

CABINET – 9 JULY 2010

PRINCIPAL SCRUTINY COMMITTEE - 12 JULY 2010

LEADERSHIP ARRANGEMENTS AND ELECTORAL CYCLE

REPORT OF CORPORATE DIRECTOR (GOVERNANCE)

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RECENT REFERENCES:

[CAB1591](#) - Local Government and Public Involvement in Health Act 2007 – 16
January 2008

[CAB1803](#) – Review of Electoral Arrangements – 20 April 2009

EXECUTIVE SUMMARY:

The Local Government and Public Involvement in Health Act 2007 requires all councils to consider changing the system by which they take executive (Cabinet) decisions about council policies and services, by re-considering its decision making structures. The two options are:

- (a) a strengthened role and more powers for the Leader, in the Leader with Cabinet model or
- (b) a directly Elected Mayor with Cabinet.

Retaining the current Leader with Cabinet system is not available under the 2007 Act.

The coalition Government has announced that it is considering allowing councils to revert to the traditional committee system. However, further details are not yet available and new legislation will be necessary.

The previous Government had also asked councils to consider whether they wish to change the frequency with which elections are held, by holding whole council elections on a four year cycle.

The Local Government and Public Involvement in Health Act 2007 gives this Council the option of changing the existing cycle of elections (where in Winchester's case a third of the Council's seats come up for election each year, with a break in the fourth year of the cycle) to whole council elections, once every four years.

The Council has now entered the window when changes to the leadership arrangements must be made. A decision to change the electoral cycle may also be made at the same time. The resolution for change must be made before 31 December 2010 for the new arrangements to be implemented in the May 2011 elections.

A public consultation exercise has to be undertaken on the leadership options. If the Council wishes to change the electoral cycle then the decision has to be put to public consultation.

The final decision to implement the proposals has to be taken at a special meeting of the Council, with a majority of at least two thirds of those Members voting in favour. However, the decisions before this meeting of the Council can be taken by a simple majority.

RECOMMENDATIONS:

TO COUNCIL:

- 1 That the Corporate Director (Governance), in consultation with the Leader, the Leader of the Opposition and Chairman of Principal Scrutiny Committee, be authorised to undertake public consultation on the executive options in the 2007 Act as follows:
 - (a) Leader with Cabinet or
 - (b) Elected Mayor with Cabinet.
- 2 That the Council use the September 2010 edition of '*Perspectives*' to consult with residents.
- 3 That the Council's website be used in the consultation and partners in the Local Strategic Partnership also be invited to comment.
- 4 That Cabinet and Principal Scrutiny Committee report back to Council on 3 November 2010 with a recommended course of action following the consultation.
- 5 That Council determines whether or not it wishes to include a review of its electoral cycle in the consultation.

TO CABINET AND PRINCIPAL SCRUTINY COMMITTEE:

To consider whether to offer any comments or recommendations to Council on the issues raised in this report.

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DETAIL:

1 Introduction

1.1 The Local Government and Public Involvement in Health Act 2007 introduced a range of devolutionary and deregulatory measures to ensure a local government system in England that:

- gives local people more influence over the services and decisions that affect their communities;
- provides effective and accountable strategic leadership;
- Operates in a performance framework – for local authorities working alone or in partnership – which supports citizen empowerment and secures better outcomes for all, and;
- leads local partnerships to provide better services for citizens.

1.2 The 2007 Act builds on the Local Government Act 2000 which radically overhauled the decision making structures and accountability mechanisms in local government. Central to these reforms was the clear separation between executive councillors – 3 to 10 councillors in an authority (with the option that these might operate under a directly elected Mayor) and the majority of councillors.

1.3 This Council adopted the Leader and Cabinet executive model in 2001.

1.4 The Council is now required by the 2007 Act to review its decision making arrangements. It also has the option of reviewing the electoral cycle. A public consultation exercise has to be undertaken for the executive options. It is only needed for the electoral cycle if the Council wants to consider change from the current arrangement of elections by thirds.

1.5 The decisions flowing from this report can be taken by a simple majority at Council. The decision to implement the proposals after the consultation exercise has to be taken at a special meeting of the Council, with a majority of at least two thirds of those Members voting in favour. The resolution for change must be made before 31 December 2010, with implementation at the May 2011 elections.

2 Executive Decision Making Arrangements

- 2.1 Under the provisions of the 2007 Act, the City Council has to make a change in its decision making arrangements. The current Leader with Cabinet model will no longer be available as the Act introduces a strengthened role for the Leader, as set out below. The Council has to consider the following decision making options.

(a) The Leader with Cabinet Executive

The new Leader with Cabinet Executive model has the following components:

Leader is elected by Council following the City elections and is one of the City's 57 Councillors.

The Leader:

- Is elected for a four year term (where whole council elections are adopted) or until their term of office as a Councillor expires (where the Council operates elections by thirds).
- Determines the size of the Executive (two or more up to a maximum of 10) for a term of up to 4 years.
- Appoints/dismisses a Deputy Leader.
- Appoints/dismisses Executive Members.
- Is responsible for **all** Executive functions.
- Can exercise all the Cabinet functions themselves or may delegate functions to the Cabinet, Cabinet members individually, other Committees or Officers.

The role of the traditional civic Mayor remains unchanged.

The Council as a whole is able to remove a Leader provided the Authority's Constitution (and Executive arrangements) provide for this.

The main differences from the current Leader with Cabinet system are:

- The Leader is normally appointed for a period of office longer than the current annual term.
- The Leader, rather than Council, appoints the Cabinet.

- The Leader determines the scheme of delegation for executive functions to portfolio holders and officers – without input from Council.

(b) Directly Elected Mayor with Cabinet

The directly Elected Mayor:

- Is elected for a four year term and is directly elected by local government electors.
- Is not a City Councillor and is in addition to the 57 City Councillors.
- Appoints/dismisses a Deputy Elected Mayor from the councillors.
- Determines the size of the Executive (two or more up to a maximum of 10)
- Appoints and removes Cabinet Members (from Councillors) for a term of up to 4 years.
- Is responsible for **all** Executive functions.
- May delegate functions to the Cabinet, Cabinet members individually, other Committees, Officers.
- Cannot be removed from Office by the Council. The Mayor however, could choose to resign or could be disqualified if in breach of the National Code of Conduct.
- Has his/her own mandate, independent of majority group and continues to serve his/her own 4 year term of office, even if there is a change in the political balance of the City Council, for example following a by-election or if elections by thirds continue.
- May or may not be a member of the majority party.

A District Councillor could also stand as a candidate for the Elected Mayoralty, but if elected would need to stand down as a District Councillor. The law does not permit an individual to hold both roles simultaneously. The traditional, non-political role now fulfilled by the civic Mayor can continue, but the position may need to be given another name to differentiate the Elected Mayor's role from the civic Mayor. This would need particular consideration bearing in mind the historical significance of the Mayor of Winchester - which arises from ancient charters and unlike newer Boroughs would allow the title of

Mayor to be retained. The new position of Directly Elected Mayor is normally a full time role and an allowance would need to be paid accordingly at a rate to be determined by the Independent Remuneration Panel.

3 The Electoral Cycle

3.1 There are reasons for and against changing the electoral cycle and the most commonly cited are set out below:

(a) Reasons to keep elections by thirds –

- The local electorate can vote in three years out of every four in those Wards with three seats, providing more frequent opportunities to influence the political make up of the City Council.
- There is less likely to be a dramatic change in the political make up of the Council than if all councillors were elected at the same time thereby contributing to stability and continuity of political management. There is also less chance of a major loss of experienced councillors.
- Elections by thirds is the way elections are currently undertaken in a number of our Wards and is familiar to the local electorate. Some voters may not wish to lose the opportunity to vote more frequently.
- Elections by thirds may avoid a situation where controversial decisions are postponed until after the elections with no opportunity for protest at the ballot box for a further four years.
- Councillors who lose their seats are presented with an earlier opportunity to stand again, which also helps political parties keep people 'on board' in an era when getting candidates in the first place is often difficult.
- It is easier for independent and smaller party candidates to be elected when fewer seats are contested.

(b) Reasons to change to whole council elections –

- By holding elections once every four years the make-up of the Council would be more stable over the four year period and this may make it easier for the Council to create long term plans and implement policies. Groups with an overall majority can implement a four year political manifesto.
- It avoids the situation where controversial decisions occurring around March or April each year can be deferred by the

controlling party until after the election, to reduce the risk of an adverse reaction by voters. This 'hiatus' every year is potentially inefficient and is reduced by whole council elections.

- Following from the above, a four-year cycle also addresses the reluctance of an Administration to take difficult, necessary but potentially controversial decisions because there is always 'an election just around the corner'.
- Elections every four years provide a clearer record of achievement by the current party in control for the electorate to consider in exercising their voting preferences.
- The whole District electorate would have the opportunity to vote at the same time and with equal frequency.
- A simpler electoral cycle and the opportunity to influence a big political change may mean more people are likely to vote.
- There would be financial savings to the Council (please see Section 7 - Resource Implications).

(c) What will not change?

- The Council will continue to consist of 57 councillors, with the current numbers of Councillors representing each Ward being unaltered. Changes to the size of the Council will not be considered again until the next Boundary Review, due to commence in 2012.
- The present voting arrangements of voting at polling stations, or by using proxy or postal votes.

3.2 If the option for four-yearly elections is adopted, the first whole Council elections will be held in May 2011. If the timetable is not met, the next opportunity under the 2007 Act for the Council to move to whole Council elections would be December 2014, for elections in 2015. A council can also decide in 2014 to revert back to elections by thirds if it is decided that whole Council elections are not appropriate for the area.

3.3 The General Election now proposed for 7 May 2015 will coincide with the next whole District election, if whole council elections are adopted from May 2011.

4 Review of Wards

- 4.1 Another option in the 2007 Act was for the Council to consider whether it wanted to review the number of councillors, ward boundaries and the possibility of changing to single member wards. The current Guidance has a preference for single member wards. However, the necessary

electoral review would be undertaken at national level and a request had to be made last year for it to be put in a work programme to coincide with the leadership and electoral cycle reviews.

- 4.2 At its meeting on 22 April 2009, the Council decided not to ask the Boundary Committee For England to undertake such an electoral review at this stage. The Council took into account that the Boundary Commission was then considering whether to undertake a review in Winchester District in 2010/11 because projections for housing completions in Boarhunt and Southwick ward had not then been achieved and there was a 37% variance from the District norm in terms of the member:elector representation ratio.
- 4.3 The Local Government Boundary Commission for England is now responsible for this function. The Council has not been notified of any intention for a review in 2010/11. The Commission has been contacted and has indicated that a review is not in the 2010/11 programme. In view of current budget constraints and other workload commitments, an informal indication has been received to the effect that a Winchester review is unlikely to be undertaken in 2011/12 – but the programme has yet to be finalised.

5 Consultation

- 5.1 The Council will not be able to take a final view on the new executive arrangements until the results of consultation have been received.
- 5.2 The previous Government had suggested that new statutory guidance on the consultation arrangements for the new executive arrangements would be published. However, this did not take place. The previous guidance required the Council not to express a preference at the initial consultation stage – but to provide information on the options.
- 5.3 Consultation can take place on the website from after the Council meeting in July until mid October – to inform the proposed decision by Council on 3 November. A press release can be issued at this stage, followed up by an article in Perspectives delivered to all households in September. Partners in the Local Strategic Partnership could also be asked for their views.
- 5.4 If the Council decides to consider changing the electoral cycle then this option will also need to be included in the consultation. If the Council in July decides not to consider this option then no public consultation is required.
- 5.5 It is intended to take the survey results to a special meeting of Council to be held on 3 November 2010 (to be held either prior to or at the conclusion of the scheduled meeting of Council to be held on the same evening). The final decision must be made by at least two thirds of Members voting in favour.

- 5.6 The Constitution would subsequently need to be reviewed to reflect the new executive arrangements. The Act then requires the Council to draw up proposals for the change including a timetable and transitional arrangements. In drawing up the proposals, the Council would need to consider the extent to which the proposals would be likely to assist in securing continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

OTHER CONSIDERATIONS:

6 SUSTAINABLE COMMUNITY STRATEGY AND CORPORATE BUSINESS PLAN (RELEVANCE TO):

- 6.1 The proposals are intended to reinforce the Council's practices as an Efficient and Effective Council.

7 RESOURCE IMPLICATIONS:

- 7.1 If the Council opts to change from elections by thirds to whole Council elections, there is likely to be a budget saving of £50,000 approx. in each of the two years when elections are no longer held. This would be offset in part by an additional cost in the order of £20,000 approx. in the whole election year.

- 7.2 The Council is no longer required to hold a referendum if it selects the Elected Mayor option after the consultation exercise. A referendum would cost in the order of £100,000. As the Council decided not to make specific provision in the 2010/11 budget for additional costs for the consultation exercise on executive arrangements, the consultation programme does not include an option for a referendum. The procedure by which a petition signed by 5% of the electorate can trigger an Elected Mayor referendum still exists in certain circumstances.

- 7.3 If the Council implemented the Elected Mayor option then there would be additional election costs in every fourth year. Assuming this takes place at the same time as the District elections this could be in the order of £50,000 approx.

- 7.4 The Elected Mayor option could potentially involve additional costs for Members Allowances and officer support – if the postholder operated on a fulltime basis – but this cannot be assessed at this stage.

8 RISK MANAGEMENT ISSUES

- 8.1 None, provided correct procedures are followed and any changes are accurately reflected in the Constitution.

BACKGROUND DOCUMENTS: File in Democratic Services Division

APPENDICES: None