

Report to: Cabinet

Date: 30th April 2009

Subject: Local Government and Public Involvement in Health Act 2007 - New Executive Arrangements

Report of: Service Director Borough Solicitor

Contact officer: K. P. Lawson (Telephone: 01942) 827026

Purpose / summary: The report advises Members of the requirement of the Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007 that the Council chooses a new form of executive arrangements. The legislation requires a decision to be made by 31st December 2009 and the Council may chose either a Leader and Cabinet model with a stronger role for the Leader or decide to change its governance arrangements to include an Elected Mayor.

Alternative options considered and reason for selecting the one recommended: Councils now only have the option of the Leader and Cabinet model or an Elected Mayor model in relation to executive arrangements

Recommendation / decision: Members are requested to

1. Note the requirements of the legislation
2. Confirm which model of executive arrangements should be made the subject of the relevant and public consultation
3. Comment upon the proposed timetable for consultation and implementation as indicated in the report
4. If the model preferred by Members is the new Leader and Cabinet consider applying those provisions within the existing constitution referred to in paragraph 5.4 of this report

Key Decision: This report does not involve a key decision.

Risks / Implications:

Financial: None
 Staffing: None
 Policy: Amendments to the Constitution will be required in due course to effect the changes
 Equal Opportunities - Has a Diversity Impact Assessment been conducted? No
 Wards affected: All

Property Implications– Does the proposal involve a reduction, addition or change to the Council’s asset base or its occupation?

No

Does this proposal have significant implications for the Council and the local population?

Yes in relation to decision making processes

Does this proposal involve a new policy or procedure or significant changes to an existing policy or procedure?

Yes the report will involve a change of Constitution

Has the Service Director Borough Solicitor confirmed that the recommendations within this report are lawful and comply with the Council’s Constitution? **Yes**

Has the Service Director Corporate Services confirmed that any expenditure referred to within this report is consistent with the Council’s budget? **Yes**

Are any of the recommendations within this report contrary to the Policy Framework of the Council? **No**

For Cabinet reports only :

Categorisation of the report:	x		x
Discussion leading to a decision	x	Discussion	
Monitoring		Decision	
Sharing for corporate understanding		Information	

Tracking/Process:

	Consultation	Ward Members	Partners
Panel	Overview & Scrutiny	Cabinet	Council
		30 th April 2009	

List of Background Papers in accordance with Section 100D of the Local Government Act 1972:

Document	Date	File Reference	Place of Inspection
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<p>Constitution of the Council</p> <p>Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007</p>		<p>Z32</p>	<p>Town Hall, Library Street, Wigan WN1 1YN Town Hall, Library Street, Wigan WN1 1YN</p>
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Proper Officer K. P. Lawson

Date 20.4.09

1. BACKGROUND

- 1.1. The Local Government Act 2000 radically changed the decision making structures within local authorities. Central to those reforms was the core separation between Executive Councillors and the majority of Members. The Act required local authorities to adopt a new government structure, moving away from decisions being made by cross party committees and introducing an Executive with a wide ranging leadership role.
- 1.2. Wigan Borough Council, in common with the majority of local authorities, adopted a Leader and Cabinet model with the Executive taking collective responsibility for decision making. Under the Council's current constitutional arrangements the Leader is elected annually by Full Council. The Executive, the Cabinet, comprises of 10 Members (including the Leader). Executive Members are appointed by the Leader who determines the portfolio allocated to each individual Executive Member.
- 1.3. In its White Paper "Strong and Prosperous Communities" the Government set out the case for further reforms to local government leadership arrangements. The Government considers that most local authorities have adopted a cautious approach to change with only a limited number of authorities introducing elected mayors. The White Paper puts forward the argument that a Leader and Cabinet model which does not authorise the Leader to act alone or to choose his or her own Executive hampers decision making and a Leader facing annual re-election may find it hard to take and see through essential decisions which may be unpopular in the short term. It is further argued that leadership is the single most significant driver of change and improvement in local authorities.
- 1.4. Building on the White Paper the Local Government and Public Involvement in Health Act 2007 requires changes to the leadership of Councils giving only two options, both of which place all executive powers in the hands of one individual, who, in the normal course of events, will serve an uninterrupted 4 year term. To encourage more Councils to have a directly elected mayor, the Government has repealed the requirement in the 2000 Act for a referendum to take place before a shift to elected mayors takes place, leaving this only as an option save where there is a statutory petition with the relevant percentage of local electors in support of such a change.

2. NEW EXECUTIVE MODELS

- 2.1 Wigan Borough Council must therefore make changes to its current executive arrangements and decide whether it wishes to move to a new model of governance with a directly elected mayor or to vary the current Leader and executive arrangements to comply with the requirements of the 2007 Act.

3. NEW STYLE LEADER AND CABINET

- 3.1 Under this model the Council appoints the Leader for a fixed term of office of 4 years. The Leader then appoints a Cabinet but also determines the sizes of the Cabinet (within the statutory minimum and maximum of 3 and 10). Under these executive arrangements provision can be made for the appointment of a

Deputy Leader with power to act in the Leader's absence. Again the Deputy Leader is appointed (and may also be removed) by the Leader.

- 3.2 As indicated, the other main difference from current arrangements is that the new style leader will have a fixed term of office of 4 years. The intention here is to give the leadership greater stability. While Section 67 of the 2007 Act gives the Secretary of State powers to make regulations providing for a term of office and the appointment and renewal of new style leaders no such regulations have yet been issued.
- 3.3 Crucially the new style leader will be vested with all the authority's executive functions. They will have power to determine how these powers are discharged either by themselves or he or she can delegate them to a Cabinet, a committee of the Cabinet, individual Members of the Cabinet or officers. In essence the new style leader will have the same powers as an elected mayor.
- 3.4 A Leader, as now, would be elected by the Council and would indirectly then have the mandate of the electorate. The new model of Leader and Cabinet does seek to concentrate executive powers into the hands of the Leader and grants to them a 4 year term of office, which could only be taken away by majority vote in full Council. A Leader would have the support of the majority of Members and would be a Councillor and as such would continue to combine their role as Leader with local constituency work.

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 again hold office for a term of 4 years. Clearly in this instance the Mayor would have been directly elected and there will be no option for the Council to remove him or her during the period of office. The Mayor would appoint their own Cabinet and allocate all executive functions. This model would have implications for the current "civic" functions of the existing mayoral position.
- 4.2. Once in office, there is little difference between the new "strong" leader and an elected mayor. A summary of their respective powers and roles is set out later in this report. A fundamental difference, however, is that an elected mayor is not a Councillor. He or she does not have an electoral division to represent and would work full time as mayor. A directly elected mayor would be elected by the voters of Wigan as a whole and would have a mandate from them. Having set out policies before taking office he or she could be said to have more autonomy to deliver them than a leader appointed by the Council and could retain executive powers personally in order to achieve those objectives. Since a mayor is not appointed by the Council, it is possible that they may not be a member of the majority group or indeed a member of any political party. It is still the case that a mayor would be reliant upon the Council to pass any budget that he or she proposed and would therefore need to work with the Members.

5. CONSULTATION

- 5.1. Before drawing up formal proposals for consideration by a meeting of the full Council called specifically to make the decision, the Council is required to take reasonable steps to consult upon its proposed new arrangements but it is not required to hold a referendum unless it chooses to do so or unless it receives a valid petition for the election of a mayor. Whilst further guidance and

regulations are still awaited from the Department of Communities and Local Government it is not likely that the DCLG would be prescriptive in the method of consultation. Guidance issued under the 2000 Act provided that the proposals should include arguments for and against the change and the reasons for wanting the change, had to provide consultees with an opportunity to express a preference for a new form of executive and to use both qualitative and quantitative methods of consultation.

- 5.2. Members did actually give some consideration to the new models at the Cabinet meeting held on 5th February in relation to a DCLG consultation concerning amendments to the process of changing executive arrangements. The view was then expressed that the new Leader and Cabinet model was preferred. Members will also be aware that that report also referred to a motion put forward at Council by an opposition Member that there was little advantage in changing to an elected mayor.
- 5.3. Members' views on how the consultation may be pursued are welcomed but it is suggested that this can be by way of the use of a journal such as Borough Life and by way of consultation with through the LSP.
- 5.4. If the Leader and Cabinet model is the preferred option, Members may wish to introduce for the municipal year 2009-10, ahead of the statutory changes in 2010-11, those elements of the new executive arrangements which are actually permitted by the current Constitution. The current Constitution does allow the Leader personally to appoint Cabinet Members and assign portfolios. It should also prove possible to take steps to develop the role of the Deputy Leader in a manner envisaged by the new arrangements. Applying these provisions in advance of the statutory timescales would enable Members to trial and familiarise all Members with the proposed new ways of working.

6. CONTINUOUS IMPROVEMENT

- 6.1. In determining its proposals, the Council is required to consider the extent to which they would be likely to assist in securing continuous improvement in the way in which the Authority's functions are exercised having regard to economy, efficiency and effectiveness. The direct financial implications of either model are difficult to assess and may be of relatively small significance to the overall Council budget. A decision to adopt a directly elected mayor model could increase the number of Member allowances, since the mayor is not a Councillor. It is of course possible that a mayor would exercise more executive functions personally and reduce Executive Members.
- 6.2. The key consideration here is how continuous improvement and effective decision making are encouraged by the relevant executive model.

7. TIMETABLE

- 7.1. The last day that the Council can continue to operate its current arrangements is the 3rd day following the 2010 May Elections but it must pass a resolution deciding on the form of its new executive arrangements before 31st December 2009. The Council must pass this resolution at a meeting specifically convened for the purpose and the Council is required to agree a timetable with respect to the implementation of the proposals. The reasons for a decision being made before the end of December is to facilitate arrangements

for a mayoral election in May to accommodate the introduction of that model following those elections if that model is preferred.

- 7.2. Whichever model is chosen there will need to be work on amendments to the Constitution to bring the new model into being.
- 7.3. After the consultation referred to above then the Council is required to draw up its proposals and must
 - a) secure that copies of the document setting out the proposals are available at its principal office for inspection by members of the public at all reasonable times, and
 - b) publish in one or more newspapers circulating in its area a notice which
 - i) states that the Council has drawn up its proposals
 - ii) describes the main features of the proposals
 - iii) states that copies of the documents setting out the proposals are available at the Council's principal office for inspection by members of the public at such times as may be specified, and
 - iv) specify the address of the principal office

Those proposals are then made the subject of the special Council meeting.

8. CONCLUSION

In order to move forward with the process Cabinet IS requested to indicate the preference for one of the two models of governance. Members may wish to refer the issue to the Overview and Scrutiny Committee and possibly also the Audit, Governance and Improvement Review Committee. Alternatively this can be done as part of the wider consultation exercise. That public consultation exercise could take place between May and the end of June with a subsequent report back to Cabinet for a final decision on formal proposals to be considered at a special meeting of full Council to be arranged thereafter.

K. P. Lawson
Service Director Borough Solicitor

20.4.09