

**AGENDA ITEM: 1.4**

Page nos. 1 - 7

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Meeting	Council (Extraordinary)
Date	3 November 2009
<b>Subject</b>	<b>Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007- New Executive Arrangements</b>
Report of	Director of Corporate Governance
Summary	The Council is asked to note the new Executive and Leadership arrangements prescribed by the Local Government Public Involvement in Health Act 2007 and as required by the legislation to pass a resolution at a meeting specially convened for the purpose as to the model that the Council should adopt.

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Officer Contributors	Governance Manager/Director of Corporate Governance
Status (public or exempt)	Public
Wards affected	All
Enclosures	Appendix A – proposed timetable
For decision by	Council
Function of	Council
Reason for urgency / exemption from call-in (if appropriate)	Not applicable

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## **1. RECOMMENDATIONS**

- 1.1 That pursuant to the requirements of the Local Government Act 2000 as amended by the Local Government & Housing Act 2007 Council is asked to formally resolve to adopt the 'new-style' Leader and Cabinet model of Executive arrangements as its form of executive governance and instruct Officers to implement this in accordance with the proposed timetable including making the necessary reports to the Special Committee (Constitution Review) for consideration of detailed changes to the Council's Constitution.**

## **2. RELEVANT PREVIOUS DECISIONS**

- 2.1 21 July 2001 - Council, Minute 25.  
2.3 17 March 2009 – Special Committee (Constitution Review)  
2.2 7 April 2009 - Council, Minute 199

## **3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS**

- 3.1 Under the Council's Corporate Plan for 2009/10 to 2013/14, one of the corporate priorities is 'More Choice, Better Value' and a key objective within this priority is 'enhancing and further developing corporate governance'. The Council's Executive Arrangements are central to its governance.

## **4. RISK MANAGEMENT ISSUES**

- 4.1 The changes must be implemented in accordance with the statutory requirements otherwise the Secretary of State has residual powers to intervene. There is therefore a reputational risk if the matter is not progressed in accordance with the statutory requirements.

## **5. EQUALITIES AND DIVERSITY ISSUES**

- 5.1 The decision-making processes of the Council, as enshrined within the Constitution, need to be transparent and accessible to all sectors of the community.

## **6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)**

- 6.1 None arising from this report.

## **7. LEGAL ISSUES**

- 7.1 The legal requirements are contained within the body of the report.
- 7.2 In addition, it should be noted that the Secretary of State has the power to amend dates, intervals and terms of office and to make incidental and consequential provisions. For example, this may apply to the dates on which and years on which relevant elections may or must be held.

## **8. CONSTITUTIONAL POWERS**

- 8.1 Under Article 4 of the Constitution, “only the Council will exercise the following functions:

“(a) adopting and changing the Constitution;  
“(d) appointing the Leader and members of the Cabinet;”

## **9 BACKGROUND INFORMATION**

- 9.1 By virtue of the Local Government Act 2000 (“the 2000 Act”), the Council adopted executive arrangements separating the decision-making and scrutiny roles of local authorities. Most local authorities were given the option of choosing one of 3 specified forms of executive arrangements, namely:

(a) Mayor and Cabinet Executive or  
(b) Mayor and Council Manager Executive or  
(c) Leader and Cabinet Executive

- 9.2 In compliance with statutory procedures, including a consultation, the Council adopted the Leader and Cabinet Executive model in 2001. Arrangements for dealing with the appointment of the Leader and Cabinet and conduct of executive meetings are dealt with in various parts of the Council’s Constitution.

- 9.3 In the White Paper “Strong and Prosperous Communities” (October 2006), the Government set out the case for further reforms to local government leadership arrangements. It pointed out that many local authorities have adopted a cautious approach to change, with only 12 local authorities introducing elected mayors. The White Paper argued that a Leader and Cabinet model that does not authorise the Leader alone to choose his or her own Executive hampers decisive decision-making; that 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 and that Government research shows that leadership is the single most significant driver of change and improvement in local authorities.

- 9.4 Building on the White Paper, the Local Government and Public Involvement in Health Act 2007 [“the Act”] requires local authorities to make changes to executive arrangements. It introduces two models, both of which place all executive powers in the hands of one individual:

(a) a Mayor and Cabinet Executive  
(b) a Leader and Cabinet Executive

- 9.5 Under the Act, the Council must 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 Cabinet arrangements to comply with the requirements of the Act.

- 9.6 **Any resolution to make a change in governance arrangements must be passed by Council at a meeting specially convened for this purpose.**

London Boroughs are required to pass a resolution before 31 December 2009 and introduce new executive arrangements at the Council Annual Meeting immediately after the Council local elections in 2010. This meeting has been convened for the purpose of passing the required resolution.

#### **'New-style' Leader and Cabinet Model**

- 9.7 Under the 'new-style' Leader and Cabinet Member model, there would be a number of formal changes and the Constitution will require some amendment as indicated in the timetable. However, much would stay the same in practice.
- 9.8 The Leader of the Council will be able to discharge executive functions in the manner of an Elected Mayor (as detailed in section 14 of the 2000 Act). That is, all executive functions of the Council will initially reside with the Leader who can then delegate them to the Executive, to an Executive committee, to another individual Executive Member or to an Officer as s/he sees fit. Currently executive functions reside with the Leader and Cabinet together initially. Under the new arrangements, Executive Members would be appointed by the Executive Leader of the Council rather than by the Council.
- 9.9 Another requirement under the new model is that the Leader must appoint a deputy who will hold office until the end of the Leader's term. However, a deputy can be removed and replaced mid-term by the Leader. The Act specifies that the deputy will take up the role of the Leader if the latter is unable to act or the office becomes vacant. The Executive as it currently operates includes a role of Deputy Leader but the provisions for this would be required and formalised.
- 9.10 The Executive Leader would, as now, be elected by the Council and could only be removed by a resolution of Council. The new model concentrates executive powers into the hands of the Leader and grants to him, or her, a four year term of office (in a local authority that holds whole council elections), which could only be taken away by a majority vote in full Council. If a Leader were to be removed in this way, his/her term of office would end on this day and a new leader would have to be appointed either at that meeting or at a subsequent meeting. For continuity, similarly to under current arrangements, the Leader would remain Leader of the Council until the Annual Council Meeting following Local Elections; thus normally completing a four year term of office
- 9.11 The maximum number of members that an executive may have remains ten and at its minimum must consist of the Leader, Deputy Leader and one other.
- 9.12 Although having similar powers to an elected Mayor, the Leader would be a Councillor and would be required to combine the role with local work and in representing the views of his or her electoral division.

#### **Elected Mayor and Cabinet**

- 9.13 A decision to elect a Mayor would bring a shift in culture to a Council. A fundamental difference is that an elected Mayor is not a Councillor. S/he does not have an electoral division to represent and would work full time as a Mayor. A directly elected Mayor would be elected by the voters of the Borough as a whole and would have the mandate from them to deliver on his or her election

promises. Since a Mayor is not appointed by the Council, it is possible that s/he may not be a member of a majority group or any political party.

- 9.14 The Mayor would also hold a four year term of office and must appoint a deputy (from the Councillors serving on the Council) under the same terms as the new Leader model. A Mayor cannot be removed by the Council. Also, a two thirds majority is required to overturn the Mayor's budget proposals.

### **Making the change**

- 9.15 Government guidance states that the new requirements are aimed at securing strong, visible leadership for local authorities. In selecting a preferred model, Councils must consider the extent to which the proposals assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to the combination of economy, efficiency and effectiveness.
- 9.16 Were the Council to resolve to adopt a different form of Executive (ie an elected Mayor and Executive model) it would have to take reasonable steps to consult local and other interested people. The Council could provide for the change in governance arrangements to be subject to approval in a referendum, the result of which would be binding on the Council. Such consultation is not required for a change from an 'old-style' to a 'new-style' Leader and Cabinet model.
- 9.17 At its meeting on 17 March 2009, the Special Committee (Constitution Review) received a report setting out the requirements and options regarding the new Executive arrangements. The decision of that committee was to make a recommendation to the Council to adopt the 'new-style' Leader and Cabinet Executive model on the grounds that it had worked so far and, in the view of the committee, the Elected Mayor and Cabinet model had not worked so well in other boroughs.
- 9.18 This recommendation was reported to the Council on 7 April 2009 and was approved and adopted in principle, but still subject to the requirement for formal adoption at a special meeting of the Council..
- 9.19 Officers were not instructed to take any further action in this regard. The Council, across political groups, had indicated a clear preference for minimum change as being the most suitable option for the London Borough of Barnet. Some London Boroughs have conducted consultation exercises in respect of the required change in executive arrangements but have reported minimal responses.
- 9.20 Further to a resolution passed at this meeting, in respect of changing the Council's Executive arrangements, the Council is also required to draw up proposals for change, including a timetable. Were there to be a change to a mayoral executive model, this timetable would have included the election of a mayor and transitional arrangements. For a change to a 'new-style' Leader and Cabinet model, actions in respect of this timetable will primarily involve updates to the Constitution. A proposed timetable is presented at Appendix A.

## **10. LIST OF BACKGROUND PAPERS**

### **10.1 The Local Government and Public Involvement in Health Act 2007**

Legal: MAM

**Proposed timetable for implementing new Executive Arrangements**

<b>Date</b>	<b>Action</b>	<b>Relevant decision-making body or otherwise how to be achieved</b>
Tues 3 Nov 2009	Pass resolution on new governance arrangements	Council
Thurs 12 Nov 2009	Make the provisions of the arrangements available at Hendon Town Hall, Hendon Library and North London Business Park for inspection by members of the public at all reasonable hours.	Via publication on the Website
Thurs 12 Nov 2009	publish in one or more newspapers circulating in their area a notice which— (i) states the resolution to operate the new governance arrangements, (ii) states the date on which the Council is to begin operating the arrangements, (iii) describes the main features of the arrangements, (iv) states that copies of a document setting out the provisions of the arrangements are available at their principal office for inspection by members of the public at such times as may be specified in the notice, and (v) specifies the address of their principal office.	To be published in the Barnet Press
Thurs 31 December 2009	Deadline for passing of resolution of new governance arrangements	Council – met by 3 Nov 2009
Thurs 14 January 2010	Receive reports and recommendations from Officers on the issues identified in respect of the required changes to the Constitution. The key areas of the Constitution for change will be: <ul style="list-style-type: none"> <li>• Article 7 – The Executive</li> <li>• Part 3 - Responsibility for Functions</li> <li>• Part 4- Executive Procedure Rules</li> <li>• Minor changes to those sections explaining how the Council works</li> </ul> Minor changes to the Overview and Scrutiny Procedure Rules	Special Committee (Constitution Review)
Mon 15 March 2010	Finalise proposals and make recommendations to Council in respect of changes to the Constitution.	Special Committee (Constitution Review)
Tues 20 April 2010	Agree all relevant changes to the Constitution	Council
Thurs 6 May 2010	Local Government Elections	
Sun 9 May 2010	Cease operating the old form of Executive arrangements and start operating the new form.	
Mon 17 May 2010	Annual Council meeting at which new Leader and Executive appointed	Council
From May 2010	New Scheme of Delegation to be produced based on the Leader's direction	Corporate Governance Officers
May 2014	At the annual meeting the Leader's term of office would come to an end and a new Leader would be appointed.	Council