

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL
REPORT OF THE EXECUTIVE MANAGEMENT TEAM TO COUNCIL

30 June 2010

1. TREASURY MANAGEMENT ANNUAL REPORT 2009/10

Submitted by: **Head of Finance**

Portfolio: **Resources and Efficiency**

Ward(s) affected: **All indirectly**

Purpose of the Report

To receive the Treasury Management Annual Report for 2009/10

Recommendations

- (a) That the Treasury Management Annual Report for 2009/10 be received.**
- (b) That the Actual Prudential Indicators contained within the report be approved.**

Reasons

It is a requirement of the CIPFA Treasury Management Code of Practice and its Prudential Code for Capital Finance that an Annual Report is made to the Council in respect of each year's Treasury Management activities.

1. Background

- 1.1 The Council has adopted the Chartered Institute of Public Finance and Accountancy (CIPFA) Treasury Management Code of Practice. This requires an Annual Report to be made to the Council concerning Treasury Management activities after the end of each year. In addition the Prudential Code for Capital Finance requires that the Actual Prudential Indicators for the year be reported to and approved by the Council.
- 1.2 Treasury Management operations are carried out by your Officers in accordance with policies laid down in the currently approved Treasury Policy Statement, backed up by approved Treasury Management Practices and Schedules thereto, and the Annual Treasury Management Strategy Report.

2. Issues

- 2.1 The Annual Report for 2009/10 is attached as Appendix 'A' (cream paper). This contains information supplied by the Council's Treasury Management consultants, Sector, augmented by data provided by your Officers. As well as giving a summary of the Council's Treasury Management activities during 2009/10, the report provides an analysis of the economic markets and trends. It also details the Actual Prudential Indicators for 2009/10.

3. **Proposal**

- 3.1 That the Treasury Management Annual Report 2009/10 be received.

4. **Legal and Statutory Implications**

- 4.1 The Local Government Act 2003 and Regulations thereto require Local Authorities to comply with the Prudential Code.

5. **Equality Impact Assessment**

There are no equality issues arising from the Annual Report.

6. **Financial and Resource Implications**

There are no specific financial implications arising from the Annual Report.

7. **Major Risks**

- 7.1 Treasury Management is a major area of risk for the Council in that large amounts of money are dealt with on a daily basis and there are a number of limits and indicators, which must be complied with. It is also necessary to ensure that there is no danger of the Council's invested funds being lost owing to placing them with insecure counterparties.
- 7.2 The overriding consideration in determining where to place the Council's surplus funds is to safeguard the Council's capital. Within this constraint the aim is to maximise the return on capital.

8. **Key Decision Information**

- 8.1 All wards are indirectly affected.

9. **Earlier Cabinet/Committee Resolutions**

- 9.1 The Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management 2009 was adopted by this Council on 24 February 2010. This updated the previous code produced in 2001 that had been adopted by the Council on 27 February 2002.

10. **List of Appendices**

- 10.1 Appendix 'A' (cream paper) - Treasury Management Annual Report

11. **Background Papers**

- 11.1 CIPFA Treasury Management Code of Practice; Council's Treasury Management Strategy Statement 2009/10, CIPFA Prudential Code for Capital Finance in Local Authorities and guidance notes thereto, Local Government Act 2003, Local Authorities (Capital Finance and Accounting) (England) Regulations 2003, Sector's Model Report for 2009/10 and Guidance on Local Authority Investments issued by ODPM in March 2004.

2. COMMENCEMENT DATE FOR SCHEDULE 3 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

Submitted by: Head of Central Services – Paul Clisby

Portfolio: Safer and Stronger Communities

Ward(s) affected: Non-specific

Purpose of the Report

To effectively implement Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("LGMPA 1982") as amended.

Recommendations

(a) That the Council specify the date of 3 August 2010 as the commencement date for the adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

(b) That, in principle, the Council resolve to adopt a policy and following consultation a draft policy relating to the licensing of Sexual Entertainment Venues be presented to a future meeting of full Council, together with appropriate amendments to the scheme of delegation.

Reasons

In order to have control over Sexual Entertainment Venues.

1. Background

1.1 Members are referred to the previous report to the Council (dated 31 March 2010 and minute 791) whereby it resolved to adopt Schedule 3 of the LGMPA 1982 (annexed).

2. Issues

2.1 At the full Council Meeting on 31 March 2010 it was resolved to adopt Schedule 3 of the Local Government Miscellaneous Provisions Act 1982 ("the 1982 Act"). Council may recall that Section 27 of the Policing and Crime Act 2009 amends Schedule 3 of the 1982 Act to allow the Licensing Authority to license 'sexual entertainment venues' where 'relevant entertainment' such as pole dancing, lap dancing etc is provided.

2.2 Adoption of Schedule 3 of the 1982 Act means that operators of premises providing 'relevant entertainment' have to apply for a separate sex establishment licence. These premises are currently licensed under the Licensing Act 2003 as 'regulated entertainment' and local residents and business can only object on the grounds of the four licensing objectives. Under the new sex establishment regime local people will be able to make representations on wider grounds and have a greater say over the number and location of these establishments in their area. Licence holders will also be required to renew their licence every year which allows local people the opportunity to raise objections.

2.3 Section 27 came into force on 6 April 2010 and the Council must now specify the date on which Schedule 3 which incorporates the amendments made by Section 27 shall apply in their area. The specified day must be more than one month after the day on which the resolution was passed. The procedure for local authorities to adopt Schedule 3 is set out in

Section 2 of the 1982 and provides that the local authority shall publish notice that they have passed the resolution referred to above for two consecutive weeks in a local newspaper. The first publication shall not be later than 28 days before the day specified in the resolution for the provisions to come into force in the local authority's area.

- 2.4 It is therefore proposed that Council specify the date of 3 August 2010 as the commencement date in order to give enough time for notice of the resolution to be advertised.
- 2.5 Whilst there is no requirement for an authority to have a sex establishment policy it would be considered good practice to have a policy in place. The policy could cover matters such as:-
- Administrative matters, procedures, fees, hearing procedures etc
 - The suitability of the applicant to hold a licence
 - The locality and number of sex establishments allowed if any
 - The character of the relevant locality.
- 2.6 Having such a policy in place would mean that the authority is best placed to deal with applications received and defend any appeals that may arise as a consequence.

3. **Options Considered**

- 3.1 To not specify a commencement date or have a policy as to how the authority will deal with applications.
- 3.2 If no date is specified then the Schedule cannot be adopted and the authority will have no licensing control over sex establishments.
- 3.3 If no policy is adopted then the authority is left open to challenge when determining applications.

4. **Proposal**

- 4.1 To specify the commencement day for the application of Schedule 3 and to draft a policy and scheme of delegation for dealing with any applications for Sex Establishment Licences.

Timetable for Implementation

Stage/Requirement	To be completed by:-
Notice of adoption of Schedule 3 to be advertised	23 July 2010
Commencement date of Schedule 3	3 August 2010
Draft policy prepared & consulted on internally	13 August 2010
Policy out for public consultation	September/October 2010
Licensing Committee to consider results of consultation and make recommendations for full Council approval	1 December 2010
Full Council approval	As soon as reasonably practicable after 1/12/10
Publication of Policy	Spring 2011

5. **Reasons for Preferred Solution**

5.1 These are referred to in the body of the report above.

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

6.1 **Creating a cleaner, safer and sustainable Borough** - The introduction of a new licensing regime under Schedule 3 gives the authority new powers to tackle issues of concern to communities around crime and antisocial behaviour associated with sex establishments. Residents will have the opportunity to make representations about the suitability or otherwise of such establishments.

7. **Legal and Statutory Implications**

7.1 Failure to follow the correct procedures could result in challenge against any subsequent decisions on enforcement action. If the authority does not make a resolution to adopt the amended Schedule 3 within the period of one year beginning with the coming force of the legislation the authority must consult local people about whether the authority should make such a resolution.

8. **Equality Impact Assessment**

8.1 The impact of the policy will be assessed in accordance with the Council's Equalities Policy.

9. **Financial and Resource Implications**

9.1 The adoption of a new regime under Schedule 3 will be carried out within the existing budget and staff resources available.

9.2 Existing fees under the Licensing Act 2003 are set by statute and may not always cover the Council's costs in determining the application. Under the new regime the Council can set more realistic fees to ensure all the Council's costs including enforcement costs are covered.

10. **Major Risks**

10.1 The risks associated with this proposal are referred to in the body of the report above.

11. **Sustainability and Climate Change Implications**

There are no sustainability or climate change implications associated with the proposal.

12. **Key Decision Information**

12.1 The proposal before Members is not considered to be a key decision requiring publication in the Forward Plan of Key Decisions.

13. **Earlier Cabinet/Committee Resolutions**

Council - 31 March 2010 – Minute no. 791/10

14. **List of Appendices**

Appendix 'B' (grey paper) - Report of the Executive Management Team to the Council – Adoption of Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 – 31 March 2010

Appendix 'C' (gold paper) – Minute 791/10 from the full Council meeting on 31 March 2010

15. **Background Papers**

Section 27 Policing and Crime Act 2009

Schedule 3 Local Government Miscellaneous Provisions Act 1982

Home Office Guidance: "Sexual Entertainment Venues

(Copies of the documents are available from Central Services)

3. **LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007 – CONSULTATION ON CHANGES TO 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 required process and proposed programme of consultation on changes to executive arrangements and to ask the Council if it wishes to express a view on a preferred model for the Borough before formal consultation starts.

Recommendations

(a) The Council is asked to note the requirements of the Local Government and Public Involvement in Health Act 2007 in relation to the adoption of new executive arrangements and to consider whether it wishes to express a preference for one of the two available options at this stage.

(b) That the proposed timetable and process for consultation be agreed.

(c) That authority be delegated to the Head of Central Services to manage the process and timetable for consultation.

Reasons

The Council has no alternative other than to respond to the requirements of the Local Government and Public Involvement in Health Act 2007 by the end of the calendar year. This will generate some changes to the council's constitution with effect from May 2011.

1. **Background**

1.1 The Local Government Act 2000 introduced a separation of powers into local government for all but the smallest authorities with the aim of making council decision-making more efficient,

transparent and accountable. This marked the end of the long established committee system and required local authorities with populations over 85,000 to adopt either a mayoral system or a leader and cabinet. Non-executive councillors were expected to develop a stronger role in community representation and a role in scrutinising executive decision-making.

- 1.2 The Government has now legislated in the Local Government and Public Involvement in Health Act 2007 to require all councils operating executive arrangement to opt for a new leadership model. The option of a directly elected mayor and council manager has been removed and the council is not able to retain its current system of an indirectly elected leader elected on an annual basis. Local authorities now have to choose between one of two models of governance as the Government believes these executive arrangements most readily deliver strategic leadership, sharp accountability and effective and efficient decision-making. The choice now is between:

- a directly elected mayor with a four-year term who then appoints the executive or
- an indirectly elected leader, appointed for a four year term by the council, who then appoints councillors to the executive

- 1.3 Both of the new models for executive arrangements in the 2007 Act place all executive powers in the hands of one individual, who, in the normal course of events, will serve an uninterrupted four year term or until the next election if appointed mid-term. An elected mayor cannot be replaced until the next election. In the leader and cabinet model, the council will be required to appoint a leader for a four year term. There is an option to include provision for the council to remove the leader during that time and the constitution must state whether or not this option applies. The Council Leader or Mayor must appoint and dismiss his or her cabinet of up to nine councillors and decide what (if any) executive powers will be exercised by them or delegated to officers. The Leader or Mayor would be required to appoint a deputy to act where they are absent. The Local Government and Public Involvement in Health Act has also made it easier for councils to have a directly elected mayor by repealing the requirement in the 2000 Act for a referendum to take place before a shift to elected mayor takes place. The difference between the current arrangements and the two available options are outlined in Appendix 'D' (orange paper) to this report.

- 1.4 The Act details the procedure that local authorities must follow to make the change to their executive arrangements. The procedure requires the council to draw up formal proposals for change.

2. Issues

- 2.1 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. The consultation will need to cover both the available models, explaining how they will operate in enough detail and sufficiently in advance of making a decision, for interested persons to consider and respond. The council may include its preferred option in the initial consultation but must have proper regard to the outcome of the consultation when determining which new executive arrangements to adopt. A referendum can be carried out, but is not required. Such a referendum would be considered to be costly and unnecessary in view of the requirement to consult with local people and interested parties.

- 2.2 After the initial public consultation, the Council must draw up its formal proposal 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, for example, the additional costs of a mayoral election would be a relevant factor. 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 proposals. The proposed new executive arrangements must be advertised in a local newspaper and copies made available at the Civic Offices, Guildhall and Kidsgrove Customer Service Centre for inspection by the public.

- 2.3 The council must pass a resolution adopting the new executive arrangements before 31 December 2010 and further advertise its decision. Implementation of the new executive arrangements takes place three days after the May 2011 elections.
- 2.4 The council could express a view on its preferred executive model at the stage prior to consultation, although it cannot draw up a formal proposal until the outcome of the public consultation has been properly considered. It is important that the council complies with the requirements for consultation contained within the Local Government and Public Involvement in Health Act 2007. The Department for Communities and Local Government has confirmed that it does not intend to issue guidance to local authorities as to what will constitute “reasonable steps” to consult local government electors, and since the relevant legislation does not provide for a specified period of consultation, nor detailed requirements, the council has the flexibility to decide the appropriate levels of consultation.
- 2.5 Case law has established that in order to achieve procedural fairness a statutory obligation to carry out public consultation must:
 - (i) Be undertaken when the decision that is being consulted upon is still at a formative stage (i.e. no pre-determined decision has been made and the public body is not merely playing “lip service” to its obligation to undertake a consultation).
 - (ii) Include sufficient information to allow interested parties to consider the decision that is being consulted upon and formulate their response.
 - (iii) Allow adequate time for interested parties to consider and respond to the consultation.
 - (iv) Take all the responses from the interested parties conscientiously into account when the ultimate decision that is the subject of the public consultation is taken.
- 2.6 In light of the above, the consultation material will need to outline both of the two possible forms of executive arrangements that are now possible under the 2007 Act and invite views on which of the two possible forms the Council should adopt.
- 2.7 Information collected from other authorities who have already been through the process indicates that the common consultation methods used have been:
 - Press releases/news reports in local newspapers.
 - Articles in own council publications.
 - Online consultation through council websites.
 - Written consultation with partner organisations and community groups.
- 2.8 The information collected also indicates that the standard length of time in which authorities have run their consultations is between eight to twelve weeks. Where authorities have already undertaken consultations, the detail of the consultation has typically taken the following form:
 - Summary of why the consultation is taking place.
 - What system of governance the authority is currently working under.
 - An overview of the two governance models.
 - Key differences between the two models.

- 2.9 In order to keep the consultation process straightforward it is proposed that the council adopts a similar approach to that detailed above. Members are advised that this is the minimum level of consultation that the authority should be prepared to undertake. There is an opportunity for more responses to be pro-actively sought if Members wished to generate a larger response from a wider spectrum of people across the Borough, for example, providing a financial incentive to respond to the consultation article proposed for The Reporter, as this has proved to be successful on previous occasions.
- 2.10 In the event that Council determines to follow the example of other authorities, the proposed approach would enable all interested parties to be able to have their say before the council draws up its formal proposals in November 2010. The Monitoring Officer (Head of Central Services) will be responsible for overseeing the consultation process and reporting the outcome to the Council meeting in October 2010, at which time formal proposals will need to be agreed and advertised taking into account the outcome of the initial consultation.

3. **Timetable**

- 3.1 The last day that 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. Failure to do so will result in intervention by the Secretary of State.
- 3.2 The council is required to agree a timetable with respect to the implementation of the proposals.
- 3.3 Following the council decision, work will be required to amend the council's constitution to reflect the new model of governance adopted by the council. Clearly this will be a more extensive process if the mayoral model is chosen. Adjusting the current constitution to reflect the four-year leader and cabinet model would be relatively straightforward.
- 3.4 Should the council adopt the mayoral model, the electorate of the Borough would be invited to elect a mayor who would serve for the full term of the next Council. The election would take place at the same time as the council elections in May 2011. A new leader and cabinet model would require the council to elect its leader for the next four years at the annual meeting of the council on 18 May 2011.
- 3.5 The proposed timetable is set out below:

Date	Action
30 June 2010	Report to Council advising of process and seeking approval to the commencement of consultation
5 July 2010 – 1 October 2010	Period of Consultation
27 October 2010	Report to Council on the outcome of the consultation and seeking adoption of formal proposals
November 2010	Advertise and place formal proposals on public deposit
15 December 2010	Council to meet to consider resolution and adopt new executive arrangements and changes required to the constitution
January 2011	Statutory advertisement of adopted proposals

May 2011	New executive arrangements come into effect on the third day after local elections in May 2011
----------	--

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

- 4.1 The proposals set out in the report contribute towards the priority of transforming our council to achieve excellence. As outlined earlier in the report, the legislation is designed to strengthen effective and efficient decision-making, accountability and transparency and, when implemented, this will assist in the process of improving the council to deliver against all of its corporate priorities.

5. **Legal and Statutory Implications**

- 5.1 The legislative framework for the required changes to the council's executive arrangements are set out in full in the body of the report.

6. **Financial and Resource Implications**

- 6.1 There will be some costs incurred in carrying out the required statutory consultation during the summer and autumn of 2010, however, these costs will be met within existing budgets.
- 6.2 There would be significant additional costs associated with the organisation of the local elections in 2011 if the council adopted a mayoral system of governance, but these would be mitigated by the action set out in the risk analysis below. The costs would need to be reflected in the council's 2011/12 budget.

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.
Unbudgeted expenditure in 2011/12 for election of a mayor if the council opts for this model of governance	If the council chooses to move to a mayoral system of governance the election of a mayor would have to take place at the same time as the local elections in May 2011	By planning ahead the council should have a clear idea of which model it wishes to adopt by November and, if necessary, the potential cost of a mayoral election can be factored into the preparations for setting the council's 2011/12 budget.

8. **Key Decision Information**

- 8.1 This report does not require a key decision within the meaning detailed in the constitution. However the decision on which model to adopt will be recorded in the forward plan of key decisions in the months proceeding December 2010.

9. **List of Appendices**

Appendix 'D' (orange paper) - Comparison of the existing Leader and Cabinet model with the two 'new' models in the Local Government and Public Involvement in Health Act 2007

10. **Background Papers**

Local Government and Public Involvement in Health Act 2007

STATEMENT OF THE LEADER OF THE COUNCIL TO FULL COUNCIL – 30 JUNE 2010

Submitted by: Councillor Simon Tagg

Portfolio: All

Wards affected: All

Purpose of the Report

To provide an update to Members on the activities and decisions of Cabinet together with the Forward

Recommendation

That the statement of the Leader of the Council be received and noted.

Reasons

To update Council Members on the activities and decisions of the Cabinet and to allow questions and comments on the Statement to the relevant Portfolio Holders.

1. Background

- 1.1 Since the last Full Council meeting on 31 March 2010 Cabinet has met once on 2 June. Below is a summary of decisions and actions taken along with a link to the Forward Plan covering the next 3 month period. (For further background to the Cabinets Decisions please refer to the Cabinet agenda of 2 June 2010).

2. Budget and Performance Management Report to End of Quarter Four (March) 2010

- 2.1 Cabinet received a Financial and Performance Management Report relating to Quarter 4 (March) 2010. The report shows a strong set of results with the majority of targets met. These are set out under 1.7 of the Cabinet Report, although it was noted that there are still areas of concern, over 75% of the Performance Indicators are achieving targets.

3. Drivers and Vehicles Licensing Agency Wheel Clamping and Removal Powers

- 3.1 The Council has now adopted powers under the Vehicle Excise Duty Regulations (Immobilisation Removal and Disposal of Vehicles) Regulations (as amended). This will enable the removal of untaxed vehicles off the road and aims to reduce the number of vehicles that are stolen and burnt out on public open spaces. The new powers will reduce the time it currently takes to remove untaxed abandoned vehicles.

4. Health and Wellbeing Centre

- 4.1 Cabinet Members received an update on progress relating to the new Swimming Pool and Health and Well Being Centre. Members agreed the main recommendation in the report which was to incorporate a Combined Heat and Power (CHP) unit into the Centre's design. It is estimated that this will provide a carbon saving of 89,500kg CO2 per annum.

5. Forward Plan

- 5.1 The Forward Plan covering the period 1 June 2010 to 30 September 2010 can be found at:

6. **New Government Progress – A New Direction!**

- 6.1 Cabinet welcome the progress the new coalition government is making in terms of working towards greater freedoms and flexibility for local councils. It is our belief that Councils performing well, such as ours, are well placed to take advantage of this new environment. We have shown we can be trusted to deliver quality, cost effective services and regeneration projects that local people value.
- 6.2 The new government is making early progress on such things as abandoning imposed regional planning frameworks, housing targets, and we especially welcome the end of burdensome inspection regimes. Such action will help reduce bureaucracy and contribute towards increased efficiency.
- 6.3 We have an excellent opportunity to strengthen the community leadership role of the council and our role as local councillors. We will continue to press the case that the most effective decisions are those taken democratically and closest to the communities they affect.

Councillor S. Tagg
Leader of the Council

ANNUAL TREASURY REPORT 2009/10

1. INTRODUCTION AND BACKGROUND

The Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management 2009 was adopted by this Council on 24 February 2010. This updated the previous code produced in 2001 that had been adopted by the Council on 27 February 2002.

The primary requirements of the Code are as follows:

1. Creation and maintenance of a Treasury Management Policy Statement which sets out the policies and objectives of the Council's treasury management activities.
2. Creation and maintenance of Treasury Management Practices which set out the manner in which the Council will seek to achieve those policies and objectives.
3. Receipt by the Full Council of an annual treasury management strategy report (including the annual investment strategy) for the year ahead, a midyear review report and an annual review report of the previous year.
4. Delegation by the Council of responsibilities for implementing and monitoring treasury management policies and practices and for the execution and administration of treasury management decisions.
5. Delegation by the Council of the role of scrutiny of the treasury management strategy to a specific named body which in this Council is the Transformation and Resources Overview and Scrutiny Committee and delegation by the Council of the role of scrutiny of treasury management performance to a specific named body which in this Council is the Audit and Risk Committee.

Treasury management in this context is defined as:

"The management of the local authority's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks. "

The purpose of this report is to meet one of the above requirements of the CIPFA Code, namely the annual review report of treasury management activities, for the financial year 2009/10.

2. THIS ANNUAL TREASURY REPORT COVERS

- ❖ The Council's treasury position as at 31 March 2010;
- ❖ The strategy for 2009/10;
- ❖ The economy in 2009/10;
- ❖ Investment rates in 2009/10;
- ❖ Compliance with treasury limits and Prudential Indicators;
- ❖ Investment outturn for 2009/10;
- ❖ Involvement of Elected Members;
- ❖ Other issues.

3. TREASURY POSITION AS AT 31 MARCH 2010

The Council's investment position at the beginning and the end of the year was as follows:

	At 31/3/10	Return	Average Life (Days)	At 31/3/09	Return	Average Life (Days)
Total Debt	£0m	N/A	N/A	£0m	N/A	N/A
Total Investments	£23.5m	2.46%	128	£36.2m	5.59%	193

The decline in total investments has been due to a combination of very few capital receipts being received due to the economic downturn and capital expenditure being incurred on large projects including:

- Lancaster Buildings refurbishment
- Replacement Cemetery
- Refuse vehicle fleet procurement
- Recycling containers procurement

4. THE STRATEGY FOR 2009/10

The strategy agreed by Council was that:

- There would be no long term borrowing for capital purposes;
- Short term borrowing would be required to cover any temporary shortfalls in revenue income and to temporarily fund capital expenditure during the interim period before a permanent means of finance became available;
- All borrowing would be kept absolutely within the Authorised Limit of £15,000,000 and would not normally exceed the Operational Boundary of £5,000,000 (although it could for short periods of time be permitted to rise to a figure between £5,000,000 and £15,000,000 due to variations in cash flow);
- Investment of the receipt arising from the sale of the housing stock has gradually been brought in house for investment. The final fund managed investment of £3,000,000 with fund manager, City Deposit Cash Managers (CDCM), matured in October 2009, with the balances now being managed in house;
- Temporary surpluses which might arise would be invested, either in short term deposits with the Council's bankers or in money market investments (cash deposits) if the size warranted this and for an appropriate period in order that these sums would be available for use when required;
- The proportions of loans and investments to be at fixed or variable rates were: fixed rate loans to be between 0% and 100% of the total and fixed rate investments to be between 0% and 100% of the total;
- Long term investments to be permitted as follows: maturing beyond 31/03/10 £10,000,000, maturing beyond 31/03/11 £10,000,000, maturing beyond 31/03/12, £10,000,000;
- The overriding consideration in determining where to place the Council's surplus

funds was to be to safeguard the Council's capital. Within this constraint the aim was to maximise the return on capital; and,

- Forward commitment of funds for investment is permitted in respect of in house investments.

Changes in strategy during the year

There have been no changes to the Treasury Management Strategy during the year. As approved by Council on 30 July 2008 we continue to use the lowest common denominator methodology in respect of determining suitable counterparties.

This, and the downgrading of numerous Banks and Building Societies, has led to a severely restricted counterparty listing remaining. Consequently, great difficulty has been found in placing investments with counterparties that meet our criteria.

5. THE ECONOMY AND INTEREST RATES

During 2009/10 the Monetary Policy Committee (MPC) was focused on helping the economy to turn around from plunging into the deepest and longest recession the UK economy had experienced for many years.

Despite keeping Bank Rate at an unprecedented historical low of 0.5% all year, the MPC also had to resort to extreme measures in terms of pumping liquidity into the economy through quantitative easing by purchasing £200bn gilts and corporate bonds. This had the effect of boosting prices for gilts and corporate bonds and therefore bringing down yields, so also reducing borrowing costs for both the corporate and public sector.

It was notable that the increase in money supply in the economy generated by this programme brought the credit crunch induced spread between Bank Rate and 3 month LIBID (investment rate that depositors could earn) down from 0.95% at the beginning of the financial year to zero during August 2009.

The dominant focus in 2009/10 was on quarterly GDP growth figures. The recession bottomed out in quarter 1 of 2009. There was then major disappointment that the end of the recession failed to materialise in quarter 3 2009 but the fourth quarter of 2009 did then see economic growth return at +0.4%.

Inflation has not been a major concern of the MPC as it fell back below the 2% target level from June to November. However, it did spike upwards to reach 3.5% on the back of the unwinding of the temporary cut in VAT to 15% on 1 January 2010. This was not seen as a cause for alarm as this spike was expected to fall out of the inflation index and inflation was forecast by the Bank of England to fall back under target by the end of 2010. (A detailed overview of the economy in 2009/10 can be found in Annex 2.)

6. INVESTMENT RATES IN 2009/10

At the start of 2009-10, investment rates were enhanced by a substantial credit crunch induced margin. However, the Bank of England's quantitative easing operations had the desired effect of improving the supply of credit in the economy and so these margins were eliminated by half way through the year. Consequently, investment rates fell markedly during the first half of the year,

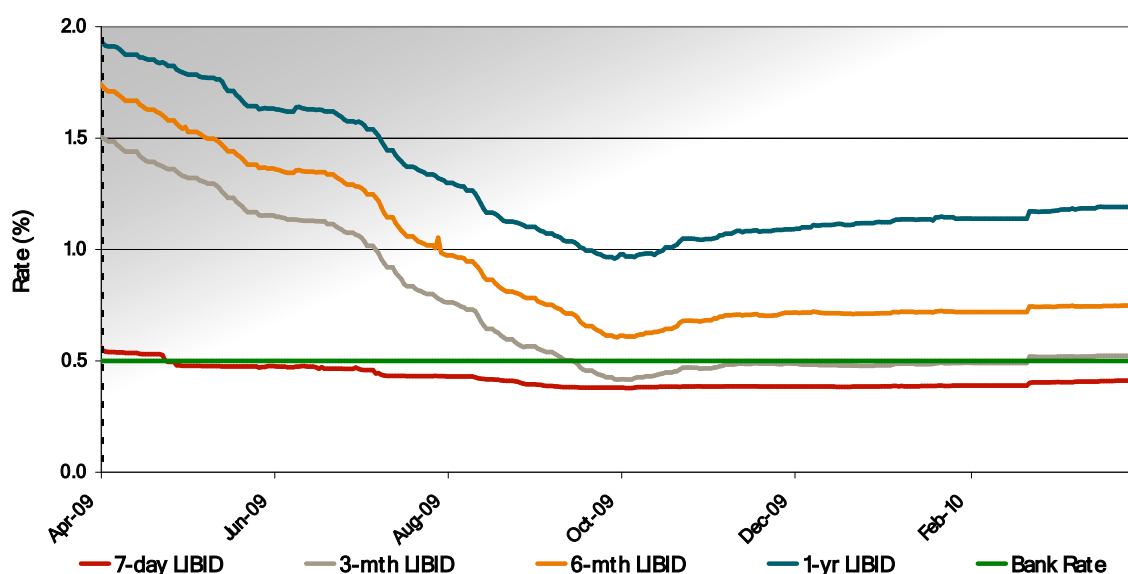
Overnight rate: this varied little during the year within a range of 0.38 – 0.49%.

3 month rate: from a high point for the year of 1.50% on 1.4.09, the rate fell gradually to reach a low of 0.42% in September before finishing the year at 0.52%,

12-month rate: this started the year at a credit crunch enhanced rate of 1.85% and fell steadily until reaching 0.85% in September. Since then it has risen to finish the year at 1.15% as the market looked ahead to when the MPC would have to start raising Bank Rate from its then current rate of 0.50%.

INVESTMENT RATES 2009-10						
	Overnight	7 Day LIBID	1 Month	3 Month	6 Month	1 Year
01-Apr-09	0.49%	0.55%	0.89%	1.50%	1.73%	1.93%
31-Mar-10	0.41%	0.41%	0.42%	0.52%	0.76%	1.19%
High	0.49%	0.55%	0.89%	1.50%	1.73%	1.93%
Low	0.38%	0.38%	0.38%	0.42%	0.61%	0.96%
Average	0.40%	0.42%	0.47%	0.73%	0.94%	1.29%
Spread	0.12%	0.17%	0.51%	1.09%	1.13%	0.97%
high date	01/04/2009	01/04/2009	01/04/2009	01/04/2009	01/04/2009	01/04/2009
low date	09/09/2009	02/10/2009	18/09/2009	29/09/2009	29/09/2009	28/09/2009

Investment Rates 2009-10



7. COMPLIANCE WITH TREASURY LIMITS

During the financial year the Council operated within the treasury limits and Prudential Indicators set out in the Council's annual Treasury Strategy Statement. The outturn for the Prudential Indicators is shown in Annex 1.

8. INVESTMENT OUTTURN FOR 2009/10

Internally Managed Investments

The Council manages its investments in-house and invests with the institutions listed in the Council's approved lending list. The Council invests for a range of periods from overnight to 3 years, dependent on the Council's cash flows, its interest rate view and the interest rates on offer. The investments made in 2009/10 in practice were generally for a period of less than one year.

Changes in strategy and credit policy during the year

There have been no changes to the Treasury Management Strategy during the year. As approved by Council on 30th July 2008 we continue to use the lowest common denominator methodology in respect of determining suitable counterparties.

Investment Outturn for 2009/10

During 2009-10 an average rate of return of 2.46% was achieved on an average individual investment of £2.1m. This exceeded the target average rate of return by 0.96% (target of 1.5%).

9. INVOLVEMENT OF ELECTED MEMBERS

Elected members have been involved in the treasury management process during 2009/10 including:

- receiving training from the Council's treasury management consultant's, Sector, in June 2009
- scrutiny of the treasury management strategy by the Transformation and Resources Overview and Scrutiny Committee prior to being submitted for approval by the Full Council.
- scrutiny of treasury management performance by the Audit and Risk Committee through the receipt of an annual treasury management report and a half yearly treasury management report.

10. ICELANDIC BANK DEFAULTS

This authority currently has the following investment frozen in the Heritable Bank:

- Investment 5092, £2.5m, maturity date 14 September 2009.

Payments of £403,250, £317,649, £155,396 were received from the Heritable Bank administrators on 30/7/09, 18/12/09, 30/3/10 respectively. A further payment is due in July 2010 and the latest creditors progress report issued by administrators Ernst and Young (January 2010) confirmed that current projections suggest a return to creditors of 85p in the £.

ANNEX 1: PRUDENTIAL INDICATORS

Position/Prudential Indicator		2008/09 Actual	2009/10 Original Indicator	2009/10 Actual
1	Capital Expenditure	£6.202m	N/A	£9.498m
2	Capital Financing Requirement at 31 st March 2009	(£0.896m)	(£0.896m)	(£0.896m)
3	Treasury Position at 31 st March 2010			
	Borrowing	£0.0m	N/A	£0.0m
	Other long term liabilities	£0.0m	£0.0m	£0.0m
	Total Debt	(£0.0m)	(£0.0m)	(£0.0m)
	Investments	(£36.2m)	(£40.0m)	(£23.5m)
	Net Borrowing	(£36.2m)	(£40.0m)	(£23.5m)
4	Authorised Limit (against maximum position)	£0.0m	£15.0m	£0.0m
5	Operational Boundary (against maximum position)	£0.0m	£5.0m	£0.0m
6	Ratio of Financing Costs to Net Revenue Stream	(11.46%)	(6.43%)	(5.74%)
7	Upper Limits on Variable Interest Rates (against maximum position)			
	Loans	0%	100%	0%
	Investments	0%	100%	0%
8	Actual External Debt	£0.0m	N/A	£0.0m
9	Principal Funds Invested for Periods Longer than 364 days (against maximum position)	£5.0m	£10.0m	£4.0m

ANNEX 2: Economy Detailed Overview 2009/10

2008 was a momentous year when one financial institution after another in America either collapsed or was taken over in the wake of the credit crunch, culminating in the catastrophic failure of Lehman's Brothers in September 2008 which then triggered in October the collapse of the Icelandic banks and the near collapse of three major UK banks. These three banks then needed another round of major Government support in January 2009. This prolonged financial shock to the core of the world's financial systems caused a worldwide recession to gather in pace and intensity during 2009/10 which dragged the UK economy down into its deepest and longest recession for many years.

During the autumn of 2008, the Monetary Policy Committee (MPC) had been preoccupied with the alarming escalation of the rate of inflation propelled by earlier increases in the price of oil, commodities and energy. Inflation peaked in September 2008 on CPI at 5.2%, way over the target rate of 2%. However, the MPC soon had to radically change course as it became ever clearer that inflation would rapidly decline as the credit crunch would plunge world economies into a major recession. An unprecedented cut of 1.5% in Bank Rate in November 2008 was followed by a 1% cut in December 2008 to 2.0% and then further cuts of 0.5% each month until 0.5% was reached in March 2009.

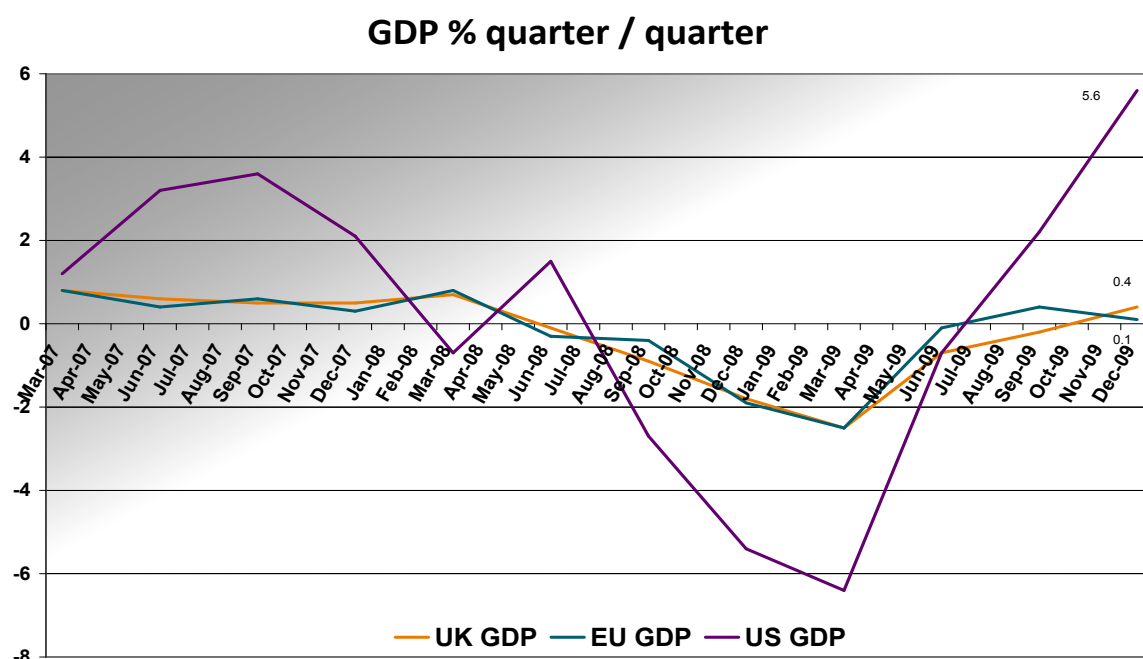
The 2009/10 financial year started with markets still badly disrupted, the real economy suffering from a lack of credit, short to medium term interest rates at record lows and a great deal of anxiety as to how or when recovery would take place.

Quarter	GDP (Q/Q%)
2007 Q1	0.7
2007 Q2	0.6
2007 Q3	0.5
2007 Q4	0.5
2008 Q1	0.6
2008 Q2	-0.1
2008 Q3	-0.7
2008 Q4	-1.8
2009 Q1	-2.5
2009 Q2	-0.6
2009 Q3	-0.2
2009 Q4	0.4

However, even the precipitous slashing of Bank Rate before the beginning of the year was unable to make much impact on the rate at which the economy was falling headlong into recession. Consequently, in March 2009 the MPC resorted to starting a programme of quantitative easing to pump liquidity into the economy in order to stimulate growth, by purchasing gilts and corporate bonds; this had the effect of boosting their prices and therefore reducing yields, so also lowering borrowing costs for both the corporate and public sectors. This programme of quantitative easing was progressively expanded during 2009 until it reached a total of £200bn of purchases in November. For the rest of the financial year, the MPC adopted a cautious approach of leaving further quantitative easing on hold in case growth in the economy needed further support. It was notable that the increase in money supply in the economy generated by this programme brought the credit crunch induced spread between Bank Rate and 3 month LIBID (investment rate that depositors could earn) down from 0.95% at the beginning of the financial year to zero during August 2009. Bank Rate itself remained unchanged at 0.5% all year

The dominant focus in 2009/10 was on quarterly GDP growth figures. As can be seen from the table above and the graph below, the recession in the UK bottomed out in quarter 1 of 2009. There was major disappointment that the end of the recession failed to materialise in Q3 2009 and the first figure issued for Q4 2009 was a further huge disappointment at only +0.1%. However, subsequent revisions saw that revised upwards to first +0.3% and then +0.4%.

The movement in GDP figures (economic growth) for the United Kingdom, Europe and the United States is illustrated in the graph below.



Inflation has not been a major concern of the MPC during the year as it fell back below the 2% target level from June to November. However, it did spike upwards to reach 3.5% on the back of the unwinding of the temporary cut in VAT to 15% on 1 January 2010. This was not seen as a cause for alarm as this spike would fall out of the inflation index after one year and inflation was forecast by the Bank of England to fall back below target by the end of 2010 and to stay below 2% during 2011 and 2012 due to the large amount of surplus capacity in the economy which would keep wage inflation well damped down.

The year was marked by a tussle between two opposing outlooks in the financial markets. The pessimists expect weak UK growth, or even a double-dip recession, to depress economic activity and hence corporate profits and share prices, so causing gilt prices to rise and long term gilt yields and PWLB borrowing rates to therefore linger at historically low levels for a prolonged period.

On the other hand, the optimists expect a lively return to growth in the UK led by a rebalancing of the economy resulting from increased exports driven by rapid recovery in the US, EU and the rest of the world. This would boost corporate profits and share prices and so depress gilt prices, hence causing long term gilt yields to rise to much higher levels which would then be under pinned by major concerns about the total level of debt issuance by the Government to finance the annual deficit. Accordingly, there have been fluctuations in rates during the year as first one camp and then the other gained ascendancy.

The financial year ended with markets gradually gaining in confidence and optimism that the economy was indeed on the path to recovery, although it appeared to be fragile, and with some residual risk that there could still be a double-dip recession. This optimism was further enhanced by a return to strong economic growth in the US towards the end of 2009. The year also saw a major resurgence in share prices in the US, UK and Europe from a very depressed level in March 2009 on the back of this rise in optimism.

There were concerns in the US and UK that consumers would be reluctant to spend as they would be focusing on reducing their bloated levels of debt and would struggle to pay mortgages when they end their short term discounted rates at a time when switching mortgages to cheaper rates is still not a readily available option. Consumers were also mindful of the increases in taxation coming up and the threat to jobs from impending public sector reductions in expenditure. The UK needs to see strong growth in the EU, its major trading partner, in order for the UK economy to rebalance its economy towards export led growth. However, the continuing reluctance of EU consumers to spend leaves an uncomfortable question mark in this area.

On the positive side, the supply of credit had improved considerably during the year and the credit crunch induced spread between Bank Rate and 3 month LIBID had evaporated. The equity market ended in buoyant mode with shares being at their highest level for nearly two years. The reverse side of this coin though was that gilt prices had fallen and long term yields (and so PWLB long term borrowing rates) were getting near to their peak for the year. The bond markets ended the year with chronic fears about a possible Greek government debt default and commentators were remarking that both Greece and the UK were running similar size annual deficits as a percentage of GDP (expected to be over 12%). However, the UK was in a much stronger position than Greece e.g. due to its much lower level of total debt. However, there were frequent comments from credit rating agencies around a possible threat that the UK government could lose its AAA credit rating if after the general election there was not a credible plan for how the promised reductions in the annual budget deficit would actually be achieved.

GLOSSARY

CPI – Consumer Price Index

The Consumer Price Index (CPI) is the main UK measure of inflation for macroeconomic purposes and forms the basis for the Government's inflation target. It is also used for international comparisons.

LIBID – London Interbank Bid Rate

Banks in the City of London tend to lend and borrow money from one another in the wholesale money markets. The rate at which a bank is willing to borrow money is called the London Interbank Bid Rate (LIBID).

LIBOR – London Interbank Offered Rate

This is the benchmark used by banks, securities houses and investors to gauge the cost of unsecured borrowing in the money markets. It is calculated each day by asking a panel of major banks what it would cost them to borrow funds for various periods of time and in various currencies, and then creating an average of the individual bank's figures.

MPC – Monetary Policy Committee

Interest rates are set by the Bank's Monetary Policy Committee (MPC). The MPC sets an interest rate it judges will enable the inflation target to be met. The Bank's MPC is made up of nine members – the Governor, the two Deputy Governors, the Bank's Chief Economist, the Executive Director for Markets and four external members appointed directly by the Chancellor. The appointment of external members is designed to ensure that the MPC benefits from thinking and expertise in addition to that gained inside the Bank of England.

PWLB – Public Works Loan Board

The Public Works Loan Board (PWLB) is a statutory body operating within the Debt Management Office and is responsible for lending money to local authorities and other prescribed bodies, as well as for collecting the repayments

ADOPTION OF SCHEDULE 3 LOCAL GOVERNMENT [MISCELLANEOUS PROVISIONS] ACT 1982

Submitted by: Head of Central Services - Paul Clisby

Portfolio: Culture and Active Communities

Ward(s) affected: All Wards

Purpose of the Report

To propose that the Council adopts Schedule 3 of The Local Government [Miscellaneous Provisions] Act 1982 ---The control of Sex Establishments within the boundaries of Newcastle under Lyme

Recommendations

That the Council adopts Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982

Reasons

In order to have control over Sex establishments.

1. Background

- 1.1 The forthcoming Policing and Crime Act 2009 will have the effect of inserting new paragraphs into Schedule 3 of The Local Government (Miscellaneous Provisions) Act 1982. This will provide for a new category of Sex Establishment – The New category is a “Sexual Entertainment Venue”. This type of entertainment provided at such a venue may take the form of a live performance or live display of nudity and must be of such a nature that, ignoring financial gain, it must reasonably be assumed to have been provided solely or principally for the purpose of sexually stimulating any member of the audience – in essence lap dancing and pole dancing.

2. Issues

- 2.1 Failure to adopt Schedule 3 of The Local Government (Miscellaneous Provisions) Act 1982 will have the effect that Section 27 of the Policing and Crime Act cannot be inserted to Schedule 3 and as a result the Council will have no control of “Sexual Entertainment Venues”. The Council will be unable to prevent this type of premise from operating and would not be able to impose any conditions on the operation of the Venue.

Should the Council adopt aforesaid Schedule 3, the Council would be in a position to set criteria it deems appropriate such as the setting of fees, having a Policy which restricts the locations of such Venues, and to impose a restriction on the numbers of such Venues.

3. Options Considered

- 3.1 The options are as above

4. **Proposal**
 - 4.1 To adopt the act as shown in the recommendation above.
5. **Reasons for Preferred Solution**

As highlighted earlier in Issues
6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**
 - 6.1 Indirectly relevant to:-

Creating a cleaner, safer and sustainable Borough
7. **Legal and Statutory Implications**

These have been shown in the report.
8. **Equality Impact Assessment**

There are no equality issues with the proposal.
9. **Financial and Resource Implications**

There are no implications
10. **Major Risks**

Failure to adopt the act may lead to unlicensed sex venues.
11. **Key Decision Information**
 - 11.1 (Whether it is a decision involving significant expenditure or savings, or will impact on 2 or more wards and whether it has/has not been included in the Forward Plan)
12. **Earlier Cabinet/Committee Resolutions**

Not a key decision
13. **List of Appendices**

Appendix 'A' (cream paper) - Schedule 3 of the L.G.M.PA.1982)
Appendix 'B' (gold paper) - Section 27 of the Police and Crime Act 2009.
14. **Background Papers**

Refer to the appendices

Minute 791/10 from the full Council meeting on 31 March 2010

791. **ADOPTION OF SCHEDULE 3 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

Consideration was given to a report which proposed the adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 relating to the control of sex establishments.

Resolved:- That the Council adopt Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

**Comparison of the existing Leader and Cabinet model with the two 'new' models
in the Local Government and Public Involvement in Health Act 2007**

APPENDIX 'D'
(Orange Paper)

	Current Leader and Cabinet Model	Four Year Leader and Cabinet Model	Mayor and Cabinet Model
Elections	<p>The ordinary election of a third of councillors is held on the first Thursday in May each year.</p> <p>The term of office of all councillors is four years starting on the fourth day after being elected on finishing on the fourth day after the date of regular election four years later.</p>	<p>The ordinary election of a third of councillors is held on the first Thursday in May each year.</p> <p>The term of office of all councillors is four years starting on the fourth day after being elected on finishing on the fourth day after the date of regular election four years later.</p>	<p>The ordinary election of a third of councillors is held on the first Thursday in May each year.</p> <p>The term of office of all councillors is four years starting on the fourth day after being elected on finishing on the fourth day after the date of regular election four years later.</p> <p>Direct election of a mayor by local electorate every four years.</p>
Term of office	Full Council appoint a leader annually.	Full Council elects a leader to serve as leader for the rest of their term until retirement	Elected directly by electorate for a four year term
Removal	Removed by resolution of the council	Councils can chose to adopt procedures allowing for the removal of the leader.	Cannot be removed except for defined serious events.
Executive functions	All Executive powers rest with the Cabinet who choose whether to delegate. Full Council chooses whether to delegate non-executive powers to committees or officers and whether to allocate local choice functions to the Cabinet.	<p>All Executive powers rest with the leader who chooses whether to delegate those powers to the executive, members of the executive or to officers.</p> <p>Full Council chooses whether to delegate non-executive powers to committees or officers and whether to allocate local choice functions to the Executive</p>	<p>All Executive powers rest with the mayor who chooses whether to delegate those powers to the executive, members of the executive or to officers.</p> <p>Full Council chooses whether to delegate non-executive powers to committees or officers and whether to allocate local choice functions to the Executive</p>

**Comparison of the existing Leader and Cabinet model with the two 'new' models
in the Local Government and Public Involvement in Health Act 2007**

	Current Leader and Cabinet Model	Four Year Leader and Cabinet Model	Mayor and Cabinet Model
Appointment of Cabinet Members	Appointed annually by full Council. Between 2-9 to be appointed as Cabinet Members Full Council agrees portfolio responsibilities Leader and Cabinet collectively accountable for the discharge of executive functions	Appointed by the leader, term in office decided by the leader Between 2-9 executive members appointed by the leader The leader determines the allocation of portfolio responsibilities and decision making powers which he/she may change at any time Executive members are directly accountable to the leader and the leader accountable to the council for the discharge of executive functions	Appointed by the mayor, term in office decided by the mayor Between 2-9 executive members appointed by the mayor The mayor determines the allocation of portfolio responsibilities and decision making powers which he/she may change at any time Executive members are directly accountable to the mayor and the mayor is accountable to the electorate for the discharge of executive functions
Deputy Leader	There is currently no requirement to appoint a deputy leader	Legal requirement for the leader to appoint a deputy leader	Requirement for the mayor to appoint a deputy mayor
The budget and policy framework	The full council will be responsible for the adoption of its budget and policy framework. The cabinet are charged with implementing the agreed policy framework and referring relevant decisions to full council for approval.	The full council will be responsible for the adoption of its budget and policy framework. The leader is charged with implementing the agreed policy framework.	The full Council will be responsible for the adoption of its budget and policy framework. The mayor is charged with implementing the agreed policy framework.
Civic functions	The civic Mayor chairs full council meetings and is elected by full council on an annual basis	The civic Mayor chairs full council meetings and is elected by full council on an annual basis	The office of ceremonial mayor to be replaced by that of a chairperson, appointed on an annual basis.