

Extraordinary Meeting of the Council – 30th November, 2009

Report of the Interim Director of Law, Property and Human Resources

Executive Arrangements - Local Government and Public Involvement in Health Act 2007

Purpose of Report

1. To consider the requirement to adopt a model of governance in accordance with the Local Government and Public Involvement in Health Act 2007.

Background

2. The Local Government and Public Involvement in Health Act 2007 requires all English local authorities to reconsider the “executive arrangements” they have adopted for decision-making. The Act entitles a Council to select either the elected Mayor and Cabinet model or a new style Leader and Cabinet model. The Council considered a report on 12th October, 2009 and approved the consultation arrangements required by the legislation before the adoption of any formal proposals. This report gives information on the results of the consultation and seeks authority to publish formal proposals.
3. The 2007 Act does not change the requirement for the Council to have arrangements to review and scrutinise executive decisions and any actions taken as a result of them (ie: Select Committees). Other ‘non-executive’ functions (e.g. development control, regulatory functions and Standards) also remain unaffected.
4. For metropolitan boroughs, this change in governance must come into force from May 2010. The Council must pass a resolution giving effect to the change by 31st December, 2009, having first consulted and drawn up of formal proposals for governance arrangements.
5. The amendments introduced by the Local Government and Public Involvement in Health Act 2007 make provisions for Executive Arrangements in that the Executive of the Council must take one of two forms:
 - **A Leader and Cabinet Executive**, where the Leader is elected from among the members of the Council for a period of four years, or until the Leader’s current term of office as a Councillor ends. Cabinet Members are appointed by the Leader from members of the Council. The Council may remove the Leader (by resolution) during the Leader’s term of office.
 - **A Mayor and Cabinet Executive**, where the public directly elects the Mayor for a four-year term and Cabinet Members are appointed by the Mayor from members of the Council. In the Mayor and Cabinet Executive model, the

Mayor is directly elected and cannot be removed by the Council during his or her term of office.

6. Functions that are within the remit of the full Council remain unchanged by the 2007 Act. The Council will continue to elect a traditional civic ceremonial Mayor and Deputy Mayor of the Borough on an annual basis and their roles will not be altered by either of the forms of Executive.
7. Public consultation was undertaken from September until 16th November, 2009. The Council took reasonable steps to alert local people to this consultation process, in particular:-
 - A public notice was issued and published in the press
 - Two media/news releases were issued during the consultation period
 - Leaflets were circulated to public reception points
 - A feedback form was included on the website
 - The matter was raised at Area Committees
 - Information was circulated to partner organisations and stakeholders through a database of addresses held by Dudley Community Partnership
 - the Council's Intranet was used to publicise the options.
8. In summary, 42 responses were received to the consultation exercise. Of these, 21 (50%) expressed a preference for the retention of the Leader and Cabinet system. 16 (38%) expressed a preference for moving to an Elected Mayor with Cabinet system. 5 respondents (12%) made general comments on the need to reform the present system by adopting alternative arrangements that would require a change to national legislation. A summary of the consultation responses is attached as Appendix 1.
9. The Council must now draw up proposals, which will include the proposed changes to the Constitution, the implementation timetable and any transitional arrangements. The Council should consider the extent to which the proposals, if implemented, would be likely to assist in securing continuous improvement in the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. Once the proposals have been drawn up, the Council must make them available to the public and advertise that they are available, although there is no further requirement for consultation at this stage.
10. Accordingly, the Council is requested to determine which of the two options set out in paragraph 5 above it wishes to adopt. If the Council wish to pursue the elected Mayor with Cabinet option, then the Council may require that a referendum is held. This would have to take place early in 2010 before any Constitutional amendments were made, depending on the outcome. If the Council decide to pursue the Leader with Cabinet model, then changes to the Constitution will be required to take effect from 10th May 2010 in advance of the annual meeting of the Council. A summary of the Constitutional changes required to adopt the new Leader with Cabinet system are set out in Appendix 2. No referendum will be required to pursue this course of action.

Finance

11. The adoption of the Leader with Cabinet Executive system will have no additional financial implications compared to the present governance arrangements. A directly elected Mayor with Cabinet Executive system would involve an additional cost to the Council due to running a referendum and/or an election. There would be further ongoing costs associated with the payment of allowances to the elected Mayor and secretarial support that cannot be quantified at this time.

Law

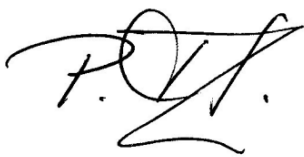
12. The provisions relating to the Executive Arrangements to be adopted by local authorities are contained in the Local Government Act 2000, as amended by the Local Government and Public Involvement in Health Act 2007.

Equality Impact

13. Changes to the Council's governance arrangements will have no direct implications for the Council's ongoing commitment to equality and diversity. The consultation process was open to all sections of the community, including children and young people.

Recommendations

14. That the Council determine which of the options set out in paragraph 5 should be adopted as Dudley's future executive arrangements.
15. That the Interim Director of Law, Property and Human Resources be authorised to take any necessary action to implement the Council's decision and to make any consequential amendments to the Council's Constitution.



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Philip Tart
Interim Director of Law, Property and Human Resources

Background Papers

Public Notice and correspondence concerning the consultation process
Letters/E-mail responses received

Consultation Feedback

Leader with Cabinet Executive

Number: 21 (50%)

Specific Comments:

Given the choices on offer I would prefer the first option, viz A Leader and a Cabinet Executive. I feel this is the best method to obtain democracy.

Reading in the excellent Stourbridge News this evening that Dudley MBC is reviewing the leadership of the Council in line with current government guidance. I would prefer the council leader and cabinet approach with mayor continuing as a ceremonial role. I hope this view is counted towards the consultation.

No to a mayor.

I do not support the option of a directly elected mayor who can then select a cabinet.

I would prefer a Leader and a Cabinet Executive

I opt for a Leader and Cabinet Executive

I fully support the Leader and Cabinet arrangement. I do not think that the concept of a directly elected Mayor works to the benefit of the people. Too much power vested in the hands of one person, who may not belong to a political party and therefore may be seeking election on personality rather than concrete policies. We have seen this happen elsewhere.

Of the two options, Leader plus Cabinet or Elected Mayor plus Cabinet, I would say there is no appetite in Dudley for the latter. I therefore favour the proposed arrangements for Leader and Cabinet Executive.

I do not favour the Elected Mayor option and prefer that of a Leader and Cabinet Executive.

I am not in favour of having an elected mayor for our borough. I think this would be detrimental to local democracy as it places too much power in the hands of one individual for four years. I prefer the system where a council leader is appointed by his or her fellow councillors, which has more checks and balances. From what I have seen and read of elected mayors in other parts of England there is a real danger of mavericks and celebrities being elected, which is not in the best interests of local people.

I do not wish to have an elected Mayor

I agree with the Council's decision not to have an elected Mayor, but to continue with the present system. This would appear to avoid further expense and a further level of bureaucracy.

I do not want an elected Mayor

I do not agree that we should have an elected mayor.

I am of the opinion if the council moves to an elected Mayor with all the powers that implies there would be a financial saving to the council as the need to elect 72 councillors would no longer be required as their function would be obsolete. Unfortunately the work load of the Mayor would be extreme as not only having to make decisions on all activities in the council, but with the help of the nine other Councillors selected they would have to hold weekly surgeries in all 24 wards in order to be informed of their electorates views and assist them with their problems in effect the work of the existing Councillors who have become obsolete. This system allows for no opposition and democracy would be dead for the period in between elections.

The alternative of a council leader elected and deselected by the councillors is more favourable to me and therefore would suggest this is the option the council supports.

I am writing to disagree with the proposal to have an elected mayor in Dudley.

The Leader should be elected by and from elected Councillors who should then be responsible for the appointment of the Cabinet. The public election of a Mayor would be an unnecessary expense and would involve ongoing costs which would have to be met by Dudley Taxpayers, which cannot be afforded.

We do not require an elected Mayor who cannot be removed from office and must serve for a 4 year period, it will be another level of bureaucracy, more and extra staff making an increase in running costs. Existing method with Leader and Cabinet is far better. Stick to what we have because I cannot see any change giving an improvement in decision making. Again I say no to a public elected Mayor.

My view is the option of a Leader, appointed by full Cabinet, who then elects 9 councillors to hold the position for 4 years, etc.

I prefer the Leader and Council approach as currently used. I would be concerned that voter apathy may mean that the wrong Mayor/Party was in power leading to stalemate in the Council.

I wish to register my vote for the present arrangements of leader and cabinet. I do not like the idea of an elected mayor as I feel it is giving too much power to one person.

I would support the retention of the existing format and would not support the election of a Mayor.

Elected Mayor with Cabinet Executive

Number: 16 (38%)

Specific Comments:

My preference is for a Mayor and Cabinet Executive. I believe, while the end result may be little different, there will, at least, be genuine opportunities for change. At present, the real power lies entirely in the hands of the ruling party, given that power by no more than 25 - 30% of the electorate. The proposed new system would present that electorate with greater choice and an opportunity to divide power creating both a spur and a rein. This could be the first step in a series of overdue reforms including strict

limits upon the number of terms members would be permitted to serve, thus promoting a regular flow of new blood with fresh ideas and broader perspectives.

My own opinion is that an elected Mayor is preferable to the present system, especially after I was ejected from the public gallery in the town hall in July, the attitude of the Mayor was deplorable and that of several councillors was quite childish, and to add insult to injury they voted themselves a 25% rise in allowances after the gallery had been cleared.

The sooner we go for a publicly elected Mayor the better.

The present arrangement has shown to be completely biased with Conservative councillors favouring, and voting for as Leader, the person who guarantees them a place in the cabinet ie. purely for financial gain. This does not serve the population of Dudley to their best advantage. The ideal example of proper leadership would be that of Doncaster where the Mayor took a salary drop and got rid of a significant number of useless councillors.

I believe that the Executive committee should be headed and selected by an elected mayor rather than councillors having a direct influence on who is elected and who heads the executive. This would remove some of the suspicion in the public that most councillors are self-serving and "take care of their own".

I would like to say my preference for would be to have a public voting system and allow the public to decide who is the leader for the four-year period. I do however have to add how is this going to democratic as I haven't seen it on the news or any newspapers! Locally I saw Black Country News.com who have a write up on it and that prompted me to email.

I am saddened that the authority has not widely publicised this as you claim you to have done.

As a Dudley business ratepayer, I want you to know that I totally agree with the concept of elected mayors, and that is so long as people with wide business experience are allowed to put up for the position? as has happened in Doncaster, Bedford, and other towns and cities. An elected mayor will offer the good people of Dudley the best chance for serious performance improvement, along with dramatic cost reduction. The electorate both want and justify this, and if the authority does not grasp the opportunity now, then it will be a very sad day for Dudley. Your challenge now I believe as local government officers, is to ensure that the good folk of the town now truly get the chance to vote on the issue!

I believe an elected mayor will not only serve us as an area better but also make it easier for people to get involved in politics. At the moment many people (not only young) don't understand who or what there voting for this would give them an individual position and an individual person to vote for bringing local politics back to the local people. With a voter turn out less than 50% in most areas and voter confidence lower than ever this may go some way to help bring some peoples confidence back into the political system. This will also give a lot of power to individual issues and would help to bring these issues to a wider audience. In short at the moment an area has very little power when actioning against a proposal giving them an individual to concentrate on then maybe people could start to govern themselves the way a democracy should be.

I do not favour either option as the long standing democratic direct link between councillor and the public is not being restored. To me it is wrong that the role of the councillor has been changed to mostly advisory. Recent decisions have been taken by the cabinet member, which have ignored the advice of the councillors. As far as I can see the change to cabinet system has not resulted in quicker decisions, which was said to be the reason for introducing this system. However, if I have to choose between the two options, my preference is for an elected Mayor as it gives a small measure of independence to proceedings.

I believe that that we the public should elect the mayor to take office for a 4 year period. By this system the elected mayor is accountable to his electorate directly and feel that he will bear this in mind more that our existing councillors do at present. I feel once elected many councillors become remote and lose touch with the public. An elected mayor cannot rely on the party system in the same way as his position is reliant on the electorate opinion not the lobbying of his own party.

I believe the best option is a directly elected Mayor. This seems to be the most democratic route, and also seems to me to directly link responsibility with accountability, which we currently need in all levels of government to reassure the public. I believe a directly elected Mayor would strive to do and deliver, what the public wants, better than the other option, so is more democratic and should be the option chosen.

I have read in the local news about the proposed council shake-up, and how you want people to have their say. Having read about the two options, I would much prefer to have a mayor directly elected by the public. This would be much more open and fairer.

I would go for the second option of an elected mayor as this seems to be more democratic.

I would favour an elected Mayor and Cabinet. I feel that this would foster a climate of more direct responsibility and accountability to the people of Dudley from elected officials.

Recommend Mayor with Cabinet option and have a 2 year tenure whichever option is chosen, which can be renewed for a second two year term at the close of the first period.

You have probably been informed by other people writing in regarding what Peter Davies, Executive Mayor of Doncaster has done by reducing voluntarily his own salary by 60% to £30k per annum and is trying to reduce the number of Councillors by two thirds thus saving £800k per annum. Do we need 72 Councillors on Dudley MBC? This number could be reduced to 12 with an Executive type Mayor able to do the right thing on a salary say of £30-£40k per year. Even the City of Pittsburgh in the USA has only 9 councillors and which I am sure is a much larger place than Dudley.

The 1966 and 1974 council reorganisations are failed and continually failing experiments - the dead-hand of central control and its consequent alienation of local people from the decision making process. The Cabinet system has made this worse - more decision making power to fewer people. The elected mayor option (which is actually a directly elected leader) would further concentrate power in the hands of just one person.

Independents have, however, blown-out some cobwebs. For that reason, I'm (reluctantly) in favour of this being brought into operation for a few years here.

I am aggrieved that the Council cannot offer the best system in this consultation: Giving local people back the power which came from their stronger link with councillors at the heart of decision-making or even better. We need councils which are more local - more accountable, and are allowed to obtain the funding which would give us, in our communities, real clout!

Other General Comments

I would like to say that I feel that something as important as this – does Dudley need or want an elected mayor, which after all I and many other business folk in the region believe could radically improve the effectiveness of local authority's such as Dudley MBC, and not least the leader of her Majesty's opposition, David Cameron, that this should have been given far more prominence than this add could ever achieve.

So I wonder, is Dudley MBC really wanting to encourage local folk to contribute to the decision making process at all on this, or is it like Birmingham, where the leader recently told his cabinet that an elected mayor was not needed, then to they took a vote on this issue – and one could say naturally, they decided to throw it out, and not even allow the good constituents of the city to have a democratic opportunity to vote on this issue?

I wish to enquire about the proposed change in selecting the Mayor, will this be going to a full referendum so that every person in Dudley can give their view? I only came across the proposed change after reading the Express & Star this evening, Fri 25/09/2009, and I know that many of the electorate in the borough do not use the internet or buy an evening paper so will the proposed change be more widely publicised?

While the idea of an elected leader for the council seems ideal there are perceived difficulties which would make it contrary to expectations. In any local election the ability to get people to vote is, to say the least, difficult. National elections may only draw 30% of the entitled electorate and local elections see only a fraction of this. To expect people to come out and vote for a council leader would well near miraculous. In these circumstances the vote is open to abuse by extreme parties who will amass support.

I would personally have concerns about one individual having the power to appoint cabinet members without strong safeguards being in place to prevent people being appointed on the basis of being a friend of the leader as opposed to being the best person for the job. I would think it far preferable to have cabinet members appointed by the full council as this should prevent this happening.

I feel the people of Dudley should have a say in who is leading the Council. It should transcend party politics and not be decided by a few council members who have been elected by such a tiny proportion of the people of Dudley.

I would like to express my concerns about continuing the present cabinet structure within the Dudley Council set up.

The cabinet structure in my opinion helps to take decision making further away from the electorate. When people elect their local Councillors, I would hope they are expecting their Councillor to be in a position of being able to take part in an open discussion about those issues that effect their local communities, and then have the opportunity to vote accordingly.

The cabinet structure prevents individual Councillors from taking at some times an independent position on a particular issue. Under the existing cabinet structure, there is a tendency to tow the 'party line'.

A vibrant elected body needs to have open discussion which can give the electorate confidence that decisions are not being made behind closed doors.

I suspect that suggested 'slight' alterations will not solve the concerns I've expressed above, only a return to the previous 'open' Council meetings will enable democratic discussion and encourage political responsibility.

The issue of an elected mayor is I believe dependent upon the wishes of the electorate agreeing to have such a position in place. Let the people decide on an elected mayor.

Apart from articles in the press voters have been sent no information about the options and nothing seems to have been done to really engage voters. We need a real debate which is properly informed.

Voters need to know that outside the UK elected local authority mayors are found in local authorities very much smaller than the present Dudley MBC, where the local communities identify with the Mayor and the mayor relates closely to the local community. These local authorities are far more autonomous, self governing and powerful than is the UK.

Elected Mayor run local government is found in countries with highly decentralised constitutions with strong directly elected Regional or Provincial Governments.

We need smaller more autonomous local government and fewer elected representatives who are really in touch with the communities. The present Local authorities in the Black County are too big.

We also need less government from London and more from the local and the region. Westminster and Whitehall must be down sized and their powers and resources transferred to the Regions and the very local. Given these changes directly elected Mayors could open up and make more accountable local government.

Our existing local authorities are too big and anonymous; the council leaders and councillors are unknown to their electorates. You don't have to live in the Ward you represent which only benefits the main political parties who struggle to find candidates. Council leaders have no direct connection to voters as they are elected by members of the controlling party political group who may only be elected by a minority of voters. Going local would bring in new talent to the fore whose priorities are serving their local community rather than the political parties.

As far as voters are concerned the present consultation is even more flawed given the electorate commission is looking to reduce the number of councillors, increase the size of wards and ever larger local authorities .All these moves are anti democratic, but are supported by the main political parties.

We need to say no to either of the options about which councils are consulting and say yes to real constitutional reform based on more local government. Elected Mayors could only then make a real difference.

We need the council needs to get behind real and deep reform rather than going through the motions of consultation when it appears there is no real will to change. Reform of the way local government is run and relates to their communities has to be considered in a much wider context.

Local Government Public Involvement in Health Act 2007

Leader with Cabinet Executive Arrangements

Amendments Required to the Constitution

Page No.	
A3	<p><u>SUMMARY AND EXPLANATION</u></p> <p><u>How the Council Operates</u></p> <p><i>Last sentence of paragraph 3 to be amended as follows:</i></p> <p>The Council appoints the Leader, the Cabinet, Select Committees, Area Committees and a number of other Committees as described in the Constitution.</p>
Page B8	<p><u>ARTICLE 4 – THE FULL COUNCIL</u></p> <p><i>Article 4.02(d) to be reworded as follows:-</i></p> <p>Only the full Council will exercise the following functions:</p> <p>(d) electing the Leader of the Council and removing him/her from office at any time by passing a resolution to that effect.</p>
Page B15	<p><u>ARTICLE 7 – THE CABINET</u></p> <p><i>Article 7.02 to be amended to read as follows:-</i></p> <p><u>Form and Composition</u></p> <p>The Cabinet will consist of the Leader together with at least 2, but not more than 9, Councillors appointed to the Cabinet by the Leader.</p> <p>Article 7.03 to be amended to read:-</p> <p><u>Leader</u></p> <p>The Leader will be a councillor elected to the position of Leader by the Council. The Leader will hold office for a period of four years or until:-</p> <p>(a) his/her term of office as a councillor expires; or</p> <p>(b) he/she resigns from the office; or</p> <p>(c) he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or</p>

	<p>(d) he/she is no longer a Councillor; or</p> <p>(e) he/she is removed from office by resolution of the Council.</p> <p>Article 7.04 to be amended to read:-</p> <p><u>Other Cabinet Members</u></p> <p>Other Cabinet members shall be called “Cabinet Members” and shall hold office until:</p> <p>(a) they resign from office; or</p> <p>(b) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or</p> <p>(c) they are no longer councillors; or</p> <p>(d) they are removed from office, either individually or collectively, by the Leader.</p>
Page C40	<p><u>RESPONSIBILITY FOR FUNCTIONS</u></p> <p><i>Add the following paragraph to the responsibilities of the Leader of the Council:-</i></p> <p>Appointing the Deputy Leader and Cabinet Members and removing those members from office.</p>
Page D40	<p><u>COUNCIL PROCEDURE RULES</u></p> <p><i>Existing paragraphs 1.1(vi) and (vii) to be replaced by the following:-</i></p> <p>The Annual Meeting will:</p> <p>(vi) elect the Leader (as and when necessary)</p> <p>(vii) receive a report from the Leader on the appointment of the Deputy Leader and Cabinet Members.</p>