

Item No. 7.	Classification: Open	Date: May 20 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 Legal & Democratic Services	

RECOMMENDATIONS

1. That Council Assembly note the draft proposals attached in Appendix A for the future executive arrangements.
2. That Council Assembly agrees that, subject to consultation, option 1 is the preferred option for future executive arrangements.
3. That Council Assembly authorises the monitoring officer to make any necessary amendments to the draft proposals and undertake the required consultation as set out in this report.
4. That Council Assembly instructs the monitoring officer, following the consultation and in consultation with the Constitutional Steering Panel, to draw up formal proposals for future executive arrangements, advertise them and present to Council Assembly for approval .

BACKGROUND INFORMATION

5. 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 Leader and Executive model with a four-year term for the Leader (‘strong leader model’) or to a Mayor and Executive model.
6. The government published the White Paper “Strong and Prosperous Communities” in October 2006. In this White Paper, it indicated that it was going to legislate with the aim of strengthening local leadership and partnerships and empowering communities. This led to the Local Government and Public Involvement in Health Act 2007, which was enacted on 30 October 2007 and amended the Local Government Act 2000 (“the 2000 Act”).
7. The Council currently operates under executive arrangements with the Leader and Cabinet elected by Council Assembly and has done so since July 2002.
8. The 2007 Act requires local authorities to amend their executive arrangements and move to either a strong leader or elected Mayor model.
9. The options for the future executive arrangements are as follows:

Option 1 'Strong leader model'

A councillor elected as leader for a 4 year term, and two or more councillors of the authority appointed to the executive by the executive leader. The constitution will have to be amended to reflect the 4 year term and the new arrangements for strong leader, including provisions for the removal of this leader by Council Assembly.

Option 2 Elected Mayor model

A directly elected Mayor who appoints two or more councillors to the executive. The constitution will have to be amended to reflect this and an election held at the same time as the council elections in 2010. The Mayor cannot be removed by Council Assembly.

10. Under the new arrangements for a strong leader, the leader would have the power to determine the size of the Cabinet, to appoint the members of the Cabinet, to determine their "portfolios", and to delegate powers to individual Cabinet members. These changes would require constitutional changes together with the provision for the removal of the leader by resolution at Council Assembly. The last day that the Council can continue to operate its current arrangements is the third day following the 2010 elections.
11. The 2007 Act states that authorities may make either option subject to approval in a governance referendum. However, following other changes to the 2007 Act, governance referenda can only take place once every ten years. Southwark held a referendum in 2002, and so is not permitted to have a further referendum prior to 2012. Therefore no proposals can include a referendum.
12. At meetings on 31 March 2009 and of 5 May 2009 the Constitutional Steering Panel considered these changes and resolved that a report be prepared for Annual Council Assembly explaining the options and why option 1 is preferable.
13. The Constitutional Steering Panel felt that option 1 is the preferable option for the new governance arrangement. Firstly, as previously stated Southwark held a referendum in 2002 on whether to adopt an elected Mayor model and this was rejected. As no further referendum can take place to 2012, it seems wrong to impose this.
14. Secondly, the strong leader model is close to the current system of governance.

KEY ISSUES FOR CONSIDERATION

15. Section 33E of the 2000 Act states the authority must draw up proposals for the change of governance, which must include a timetable with respect to implementation of the proposals and details of any transitional arrangements. However, before drawing up its proposals the authority must take reasonable steps to consult the electors in its area and other interested parties. In drawing up the proposals it must have regard to the consultation and 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 authority's functions

are exercised, having regard to a combination of economy, efficiency and effectiveness.

16. It is therefore proposed that Council Assembly will agree a draft proposal that will then be consulted on. This draft proposal will state that option 1 is preferable.

Consultation

17. The process of consultation should have regard to the Code of Practice on Consultation. The period of consultation would commence after Council Assembly and last for 12 weeks. A webpage would be launched and adverts placed in Southwark Life Magazine.
18. Following consultation, proposals would be then be formally drawn up. Once Council Assembly agrees the draft proposals they will be advertised in accordance with Section 33E of the 2000 Act.
19. Following consultation, Section 33F of the 2000 Act states that a resolution of Council Assembly is required in order for the authority to make a change in governance arrangements. This again must be advertised in accordance with Section 29(2) of the 2000 Act.
20. Council Assembly would, by 31 December 2009, have to resolve to agree final changes to the Constitution and confirm the start date after annual meeting at May 2010. If Council Assembly failed to do this, the strong leader model would be imposed.

Resource implications

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

Legal Implications

22. The specific legal implications relating to this report have been included in the report.

Community Impact Statement

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

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Local Government & Public Involvement in Health Act 2007	Town Hall Peckham Road	Norman Coombe 57678

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Legal and Democratic Services	
Report Author	Norman Coombe Principal Lawyer Governance Team	
Version	Final	
Dated	May 8 2009	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Legal and Democratic Services	No	Included
Finance Director	No	No
Executive Member	No	No
Date final report sent to Constitutional/Community Council/Scrutiny Team	May 8 2009	

DRAFT 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 change in Governance in Southwark

- 1) The London Borough of Southwark adopts the Leader and Cabinet Executive (England) [*Mayor and Cabinet*] 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 on Leader and Cabinet Executive (England) [*Mayor and Cabinet*] model
- 3) [*If Leader and Cabinet Executive (England) model*] 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 [*Mayor*] 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 [*Mayor*] determines the scheme of delegation for the discharge of the executive functions of the Council;

6) [*If Leader and Cabinet Executive (England) model*] the Council's executive arrangements are to provide for the Council 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 [*Mayor*].

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 [*Mayor*] or Council under the new governance arrangements.

Timetable

November 2009	Special meeting of full Council to pass the resolution to adopt proposals to changes executive arrangements
May 2010	Local Government Elections
On the third day after the local government elections 2009	Implementation of the amended executive arrangements.
19 May 2010	<i>[If Leader model]</i> Post-election annual meeting at which the Leader of the Council will be elected and term of office commences