

**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**REPORT OF THE EXECUTIVE MANAGEMENT TEAM TO COUNCIL**

**27 October 2010**

**1. NEW EXECUTIVE ARRANGEMENTS**

**Submitted by:** Member Services Manager – James McLaughlin

**Portfolio:** Customer Service and Transformation

**Ward(s) affected:** Non-specific

**Purpose of the Report**

To advise the Council of the results of the public consultation on new executive arrangements and to seek approval of a preferred option, the timetable for implementation and subsequent publication.

**Recommendations**

(a) That the Council should adopt the indirectly elected Leader and Cabinet model as its preferred option until this legislative requirement is repealed.

(b) That, in doing so, the Council, determines at this stage not to make any changes to the allocation of functions between the executive and Council as set out in the constitution.

(c) The Council is asked to decide if it would wish to retain the existing provision in the Constitution that allows for removal of the Leader by resolution of the Council, if it agrees to the proposal for an indirectly elected Leader and Cabinet model.

(d) That the Head of Central Services be authorised to draw up and publish the Council's proposal in an appropriate format to meet the requirements of the Local Government and Public Involvement in Health Act 2007 based on the draft indirectly elected Leader and Cabinet proposals in Appendix 'B' (gold paper) of this report.

**Reasons**

This report is submitted to ensure that the Council meets the statutory obligations of the Local Government and Public Involvement in Health Act 2007. A decision on which executive model to adopt must be made by December 2010 to avoid intervention by the Secretary of State.

**1. Background**

1.1 The Local Government Act 2000 provided for the present arrangement of local government to be implemented in place of the previous committee structure. This Council adopted a Leader and Cabinet model, whereby the Council appoints a Leader and Deputy Leader annually and the Council appoints the Cabinet on the recommendation of the Leader.

1.2 The Local Government and Public Involvement in Health Act 2007 requires all councils operating executive arrangements to opt for a new leadership model. This legislation allows the Council to consult on two proposals:

- an indirectly elected leader, appointed for a four-year term, who then appoints councillors to the Cabinet; or
  - a directly elected Mayor with a four-year term, who then appoints the Cabinet
- 1.3 The last day the Council can continue to operate its current arrangements is the third day following the 2011 local elections, but it must pass a resolution deciding on the form of its new executive arrangements before 31 December 2010.
  - 1.4 Before drawing up formal proposals for new arrangements, the Council “must take reasonable steps to consult the local government electors for, and other interested persons” in the Council’s area.
  - 1.5 The Council then has to draw up its formal proposal and advertise the proposed new executive arrangements in a local newspaper and make copies available at the Civic Offices for inspection by the public.
  - 1.6 Finally, a special meeting of the Council must be convened before 31 December 2010 to pass a resolution adopting new executive arrangements. The resolution has to be advertised with implementation of the new executive arrangements taking place three days after the May 2011 elections.
  - 1.7 On 30 June 2010, Members agreed a timetable for this process involving public consultation between July and October, drawing up of a formal proposal at this Council meeting and the adoption of the new arrangement at the Council meeting on 15 December 2010.
  - 1.8 The Council resolved:
    - (a) That this Council considers the proposals un-democratic in that they place too much power in one person.
    - (b) That the Council notes that the rejected option of an Elected Mayor and Council Manager, as tried in Stoke-on-Trent, failed, partly because it concentrated power in two people.
    - (c) That the Council does not consider the cost of making this change as value for money and in particular in difficult economic times resources should be concentrated on delivery of frontline services.
    - (d) That this Council instructs officers to make these views known to the appropriate Government department and to request that the legislation be reconsidered.
    - (e) That the Leader and Deputy Leader be requested to raise the issue at the LGA Conference next week.
    - (f) That the officers prepare a consultation article for The Reporter, the article to include a summary of the proposals compared with the current system.
    - (g) That the option for responses should be in favour of one or the other proposals or reject both.
    - (h) That the proposed timetable and process for consultation be agreed.
    - (i) That authority be delegated to the Head of Central Services to manage the process and timetable for consultation.

- 1.9 The consultation was the subject of two articles in *The Reporter* in July and September 2010. A press release was issued to all local media on 1 September 2010 resulting in an article in *The Sentinel* and a radio interview with Cross Rhythms Radio. The articles signposted readers to more detailed information on the Council's website and also offered the option of sending a written response to the Member Services Manager.

## 2. **Issues**

- 2.1 Of the 19 responses received, 14 favour the Leader and Cabinet model. The responses suggest that this is principally because this model is perceived to be more democratic, more accountable and more cost effective than the alternative. Since the consultation closed, a further response has been received from a Parish Council who prefer the elected Mayor and Cabinet model. One respondent indicated that options should be the subject of a Borough-wide referendum on the matter.
- 2.2 Overall, this topic has not generated great public interest. The public consultation has not identified public desire for change to the current arrangements. Appendix 'A' (grey paper) summarises a variety of the views received in response to the consultation.

## 3. **Proposal**

- 3.1 The Council must now draw up proposals for change, taking into account the extent to which, if implemented, the proposal is likely to assist in securing continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. Given that the majority of opinion received indicates a preference for the indirectly elected Leader and Cabinet model, Appendix 'B' (gold paper) sets out a draft proposal for this model.
- 3.2 Details of which functions are to be the responsibility of the executive and which are not to be their responsibility must be included in the proposal. Currently, Chapter 3 – Responsibility for Functions, in the Council's constitution sets out the responsibility for functions. These are divided between the executive and Council. In both cases, some functions are subject to onward delegations to officers. In addition, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) provides additional direction as to the responsibilities for function between the executive and Council. There is no reason to make any changes at this stage as the current arrangements have been approved by the Council and work well, although some semantic changes will be required to reflect the change in certain executive responsibilities from Cabinet to the Leader.
- 3.3 Members are asked to determine whether they wish to retain the existing mechanism within the Constitution whereby the Leader can be removed by a majority vote of the Council. There is no statutory reason not to retain this provision under the new executive arrangements. It is a matter for Members to determine whether this should be retained.
- 3.4 The proposals must be advertised in a local newspaper and copies made available at the Civic Offices before the Council formally adopts a new executive arrangement on 15 December 2010. The election of a Leader would take place at the Annual Council meeting after the local elections in May 2011.

## 4. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 4.1 This does not directly contribute to the corporate priorities, but the Council's democratic structure is an important factor in enabling the Council to implement the Corporate Plan.

5. **Legal and Statutory Implications**

- 5.1 The legislative framework for the required changes to the Council's executive arrangements are contained in the Local Government and Public Involvement in Health Act 2007 and summarised in the body of the report.
- 5.2 Since the Council considered the report commencing the consultation, the Coalition Government has stated that it will create directly elected Mayors in the 12 largest English cities and also allow Councils to return to the committee system should they wish to do so. In a letter to Council Leaders on 7 July 2010 (see Appendix 'C' (orange paper), the Minister for Housing and Local Government, Grant Shapps MP, stated that although the Government intends to remove the necessity to elect a Leader for four years, requirements for Council to adopt a new governance model from May 2011 remain in force, i.e. the Council is required to make a decision on either of the proposed models by 31 December 2010.

6. **Financial and Resource Implications**

- 6.1 In his letter of 7 July 2010, the Minister for Housing and Local Government asked local authorities to take account of the current financial climate and to incur only minimal expenditure on consultation with local government electors and other interested parties on new governance models. The cost of public consultation on new executive arrangements in the Borough has been kept to a minimum via articles in *The Reporter* and writing to partner organisations. This expenditure has been contained within existing budgets.

7. **Major Risks**

- 7.1 Risk management is an integral part of good governance. The Council has a responsibility to identify and manage threats and risks to achieve its strategic objectives and enhance the value of services it provides to the community. The risks associated with this constitutional issue are set out below:

Risk	Description	Action to avoid or mitigate risk
The council fails to meet the statutory timescale for resolving to adopt new governance arrangements	The Secretary of State will intervene and impose the leader and cabinet system if the council fails to pass a resolution before 31 December 2010.	This report sets out a planned timescale for meeting the statutory timescales and undertaking the public consultation required.

8. **Earlier Cabinet/Committee Resolutions**

30 June 2010 – Council – Minute 60/11

9. **List of Appendices**

Appendix 'A' (grey paper) - A selection of responses received to the consultation  
Appendix 'B' (gold paper) - Draft Proposal for Leader and Cabinet Model  
Appendix 'C' (orange paper) - Letter from Minister for Housing and Local Government

10. **Background Papers**

Local Government and Public Involvement in Health Act 2010

**A selection of comments received in response to the consultation**

1. The election of a leader means that the individual taking up the post has experience of the local political arena and will be elected on behalf of the electorate by a group of their peers.
2. Regardless of which model is decided upon local scrutiny is crucial to making either the leader or the mayor accountable to the electorate. There must be a defined process for removal of an individual in the event of poor performance or a serious professional incident
3. The mayoral system seems to place a great deal of power in the hands of just two people and seems to lead to yet another tier of administration and bureaucracy together with accompanying costs.
4. I prefer the existing model of governance .... The elected mayor model would make coalitions like ours unlikely, the leader and cabinet model makes them more difficult.
5. With the Council Leader and Cabinet system, the Council Leader is elected by the Council. The result of this is that the Leader is likely to carry the support of a sufficient number of Members to ensure policies can be implemented .... On balance I consider the Council Leader and Cabinet system would be preferable for local government at the present time.
6. Surely this must rate a referendum? We do not want a system that like Stoke-on-Trent ended up with.
7. I see no problem frankly with the old system of Committee oversight and a Leader elected year on year following annual elections, which I prefer to Cabinet rule .... I certainly prefer the Leader elected by the Council, with its confidence, to a Mayor who may, as elsewhere, not have the confidence of either councillors or electors. It is, however, the less of two evils.
8. The Leader and Cabinet model is one that has been operated for some years at Newcastle and, notwithstanding the periodic changes in political control , there is evidence that it does, indeed, provide for clear and flexible leadership .... I do not accept that Newcastle's interests would be best served by the Council handing over its responsibilities to one individual and in doing so undermining the role of locally-elected councillors.
9. This (The Leader and Cabinet model) is the one which is most likely to result in a harmonious regime.
10. My views are very strongly against the mayoral model. Contrary to popular perception, this is an anti-democratic model which sidelines the role of elected councillors. Having witnessed firsthand the disastrous impact of an elected mayoral and council manager model of democracy in Stoke-on-Trent, I would strongly urge against any mayoral leadership model for an authority of Newcastle Borough's size. Local councillors should be elected to represent their wards, and to have say in the formulation of policy through a Cabinet model, and be able to take collective responsibility for decisions taken. Their role should on no account be marginalised.

**DRAFT NOTICE – LEADER AND CABINET MODEL**  
**New executive arrangements – the Council's proposals**

Newcastle-under-Lyme Borough Council, in accordance with the requirements of section 33E of the Local Government Act 2000, has drawn up the following proposals for changes to its governance arrangements with effect from May 2011.

At its meeting on 27 October 2011, the Council indicated that its preferred model is the new-style Leader and Cabinet form of Executive, in accordance with section 11 of the Local Government Act 2000.

Before drawing up proposals for the change in governance arrangements, the Council undertook a consultation exercise to gather the views of local people on the choice of executive model and the outcome of this was reported to Council on 27 October 2010.

In drawing up these proposals, the Council has considered 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 are exercised, having regard to a combination of economy, efficiency and effectiveness.

The proposals will be considered at a meeting of the Council on 15 December 2010. The key features of the proposals are:

1. Under the new arrangements, the Leader will be elected by the Council at its Annual Meeting on 18 May 2011, after the local government elections on 5 May 2011. The Leader will hold office for a four-year term unless he or she resigns or ceases to be a councillor.
2. The Leader will be responsible for appointing the Deputy Leader. Unless he or she resigns or ceases to be a councillor they hold this office for the term of the Leader.
3. The Leader may, if he or she thinks fit, remove the Deputy Leader from office.
4. The Leader will be responsible for appointing the other Executive Members, subject to the statutory maximum of ten, and for determining their Portfolios.
5. The Council may, by resolution, remove the Leader during his or her four year term of office
6. The allocation of local choice functions between the Executive and the Council will continue as set out in the Council's current Constitution.
7. The Council will be asked to agree the detailed changes to the Constitution on 15 December 2010 to give effect to these proposals.

The proposals will come into effect on the third day after the local government elections on 5 May 2011. In terms of transitional arrangements for the implementation of the proposals, the existing form of Leader and Cabinet executive arrangements will continue in operation until the third day after the 2011 local government election. The necessary amendments to the Council's constitution, to give effect to the changes, will be made in preparation for implementation following the 2011 local government elections, and agreed by Council on 15 December 2010.

## Timetable

November 2010	Proposals publicised in accordance with legislation
15 December 2010	Report to Council meeting outlining response to the publicity, seeking a resolution to move to new executive arrangements and to amend the constitution to give effect to the proposed changes.
May 2010	New form of executive shall operate on the third day after the local government elections

Alan Hill  
Interim Chief Executive  
Newcastle-under-Lyme Borough Council

Dated:



Leaders of Non-Metropolitan District Councils  
in England

**The Rt Hon Grant Shapps MP**  
*Minister for Housing and Local Government*

**Department for Communities and Local  
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7 July 2010

Dear Leader

**Requirement to consult under the Local Government and Public Involvement in  
Health Act 2007**

I am writing to you about the requirements on your council to adopt a new governance model from May 2011, and before doing so to consult your local electorate and interested parties in the area. Whilst it is for each council to decide how it will meet these requirements, I would wish to highlight the Government's view that councils need not incur any significant expenditure on these requirements, and our expectation in today's circumstances that all councils will pursue this at minimal cost.

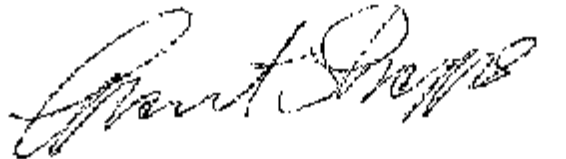
These requirements are in the Local Government and Public Involvement in Health Act 2007 and necessarily remain in force unless or until that Act is repealed by fresh primary legislation. It is our intention to do this. For your council the requirements mean that you must resolve by 31 December 2010 to move to either the new leader and cabinet model or mayor and cabinet model, and before so resolving you must take reasonable steps to consult the local electorate and other interested parties in your council's area.

In considering how to approach these requirements you will wish to have regard to the circumstances of today, including both the priority of cutting out all wasteful spending and the Government's commitments to allow councils to return to the committee system, should they wish to, and on elected mayors. We also intend to remove the necessity to elect a leader for four years. We intend to provide for these commitments in our Localism Bill to be introduced later in this Parliamentary session. This may mean that any governance model you adopt in May 2011 may be further changed within a year or so. Your decisions about consultation will also be taken in the context of the greater transparency and openness agenda which I am confident you will be putting in place throughout your council.



Accordingly, the case is strong for any consultation now about future governance arrangements to be the minimal cost option. It will be for each council to decide, but in our view no more than a small newspaper advert/article or press release on your website may be proportionate and right in these circumstances.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Grant Shapps', with a stylized flourish at the end.

**GRANT SHAPPS MP**