

Item No. 2.1	Classification: Open	Date: November 4, 2009	Meeting Name: Council Assembly
Report title:		Changes to executive arrangements required under the Local Government & Public Involvement in Health Act 2007	
Ward(s) or groups affected:		All	
From:		Strategic Director of Communities, Law & Governance	

RECOMMENDATIONS

1. That council assembly notes the proposals attached to this report as Appendix A.
2. That council assembly resolves to adopt the proposals to change executive arrangements.
3. That council assembly agrees the changes in the constitution in Appendices B and C to take effect on the third day after the local government elections 2010.

BACKGROUND INFORMATION

4. The Local Government and Public Involvement in Health Act 2007 ("the Act") requires local authorities to amend their executive arrangements and move to either a strong leader or elected Mayor model. At council assembly on May 20, 2009 the council agreed to go out to consultation with the strong leader model, as the preferred option. It also agreed that the monitoring officer, following the consultation and in consultation with the constitutional steering panel, should draw up formal proposals for future executive arrangements, advertise them and present them to council assembly for approval.
5. The Act states the authority must take reasonable steps to consult the electors in its area and other interested parties. The period of consultation, which lasted 12 weeks ended on September 21, 2009. There were no responses to the consultation.

KEY ISSUES FOR CONSIDERATION

6. The Act states that a resolution of council assembly is required in order for the authority to make the required change in governance arrangements. Council assembly would also have to agree final changes to the constitution.
7. 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. The proposals would streamline decision-making, as well as increasing the transparency and accountability of decision making.
8. In addition the new executive arrangements will involve changes to the constitution. Appendix B has proposed amendments to the Articles and Part 3.

Appendix C has proposed amendments in the council assembly procedural rules and executive procedures rules.

9. Following the agreement of council assembly to the proposed changes a further advertisement will be required. The monitoring officer will organise this.

Resource implications

10. The proposed changes in governance do have resource implications however it is expected that these will be contained within existing budgets.

Community Impact Statement

11. The proposed changes in governance should enhance community engagement through better leadership and clarity of roles.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Local Government & Public Involvement in Health Act 2007	160 Tooley Street, London, SE1 2TZ	Norman Coombe 57678

APPENDICES

No.	Item
Appendix A.	Proposals
Appendix B	Proposed changes to Articles and Part 3
Appendix C	Proposed changes to Procedure Rules

AUDIT TRAIL

Lead Officer	Graham Love	
Report Author	Norman Coombe	
Version	Final	
Dated	October 22 2009	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	No	Incorporated
Finance Director	No	No
Executive Member	Yes/No	Yes/No
Date final report sent to Constitutional Team	October 22 2009	

PROPOSALS**Changes to governance arrangements**

The Local Government and Public Involvement in Health Act 2007 requires the council to make changes to its current governance and decision making arrangements. The new arrangements will come into operation immediately after the elections in May 2010.

The Council can choose from two options:

1. an elected Mayor and cabinet, or
2. an executive leader and cabinet (described by government as the 'strong leader' model).

1. Elected Mayor and Cabinet

Under the elected Mayor option, the electorate would vote for a Mayor who would hold office for a period of four years. Once elected the Mayor would be responsible for all executive functions and would decide which of these functions were going to be delegated to other cabinet members, local committees or council officers. The Mayor would appoint a cabinet of a minimum of two and a maximum of nine councillors and the Mayor and cabinet would take decisions on executive functions.

2. Executive leader and Cabinet

The executive leader and cabinet model is similar to Southwark's current leader and executive arrangements. There would continue to be a leader of the council and a cabinet of at least two but no more than nine other councillors. However, much more power would be placed in the hands of the leader of the council than at present. The leader would be responsible for all executive functions, and would decide which of these functions were going to be delegated to other cabinet members, local committees or council officers. The cabinet would be appointed by the leader and not by the whole council as at present. Another change to the current arrangements is that the leader is elected by the whole council for a period of four years at the first meeting of the council after the 2010 elections.

Proposals for changes in Governance in Southwark

- 1) The London Borough of Southwark adopts the leader and cabinet executive (England) model with effect from the 3rd day after the May 2010 elections, as set out in the provisions of the Local Government Act 2000 (as amended);
- 2) No governance referendum is held prior to adoption of the leader and cabinet executive (England) model;
- 3) The leader of the council ("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 election as leader and ends on the day of the next post-election annual meeting, unless he is removed from office or resigns, ceases to be a member, or is disqualified from being a councillor before that day;

4) The leader determines the size of and appoints between 2 and 9 members of the council to the cabinet in addition to him or herself, allocates any areas of responsibility to them, and may remove them from the cabinet at any time;

5) The leader determines the scheme of delegation for the discharge of the executive functions of the council;

6) The council's executive arrangements are to provide for the council to have the ability to remove the leader by ordinary resolution on notice during his or her term of office. If the council passes such a resolution to remove the leader, it will elect a new leader at that or a subsequent meeting;

7) The leader appoints one of the members of the cabinet to be his or her deputy, to hold office until the end of the term of office as leader (unless that person resigns as a deputy leader, ceases to be a member of the council or is disqualified, or is removed from office by the leader);

8) The leader may, if he or she thinks fit, remove the deputy leader from office, but must then appoint another person in his or her place; and

9) If for any reason the leader is unable to act or the office of leader is vacant, the deputy leader must act in his or her place. If the deputy leader is unable to act or the office is vacant, the cabinet must act in the leader's place or arrange for a member of the cabinet to do so.

Transitional provisions

The delegation scheme will continue after the 2010 elections until altered or confirmed by the leader.

The allocation of functions under Section 13 (3) (b) of the Local Government Act 2000 (those which *may* be the responsibility of the executive but do not have to be - i.e. where there is a choice) will continue as for the current council, until altered by the leader or council under the new governance arrangements.

Timetable

November 4 2009	Special meeting of full council to pass the resolution to adopt proposals to changes to executive arrangements
May 2010	Local Government Elections
On the third day after the local government elections 2010	Implementation of the amended executive arrangements in the constitution.
May 19 2010	Post-election annual meeting at which the leader of the council will be elected and term of office commences

APPENDIX B

PROPOSED CHANGES TO ARTICLE 1 AND PART 3

Article 1

1.5 Changes to the constitution

a) Subject to b) below, any changes to the constitution which can only be approved by the council assembly will require the prior consideration of the proposal by the constitutional steering panel.

b) The constitution and its appendices will be changed as follows:

3.	Who takes decisions?	<p><u>Any executive function or local choice function to be discharged by the executive Agreed by the leader</u></p> <p><u>Any other function</u> Agreed by council assembly. Exceptions – monitoring officer to: (1) update list of plans and strategies to be agreed by executive (in Part 3B) (2) update the details of executive members (3) maintain Part 3S: Appointments to outside bodies, as required.</p>
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Article 6 – The Executive

6.1 Role

The executive will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this constitution. The role and functions of the executive are set out in part 3B of this constitution.

6.2 Form and composition

The executive will consist of the leader together with no less than two and no more than nine councillors appointed to the executive by the leader ~~council assembly~~.

6.3 Leader

The leader will be a councillor elected to the position of leader by the council assembly. The leader will hold office until:

- a) he/she resigns from the office by giving notice in writing to the monitoring officer
- b) he/she is suspended from being a councillor under part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension)
- c) he/she is no longer a councillor

~~d) the end of the municipal year in which he/she is elected to the position of leader save that the council assembly may remove the leader from office at an earlier date~~

~~d~~e) he/she is removed from office by resolution of the council assembly

e) his/her term of office ends.

The leader's term of office shall commence from the day of his/her election, which will be held at the first annual meeting of the council following the ordinary elections or if a vacancy occurs, the next meeting of the council and will end at the start of the first annual meeting of the council following the next ordinary elections.

6.4 Other executive members

Other executive members shall be appointed by the leader and hold office until:

a) they resign from office by giving notice in writing to the leader and the monitoring officer

b) they are suspended from being councillors under part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension)

c) they are no longer councillors

~~d) the end of the municipal year in which they are elected to the position of executive member save that the council may remove them from office, either individually or collectively, at an earlier date~~

~~d~~e) they are removed from office by resolution of the council they are removed by the leader.

If an executive member ceases to be a member of the executive because of reasons (a) to (e) above, the leader has the discretion, subject to Article 6.2, as to whether or not to appoint a replacement.

During the course of the year the leader has the discretion to change executive portfolios.

The leader also has the discretion to change the membership of executive committees during the course of the year.

The leader shall immediately communicate any such changes to the monitoring officer who shall circulate a formal notification to all members.

If an executive member is absent for a significant period of time, the leader has discretion as to whether he/she appoints an assistant to the executive member to discharge specific responsibilities in their absence.

These responsibilities will not include formal decision making. In exercising his/her discretion the leader must consult with the monitoring officer. If after consulting with the monitoring officer the leader confirms a decision to appoint an assistant the leader will advise the council of the responsibilities allocated to the assistant and the period for which the assistant will act.

~~Any changes to executive members shall take effect after five working days unless an objection signed by at least five members is lodged, in which case the matter shall be referred to the next council assembly.~~

6.5 Deputy Leader of the Council

The leader shall appoint one of the members of the executive to be his/her deputy.

The leader may, if he thinks fit, remove the deputy leader from office. Where a vacancy occurs in the office of deputy leader, the leader must appoint another person in his/her place.

The deputy leader shall hold office until:

a) he/she resigns from office by giving notice in writing to the leader and the monitoring officer

b) he/she is suspended from being a councillor under part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension)

c) he/she is no longer a councillor

d) he/she is removed by the leader.

6.6 Non availability of Leader and Deputy 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 place.

If for any reason:

a) the leader is unable to act or the office is vacant; and

(b) the deputy leader is unable to act or the office of deputy leader is vacant,

the executive must act in the leader's place or must arrange for a member of the executive to act in his place.

6.7 Who may make executive decisions

The executive functions of the council may be discharged by:

a) the executive as a whole

b) a committee of the executive

c) an individual member of the executive

d) community councils

e) an officer

f) joint arrangements

g) another local authority.

6.8 Delegation by the leader

At the annual meeting of the council, the leader will present to the council a written record of delegations made by him/her for inclusion in the council's scheme of delegation at part 3 of this constitution. This schedule of executive delegation does not require adoption by council assembly. The document presented by the leader will contain the following information about executive functions in relation to the coming year:

- a) the extent of any authority delegated to executive members individually, including details of the limitation on their authority
- b) the terms of reference and constitution of such executive committees as the leader appoints, the names of executive members appointed to them, the vice-chair of the committees and the frequency of its meetings
- c) the nature and extent of any delegation of executive functions to community councils, any other authority or any joint arrangements and the names of those executive members appointed to any joint committee for the coming year
- d) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

~~6.7 The council's scheme of delegation and executive functions~~

~~The council's scheme of delegation will be subject to adoption by the council assembly and may only be amended by the council assembly. The scheme of delegation is set out in part 3 of this constitution.~~

6.9 Key tasks of executive members

Executive members will participate in the executive and implement agreed policies by taking responsibility for any portfolio allocated by the authority, including providing a lead on and proposing new policy, strategy, programming, budget and service standards, and leading performance review, as well as acting as spokespersons within and outside the authority for the service/function.

Part 3A: Council Assembly

Matters reserved for decision

The following matters are reserved to the council assembly for decision:

1. Electing the Mayor.
2. Adopting the local authority's code of conduct.
3. Electing the leader ~~and the executive~~.
4. Establishing committees and community councils.
5. Agreeing and amending terms of reference for committees and community councils **except for executive functions**.

Please note that the footnote to 3 would be removed.

APPENDIX C

Proposed Changes to Council Assembly Procedural Rules

4.4 LEADER AND EXECUTIVE

1. The leader shall be appointed at the **first annual meeting of the council to be held after ordinary elections take place** ~~annual meeting of the council or, at an ordinary or extraordinary council meeting as necessary.~~

~~2. In addition to the leader, between one and nine other councillors shall be appointed at the annual meeting of the council or at an ordinary or extraordinary council meeting as necessary, to serve as members of the executive.~~

2. The leader shall appoint between two and nine other councillors at the first annual meeting of the council to be held after ordinary elections take place or at an ordinary or extraordinary council meeting as necessary, to serve as members of the executive.

3. The leader shall appoint one member of the executive at the first annual meeting of the council to be held after ordinary elections take place or at an ordinary or extraordinary council meeting as necessary, to serve as deputy leader. Where a vacancy occurs in the office of deputy leader, the leader must appoint another person in his place.

4. The leader shall have power to vary the allocation of portfolios within the executive on an interim basis. The leader shall also have power to designate an executive member as lead executive member in respect of any policy matter that is cross-cutting. In the event that an executive member ceases to be a member of the executive, the leader shall have the discretion as to whether or not to appoint a replacement.

5. Other political groups represented on the council may nominate a councillor to act as their leader. The leader of the largest opposition political group represented on the council shall be known as the leader of the opposition and shall act as the spokesperson for the opposition on all matters of general policy and business.

Executive Procedures Rules

2.3 Quorum

a) The quorum for a meeting of the executive shall be one quarter of the total number of members of the executive or 3, whichever is larger, including the leader or deputy leader; except where the leader is unable to act or the office is vacant; and the deputy leader is unable to act or the office of deputy leader is vacant.

b) The quorum for a meeting of an executive committee shall be one quarter of the total number of members of the executive on the committee or 3, whichever is larger.