

**REPORT OF THE CONSTITUTION REVIEW WORKING GROUP
No. 3/2009-10**

COUNCIL 14 DECEMBER 2009

Chair:
Councillor Kober

INTRODUCTION

- 1.1 This report covers the consideration given by the Constitution Review Working Group at our meeting on 20 October 2009 to the item entitled "Update on the Implementation of New Executive Leadership Arrangements".

ITEM FOR DECISION

2. IMPLEMENTATION OF NEW EXECUTIVE LEADERSHIP ARRANGEMENTS

- 2.1 We considered a report which reminded Members of the two options for the new executive leadership arrangements under the Local Government and Public Involvement in Health Act 2007 (the 2007 Act). The 2007 Act has amended sections 11 and 14 of the Local Government Act 2000 which deal with the permissible forms of executive leadership and the discharge of executive functions.
- 2.2 The two options are (i) a Leader elected by the Councillors at full Council ("the Leader"), or (ii) a Mayor directly elected by the local electorate ("the Mayor"). We noted that both options involved a 4 year term and the vesting of all executive functions in the Leader/Mayor to exercise or delegate at their discretion. The choice between Leader or Mayor would not affect the other governance arrangements in the Council.
- 2.3 The report sets out the decisions taken to date. On 18 May 2009 full Council approved a form of "open-ended" first stage public consultation inviting views on the choice between the Leader or the Mayor options. That Council also agreed a timetable for the consultation and decision-making on the new executive leadership arrangements and agreed that the Constitution Review Working Group ("CRWG") should have Member oversight of the process.
- 2.4 The responses to the first stage public consultation were considered by full Council on 20 July. Of the 590 responses, 325 favoured the Leader option and 265 favoured the Mayor. Members then approved formal proposals for new executive leadership arrangements based on the Leader option subject to a second stage public consultation. These proposals are set out in Appendix 2 to this report.

- 2.5 In drawing up these formal proposals Members complied with their specific statutory duty to consider the extent to which the proposals, if implemented, would be likely to assist in securing continuous improvement in the way in which the Council's functions were exercised, having regard to a combination of economy, efficiency and effectiveness. Members noted the benefit to the effective running of the Council following from the greater likelihood of shared priorities between the majority of Councillors and a Leader elected by them as compared with a popularly elected Mayor.
- 2.6 Full Council on 20 July were advised of the low level of public response to the first stage consultation. Members asked for a more extensive second stage consultation. Details are provided below in paragraph 2.7. There appeared to be very little public demand for a referendum which would have cost in the region of £250,000.
- 2.7 We were advised that the second stage public consultation ran from 6 August until 9 October. In accordance with the legal requirements, the proposals were advertised in local newspapers and made available for public inspection at the Civic Centre. In addition, the proposals were publicised: - on the Council website with an on-line survey, in a double page article in the Haringey People, by posters with a leaflet and tear-off slip at libraries and customer service centres, by notices at Area Assemblies, by a press release, by letters to partners and community organisations, by letters to first stage respondents and by an item and debate at the Youth Council.
- 2.8 At our meeting on 20 October we noted that 108 responses had been received in total from outside the Council. Of these 74 favoured the Leader option, 22 favoured the Mayor option and 12 made other comments not clearly on one side or the other. Many responses expressed distrust of the Mayor option which was seen as less accountable over a period of 4 years. More details of the responses to the second stage public consultation are set out in Appendix 1 to this report.
- 2.9 While the low level of public response on this important issue is disappointing, the main conclusion from the public consultations is that there is far less support for the Mayor option which would be the more radical departure from current governance arrangements.
- 2.10 We were advised that in the absence of a referendum, Members were not bound by the numerical weight of preferences expressed for either option but could have regard to other factors. But Members should bear in mind their statutory duty to consider how far the proposals in Appendix 2 would assist in securing continuous improvement in the exercise of Council functions, as fully set out in paragraph 2.5 above.
- 2.11 On 20 October we gave further consideration to the proposals set out in Appendix 2 to this report. The key points are as follows:

- (i) the Leader will be elected by full Council for a 4 year term instead of only one year as at present;
- (ii) the Leader may be removed from office during that term by a vote of no confidence carried by a simple majority of Councillors;
- (iii) The Leader, not full Council, will appoint the Cabinet Members and fix their portfolios;
- (iv) There will be at least 2 but no more than 9 Cabinet Members. The Leader will have power to replace or remove them at any time and to vary portfolio responsibilities;
- (v) The Leader must appoint a Deputy Leader able to exercise the Leader's powers in the absence or incapacity of the Leader;
- (vi) The Leader will be able to exercise all the "executive-side" functions of the Council or to delegate them to individual Cabinet Members, Cabinet Committees or officers. These delegations can be revoked at any time;
- (vii) The Local Choice Functions will continue unchanged as will all the non-executive functions delegated to Committees, Sub-Committees or officers. There is a legal requirement to state the position with regard to the Local Choice Functions, so they are listed at the end of the proposals in Appendix 2 to this report.

2.12 We noted the requirement for the proposals to include transitional arrangements from the old form of executive leadership arrangements to the new form and the duty to implement the new form of leadership after the May 2010 Council elections. As set out in paragraph 8 of Appendix 2, the Leader in office before the elections will remain in office until the Annual Meeting of the Council in May 2010 unless that Leader has ceased to be a Councillor or ceased to be within the majority political group. In those events, the Chief Executive would have delegated powers to take genuinely urgent decisions between the elections and the Annual Meeting of the Council in consultation with the representatives of the largest political group or groups on the new Council.

2.13 We were advised that the reference to the possible delegation of executive functions to Ward Councillors by the Leader when the relevant legislation came into force, would not be included in the proposed changes before full Council in December. The delegations to Ward Councillors had been included in the second stage public consultation to show the scope of potential future change under the new model but this was not within the matters for decision now.

2.14 We noted legal advice that the full Council was under a duty to pass a resolution to adopt new executive leadership arrangements at a meeting specially convened for this purpose before the end of 2009. In default of a resolution by this deadline, the Secretary of State would have power to impose the new form of Leader and Cabinet executive model on the Council by Order.

- 2.15 After the passing of the resolution by full Council, further work would be needed to amend the Constitution in accordance with the chosen option. We noted that reports on these detailed Constitution amendments would come to CRWG with a view to adoption by full Council in February 2010.
- 2.16 Since the CRWG meeting on 20 October, the report and responses to the second stage of public consultation have been made available to both political groups at their November meetings. No further comments have been received by officers.

WE RECOMMEND

1. That Members resolve:
 - (i) to change the executive leadership arrangements to the new Leader and Cabinet executive model as proposed in Appendix 2 to this report, and
 - (ii) to adopt the timetable for implementation and transitional arrangements set out in paragraphs 7 and 8 of Appendix 2 to this report, and
 - (iii) to give notice of these proposals as required by legislation, that is, by making them available for public inspection at the Civic Centre and by press notice.