangements, it be recommended to Council that:

- (1) Council indicates it is minded to continue to operate the Leader and Cabinet Executive subject to the new requirements imposed by the said Act and pending the outcome of consultation;
- (2) Officers be authorised to carry out appropriate consultation on executive arrangements, indicating the Council's preferred model, as stated in (1), and also including reference to the alternative option provided for in the 2007 Act. The consultation should include information about the differences between the available options and also the implementation timetable; and

- (3) Following consideration of the consultation response, proposals be reported to a future Meeting of the City Council, no later than 31 December 2010, for the Council to resolve as to the form of executive arrangements to be operated by Carlisle City Council.

10 REASONS FOR RECOMMENDATIONS

To comply with the provisions of the Public Involvement in Health Act 2007.

11 IMPLICATIONS

- Staffing/Resources – Officer time in dealing with the required actions.
- Financial – There will be a small cost for the Consultation exercise which can be met from existing base budgets.
- Legal – The Report has been written by the Assistant Director (Governance) and legal implications are dealt with therein.
- Corporate – None.
- Risk Management – The Council must comply with the statutorily imposed timetable.
- Equality and Diversity – This proposed change in governance arrangements will be assessed for equality and diversity implications as part of the thematic Equality Impact Assessment (EIA Legal, Constitution and democratic process, EIA 9). A workshop for this EIA will be arranged once the findings of the survey of polling stations are known.

Impact assessments

Does the change have an impact on the following?

Equality Impact Screening	Impact Yes/No?	Is the impact positive or negative?
Does the policy/service impact on the following?	No	
Age	No	
Disability	No	
Race	No	
Gender/ Transgender	No	
Sexual Orientation	No	
Religion or belief	No	
Human Rights	No	
Social exclusion	No	
Health inequalities	No	
Rurality	No	

If you consider there is either no impact or no negative impact, please give reasons:

The change to Executive arrangements as proposed in the report does not effect any of the identified equality categories.

If an equality Impact is necessary, please contact the P&P team.

- Environmental – None.
- Crime and Disorder – None.
- Impact on Customers – Minimal if the Council resolves the confirm the Leader and Cabinet model.