

# **EXTRAORDINARY MEETING OF CITY COUNCIL – 13 DECEMBER 2010**

## **REPORT OF THE LEADER**

### **EXECUTIVE ARRANGEMENTS**

#### **1 SUMMARY**

- 1.1 The City Council is required by 31 December 2010 to adopt one of two new models of Executive Arrangements introduced by the Local Government and Public Involvement in Health Act 2007, with the change in governance arrangements required to be effective no later than the third day after the local elections on 5 May 2011.
- 1.2 The Local Government Act 2000 (“the 2000 Act”) required most local authorities to operate executive arrangements using one of 3 model forms of executive:
- Elected Mayor and Cabinet;
  - Leader and Cabinet;
  - Mayor and Council Manager.

The City Council adopted the Leader and Cabinet Executive model like most other authorities.

- 1.3 As reported to council in May 2008, Part 3 of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) has introduced changes to the 2000 Act abolishing two of these models, namely the old style leader and cabinet and the elected mayor and council manager. Local authorities are now required to operate one of two models:
- Elected Mayor and Cabinet;
  - ‘Strong Leader’ model of the Leader and Cabinet

and in Nottingham’s case, new executive arrangements must take effect by the third day after the 2011 local elections.

#### **2 RECOMMENDATIONS**

It is RECOMMENDED that:

- (1) the City Council adopts the 'Strong Leader' and Cabinet model of executive governance and the executive governance arrangements, as detailed in Appendix 1, with effect from the third day after the local government elections in May 2011;
- (2) the Executive Board is asked to consider and make recommendations to Council on amendments required to the constitution to bring the new governance arrangements into effect from 8 May 2011;
- (3) the allocation of executive functions as set out in the constitution will continue until revised by the Leader under the new governance arrangements.

### **3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS**

- 3.1 The Council is statutorily required to adopt one of the two new models of Executive arrangements and so there is no option to maintain the status quo.
- 3.2 In terms of the process to be followed in choosing an executive model, the Council could have used a local referendum. This was not pursued as there was evidence from a previous consultation on governance arrangements to indicate that there was insufficient local interest in this matter to warrant the significant expenditure involved in a referendum, which would be akin to running a local election. There was also uncertainty about the detail and timing of the new government's plans to legislate further to change the statutory requirements relating to executive arrangements.

(N. B. Choosing not to hold a referendum on this matter does not affect the ongoing requirement to hold a referendum if at least 5% of the local electorate petitions for a referendum on the council's governance arrangements.)

### **4 BACKGROUND**

#### **4.1 Models**

- 4.1.1 The changes to executive arrangements required under the 2007 Act were intended to secure strong, visible leadership for local authorities.

4.1.2 Under the 'Strong Leader' and Cabinet model, the executive consists of:

- a councillor of the authority ("the leader") elected as Leader of the executive by the Council; and
- between two and nine councillors of the authority appointed to the executive by the Leader.

4.1.3 Unlike the old model, the Leader is elected for a 4 year term, although it is possible to make provision in the constitution for the Council to be able to remove the leader by resolution before that term of office expires. Other key provisions are:

- the Leader (not Council) determines the size of the executive, appoints its members and can remove them at any time;
- the Leader must appoint one member of the executive as Deputy Leader who will act if the Leader is unable to do so. The Deputy Leader's term of office is co-terminus with that of the Leader although the Leader can remove the Deputy from office at any time;
- the Leader is responsible for the allocation and discharge of all executive functions in the same way as a Council Mayor can do under the Mayor and Cabinet Executive model

4.1.4 Under the Elected Mayor model, the executive consists of:

- a Mayor elected by the local authority electorate for a term of four years; and
- between two and nine councillors of the authority appointed to the executive by the Mayor.

The Mayor is not a Councillor and does not represent a ward. He or she could be a member of a political party or could be elected from the wider community on a personal mandate. Other key provisions are that:

- the Mayor cannot chair meetings of the full Council (this remains the role of the ceremonial mayor);
- the Mayor cannot be removed by a resolution of full Council during their term of office;
- the Mayor is responsible for all executive decisions of the authority;
- the Mayor can discharge any function of the executive, or determine whether the Cabinet, officers or Council

committees can discharge executive functions.

4.2 Under both systems, non executive functions and the overview and scrutiny function will be reserved to bodies appointed by Council for the purpose.

4.3 Apart from the different methods of election between the Leader and a Mayor, the principal difference between the 2 models is that under a 'Strong Leader' and Cabinet, the Executive recommends the budget and strategic policies to Council which may approve, overturn or amend them by a simple majority. Under a Mayor and Cabinet, the Executive submits the budget and strategic policies to Council which, ultimately, may only amend or overturn by a two-thirds majority.

#### 4.4 Changing Executive Arrangements - Procedure

4.4.1 The 2007 Act imposes procedural requirements before the Council can adopt any such change in its governance arrangements. Following the formation of the government in May 2010, the Minister for Housing and Local Government, wrote to councils urging them to take a low cost approach to the consultation in view of the fact that the new government intended to legislate to change the statutory requirements relating to executive arrangements and leadership models in local authorities. The procedural steps taken in order to meet the requirements of the 2007 Act have had regard to the minister's letter and were as follows:

##### 4.4.2 (a) Consultation Process

Consultation is required with electors and other interested parties on the new governance models in advance of any proposals being prepared for adoption by Council – public notice of the consultation period was given in the Evening Post with a consultation document outlining the 2 options available being posted on the Council's website and open for inspection at the Council's offices at Loxley House. The period of consultation ran from 4 October 2010 to 1 November 2010. No responses were received.

##### 4.4.3 (b) Proposals – continuous improvement, public notice and timetable for implementation

Following public consultation, proposals for consideration by

Council as to the preferred governance model must take into account and consider to what extent, if implemented, they 'would be likely to assist in securing continuous improvement in the way in which the local authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness'. The proposals are also required to include a timetable for implementation and be the subject of public notice in one or more local newspapers in advance of the Council meeting at which they are to be considered.

4.4.4 Given the lack of response to the consultation document, and in the light of perceived consensus within the Council that minimal immediate change was needed in the context of likely major changes within the Localism Bill, proposals for a 'Strong Leader' and Cabinet model were published in the Nottingham Evening Post and on the Council's website on Thursday 2 December 2010 and were made available for inspection at the Council's offices. (N.B at the time of writing this report the Localism Bill had not been published. If it is published before the meeting an update will be provided). The proposals, which include the information referred to in paragraphs 4.4.3 above, are set out in Appendix 1 to this report and Council is requested to consider them for adoption as the executive governance arrangements from May 2011.

#### 4.4.5 (c) Transitional Arrangements

Under the Act, the Council must agree transitional arrangements for the period following the local elections up until the annual meeting of Council. Under the proposals set out in Appendix 1, the existing Leader will remain in place (if he is still a Councillor after the election) until the Annual Meeting after the 2011 local elections, at which the new Leader will be elected. Whoever acts in place of the new Leader would be required to act in accordance with the existing constitution and within the parameters of the relevant regulations and statutory provisions.

#### 4.4.6 (d) Executive functions and changes to the constitution

The Act makes clear that the Council must state the extent to which the functions specified in S13 (3) (b) of the Local Government Act 2000 (i.e. executive functions) are to be the responsibility of the new Executive. It is proposed that the allocation of executive functions as set out in the current constitution will continue until

revised by the Leader under the new governance arrangements.

- 4.4.7 Detailed changes to the Council's existing constitution will be required to take account of the new governance arrangements which are adopted. It is proposed that Executive Board be asked to consider the necessary changes and make recommendations to Council.

## **5 FINANCIAL IMPLICATIONS (INCLUDING VALUE FOR MONEY)**

The costs of public notices and consultation have been contained to the minimum as per the advice received from the Minister for Housing and Local Government and can be met from within existing budgets.

## **6 RISK MANAGEMENT ISSUES (INCLUDING LEGAL IMPLICATIONS, CRIME AND DISORDER ACT IMPLICATIONS AND EQUALITY AND DIVERSITY IMPLICATIONS)**

The Council would be in breach of its statutory duty if it failed to introduce new governance arrangements in accordance with the provisions and timetable set out in the 2007 Act referred to in this report.

## **7 LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION**

Letter from Rt. Hon Grant Shapps MP, Minister for Housing and Local Government.

## **8 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT**

- 8.1 Local Government Act 2000
- 8.2 Local Government and Public Involvement in Health Act 2007

**COUNCILLOR JON COLLINS  
LEADER**

## NOTTINGHAM CITY COUNCIL EXECUTIVE GOVERNANCE ARRANGEMENTS

### PROPOSALS FOR NEW EXECUTIVE ARRANGEMENTS

#### Leader and Cabinet Executive

The Local Government and Public Involvement in Health Act 2007 requires Nottingham City Council to make changes to its current governance and decision making arrangements. The new arrangements will come into operation on the third day after the elections which are to be held on 5 May 2011. The Council is required under the Act to publish its proposals following the conclusion of a consultation exercise.

#### Proposed Executive Arrangements

It is proposed that, with effect from the third day after the May 2011 elections, the City of Nottingham Council adopts the Leader and Cabinet Executive (England) model as set out in the provisions of the Local Government Act 2000 (as amended). The main features of the proposals are as follows:

##### 1. Election of Leader

The Leader is elected by full Council at its post election annual meeting (or, if the Council fails to elect a Leader at that meeting, at a subsequent meeting of the Council). The term of office of the Leader starts on the day of his/her election as Leader and ends on the day of the next post election annual meeting (under whole Council elections) unless he/she before that day:

- is removed from office or resigns;
- ceases to be a councillor;
- is disqualified from being a councillor.

##### 2. Appointment of the Cabinet (Executive) and Scheme of Delegation

The Leader determines the size of the Cabinet (Executive) and appoints between 2 and 9 members of the Council to be the Cabinet (Executive) in addition to himself/herself, allocates any areas of responsibility (portfolios) to them, and may remove them from the Cabinet (Executive) at any time. The Leader determines the scheme of delegation for the discharge of the executive functions of the Council. The Leader will report to the Council on all

appointments and changes to the Cabinet (Executive). It is proposed that the Cabinet (Executive) will be known as the Executive Board.

### **3. Appointment of Deputy Leader**

The Leader appoints one of the members of the Cabinet (Executive) to be his/her deputy, to hold office until the end of the term of office as Leader (unless the person resigns as Deputy Leader, ceases to be a Councillor or is disqualified or removed from office by the Leader). The Leader may, if he/she thinks fit, remove the Deputy Leader from office, but must then appoint another person in his/her place.

### **4. Absent Leader**

If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in his/her place. If the Deputy Leader is unable to act or the office is vacant, the Cabinet (Executive) must act in the Leader's place or arrange for a member of the Cabinet (Executive) to do so.

### **5. Removal of Leader**

Section 44C of the Local Government Act 2000 (amended) states that the executive arrangements which provide for a Leader and Cabinet Executive may include provision for the Council to remove the Leader by resolution. It is proposed that Nottingham City Council have the power to remove the Leader by way of resolution by a simple majority, with provision for the removal of the Leader to be included in the Constitution of the Authority. The Act specifies that, if the Council passes a resolution to remove the Leader, a new Leader is to be elected:

- (a) at the meeting at which the leader is removed from office; or
- (b) at a subsequent meeting.

### **6. Referendum**

Under the Act, the Council has the option whether or not to make its proposals subject to a referendum. A referendum would require registered electors to endorse the Council's proposals and the costs would be significant. At the time of commencing the consultation process the City Council made known its intentions not to undertake a referendum given the previously low level of interest shown by the public about leadership arrangements and the cost involved.



## 7. Timetable for Implementation

DATE	ACTION REQUIRED
2 December 2010	Public notice of draft proposals
13 December 2010	Special meeting of City Council to pass a resolution to adopt preferred governance model.
31 December 2010	Statutory deadline by when the Council must have adopted new governance arrangements
<b>2011</b>	
Date to be determined	Report to Executive Board to review the constitution consequent to the new arrangements
Date to be determined	Report to Council to make necessary changes to the constitution consequent to the new arrangements
5 May 2011	City Council elections (whole council)
8 May 2011	New governance arrangements come into effect
Date to be determined but no later than 21 days after retirement of councillors	Annual Council elects leader
Following the Appointment of the Leader at Annual Council	Appointment of Deputy Leader and cabinet members and allocation of responsibilities

## 8. Transitional Arrangements

Under the Act, the Council must agree transitional arrangements for the period following the local elections up until the annual meeting of Council. Under these proposals, it is recommended that the existing Leader would remain in place (providing, of course, he/she is still a Councillor) until the Annual Meeting after the 2011 elections, at which the new Leader will be elected. Whoever acts in place of the new Leader will have to act in accordance with the existing constitution and within the parameters of the relevant regulations and statutory provisions.

## 9. Continuous Improvement

In drawing up the proposals, the local authority must consider the extent to which the proposals, if implemented, would be likely to assist in securing continuous improvement in the way in which the local authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness. Under the current Leader and Executive arrangements, Nottingham City Council has demonstrated that it is an improving authority., It

The latest external assessment of the authority in September 2009 by the Audit Commission rated the council as 'performing well' and reported in particular 'that the Council is improving its planning, its leadership and its capacity. It has put in place a number of significant new plans over the last year, and ambitions for the city are now clear' The council considers that as the Strong Leader and Cabinet model is nearest to its present governance arrangements, it would better suit the needs of the city at the present time, support the continued improvement that is being made and provide stability and continuity in the current challenging circumstances facing the city as a result of the economic recession.

## **10. General Information**

The research available does not suggest that one model of governance is preferable over another. Under the current options for executive arrangements only 12 Councils in England and Wales have operated a Mayoral model. A directly elected Mayor of a Council may have a higher profile than a Leader and may as a result have an increased ability to act as a focal point for debate but this does not necessarily equate to a more effective style of Leadership. There are some 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 voter 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, which is responsible for setting the budget and the policy framework. The personality of the Mayor can be a positive factor and may contribute to strong and visible leadership, 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.

Accordingly, based on the lack of strong evidence that the mayoral model is more effective, the seeming lack of local interest in mayoral arrangements and given the demonstrable continuous improvement so far achieved by the council under leader and cabinet executive arrangements, the council has arrived at the strong leader and cabinet model as its preferred option .

## **11. The Constitution**

Detailed changes to the Council's existing Constitution to include the above proposals will be agreed by the Council prior to the date on which the proposals come into effect. The Act makes clear that the Council must state the extent to

which the functions specified in the Local Government Act 2000 (S13 (3)(b)) are to be the responsibility of the Executive which will be operated if the proposals are implemented. The Council proposes that the allocations of functions will continue as for the current Council until revised by the Leader or Council under the new governance arrangements.