

REPORT FOR DECISION

MEETING: EXECUTIVE COUNCIL

DATE: 2 DECEMBER 2009
19 DECEMBER 2009

SUBJECT: EXECUTIVE ARRANGEMENTS

REPORT FROM: THE LEADER

CONTACT OFFICER: JAYNE HAMMOND, DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

TYPE OF DECISION: COUNCIL/EXECUTIVE (KEY DECISION)

FREEDOM OF INFORMATION/STATUS: [This paper is within the public domain]

SUMMARY: The report advises the Executive and the Council of the result of the public consultation on changes to the Council's Executive Arrangements. The report presents the Executive and the Council with draft proposals for changing the Council's Executive Arrangements drawn up by the Director and based upon the results of the public consultation exercise and other statutory considerations ("the draft proposals"). The report sets out the next steps that the Council must take if it resolves to approve the draft proposals in order to implement the changes to the Council's Executive Arrangements.

OPTIONS & RECOMMENDED OPTION The Council is recommended:

- To note and consider the outcome of the public consultation into whether the Council should adopt the Elected Mayor and Cabinet form of Executive or the "new style" Leader and Cabinet form of the Executive as set out in this report.

2. To consider, having regards to the public consultation the extent to which proposals, if implemented, would be likely to assist in securing continuous improvement in the way the Council's functions are exercised, whether to approve the Director of Legal and Democratic Services draft proposals set out in Appendix 1 to this report, including in particular:
 - (a) That the Council's Executive should be the "new style" Leader and Cabinet Executive (England).
 - (b) That the change in governance arrangements should not be the subject of a referendum
3. If the draft proposals are approved, to agree the proposed time-table.
4. To delegate to the Director of Legal and Democratic Services the publication of the draft proposals in accordance with Section 33e(8) of the Local Government Act 2000.

IMPLICATIONS:

Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? No
Financial Implications and Risk Considerations:	None
Statement by Director of Finance and E-Government:	There are no direct resource implications arising from the proposals contained in this report
Equality/Diversity implications:	No
Considered by Monitoring Officer:	Yes The report sets out proposals which will include changes to the Council's Constitution.
Are there any legal implications?	Yes The Council has until 31 December 2009 to change its Executive arrangements in accordance with the Local Government and Public Involvement in Health Act 2007.
Staffing/ICT/Property:	There are no implications
Wards Affected:	All

Scrutiny Interest:

TRACKING/PROCESS

DIRECTOR: Legal and Democratic Services

Chief Executive/ Management Board	Executive Member/Chair	Ward Members	Partners
Scrutiny Commission	Executive	Committee	Council
	Yes		Yes

1.0 BACKGROUND

1.1 At its meeting on 23 September 2009, the Executive received a report on the new Executive Arrangements introduced by the Local Government and Public Involvement in Health Act 2007. The report advised that the Council must resolve by 31 December 2009 to change to one of two model forms of Executive namely;

- Elected Mayor and Cabinet
- "new style" Leader and Cabinet (England)

1.1.1 That report set out the main differences between the forms, which are:

- The elected Mayor is directly elected, for the 4 year term and cannot be removed by the Council. Under the elected Mayor and Cabinet model, the Executive submits the budget and strategic policy to the Council which can only amend or overturn them by a two thirds majority.
- The Leader is elected by the Council from among Bury's directly elected Councillors and will have a 4 year term (unless their term of office as a Councillor has less than 4 years left when they are elected as Leader). The Council may make provision in its Executive Arrangements for the Leader to be removed from office by resolution of the Council. Under the Leader and Cabinet Model, the Executive recommends the budget and strategic policies to the Council, which may be amended or overturned by a simple majority.

1.1.2 The report also sets out the procedure for changing Executive Arrangements. The Council is required to:

- Consult Local Government electors and other interested person in Bury before drawing up proposals for a change in form.
- Draw up proposals.
- Publicise the proposals.
- Resolve to change the form of Executive before 31 December 2009.

- Implement the new Executive Arrangements which must come into operation no later than the third day after the Local Government elections on the 6 May 2010.

1.1.3 The Executive at its meeting on the 23 September 2009 resolved to:

- Consult with the public on the new Executive arrangements.
- Following the public consultation, to take into account the results of the public consultation and to draw up the draft proposals as to the change in Executive Arrangements.

1.2 **The Consultation Exercise**

1.2.1 The Local Government Act 2000 provides that "before drawing up its proposals" to change the form of the Executive, the Council "must take reasonable steps to consult the Local Government electors for, and other interested persons in" the Council's area.

1.2.2 However, the 2000 Act does not provide either for any specific form of public consultation or for any specific consultation period. In addition, the Department for Communities and Local Government decided not to issue any guidance to Local Authorities as to what the Department considers would constitute "reasonable steps", in relation to the public consultation required by the 2000 Act. As a result each Local Authority has had to reach its own decision as to the form and level of public consultation that it considers to be appropriate. The consultation closed on 12 November 2009.

2.0 **RESULTS OF THE CONSULTATION**

2.1 The Council received few responses to the public consultation. Eleven responses were received – eight from members of the public and three from members of the Council. Of these, five responses expressed a preference for an Elected Mayor and two were against and supported a Strong Leader and Cabinet model. Three of the responses raised issues about the consultation or the Strong Leader model.

2.2 The consultation did not therefore result in a clear preference for either form of executive, given such an extremely small number of responses.

2.3 Section 33(e)(7) of the 2000 Act provides that in drawing up proposals for its change in Executive arrangements the Council must also consider the extent to which the proposals, if implemented, would be likely to assist in securing continuous improvement in the way in which the Local Authority's functions are exercised having a regard to a combination of economy, efficiency and effectiveness.

2.4 The Leadership of the Council is of crucial importance in securing continuous improvement in the exercise of the Council's functions. There is no clear evidence that adopting an Elected Mayor and Cabinet model would produce greater improvements to the Leader and Cabinet model and there is always a risk in electing a Mayor who could not be removed for 4 years.

2.5 Taking into account the public consultation response and the Council's "Best Value" duty the draft proposals are attached at Appendix 1 to this report for consideration.

3.0 TIME-TABLE AND TRANSITIONAL ARRANGEMENTS

3.1 The draft proposals must include:

- A time-table with respect to implementation of the proposals and
- Details of any transitional arrangements that are necessary for the implementation of the proposals

3.2 In relation to the time-table, it is proposed that the Executive approves the draft proposals at its meeting on the 2 December 2009.

3.3 The Council's proposals must then be published in accordance with the statutory requirements set out in section 33e(8) of the 2000 Act.

3.4 The Council must resolve before the 31 December 2009 to change its Executive form, taking into account any representations received following the publicity about the proposals. It is proposed that the Council meets to change its Executive on the 16 December 2009, the date of the scheduled Council meeting.

3.5 The Council must stop operating its current form of Executive and start operating the new form of Executive 3 days after the relevant elections. If a Leader and Cabinet form of Executive is adopted, these will be the first elections of Councillors after December 2009 (i.e. those due to be held on the 6 May 2010).

3.6 Until the new form of Executive comes into operation, the old arrangements will continue to apply.

3.7 If the Council moves to a new style Leader and Cabinet form, the Leader must be elected at the first annual meeting of the Council following the adoption of the new arrangements and their term of office will start that day. There will therefore, be a number of days between the date of adoption of the new form of Executive (which must be no later than the 9 May 2010) and the date on which the new Leader is elected at the Council's annual meeting on the 12 May 2010.

3.8 In terms of transitional provisions, therefore, the draft proposals provide for the Leader in office at the time of the local elections on the 6 May 2010 to remain in place until the Annual Meeting of the full Council, even though the form of Executive itself must have changed by the 9 May 2010. The draft proposals also provide that the delegations in respect of the Council's Executive functions that are set out in the Council's Constitution at the time of the local elections on the 6 May 2010, are to remain in place until such time as amendments are made to them.

3.9 If the Council were to decide to move to an elected Mayor and Cabinet form of Executive, the Mayor would be elected on the ordinary day of election. Given

the more significant change in form, further consideration would need to be given to transitional arrangements if the Council were minded to move to this form of Executive.

- 3.10 The draft proposals at Appendix 1 provide a suggested time-table if the Council is minded to move to the new style Leader and Cabinet form of Executive.

4.0 ARRANGEMENTS TO REMOVE THE LEADER

- 4.1 If the Council is minded to adopt the Leader and Cabinet form of Executive, the Council may also include provisions in its Constitution whereby the Council may remove the Leader from office at any time.

5.0. CONSTITUTIONAL AMENDMENTS

- 5.1 Constitutional amendments will be required whichever form of Executive the Council decides to adopt. The main amendments would be to:-

- Article 7 (which relate to the Executive)
- Council procedure rules
- Executive procedure rules
- Responsibility of the Council's Executive functions

- 5.2. There will also be a number of consequential minor amendments throughout the Constitution.

- 5.3. If the Council approves the draft proposals to move to the "new style" Leader and Cabinet form of Executive, then responsibility of the Council's Executive functions will not be finally determined until after the election of the "new style" Leader on the 12 May 2010. This is because under the new form of Executive it is the Leader (and not the Council) who will decide the allocation of the Council's Executive's functions.

6.0 RECOMMENDATIONS

The Council is recommended:

1. To consider, having regards to the public consultation the extent to which proposals, if implemented, would be likely to assist in securing continuous improvement in the way the Council's functions are exercised, whether to approve the draft proposals set out in Appendix 1 to this report, including in particular:

(a) That the Council's Executive should be the "new style" Leader and Cabinet Executive (England).

(b) That the change in governance arrangements should not be subject of a referendum

2. If the draft proposals are approved to agree the proposed time-table.

3. To delegate to the Director the publication of the draft proposals in accordance with Section 33e(8) of the Local Government Act 2000.

Contact Details:- Jayne Hammond, Director of Legal and Democratic Services
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Draft Proposals for change to Executive Arrangements

1. The Executive form of Bury Council should be “new style” Leader and Cabinet Executive (England)
2. No referendum as to the Executive form of Bury Council should be held.

Transitional Arrangements

3. The Leader of Bury Council who is in office at the time of the local elections on 6 May 2010, should remain in office until the Annual Meeting of the Council in May 2010.
4. The Scheme of responsibility for Bury Council’s Executive functions in the Council’s Constitution at the time of the Local Elections on the 6 May 2010 should remain in force until such time as they are amended by the Council’s new administration.

Time-table

5. The time-table for the implementation of Bury Council’s proposals is set out below:-

Report on outcome of public consultation and submission of draft proposals for approval	2 December 2009
Publication of Draft proposals in accordance in section 33e(8) of the 2000 Act.	December 2009
Recommendations to full Council on the form of Executive, following publicity of the Council’s proposals (including recommendations on constitutional amendments).	16 December 2009
Publicise new arrangements	December 2009
New form of Executive comes into operation (and constitutional amendments implemented).	3 days after local elections 6 May 2010 (if Council decides to adopt Leader and Cabinet form)
Leader elected (if Council decides to accept Leader and Cabinet form).	First Annual meeting of Council after elections in May 2010
a) Appointment of Deputy Leader b) Appointment of Executive Members c) Appointment of Portfolio holders	The Leader following the Leaders election in May 2010
Amendments to the Council’s Constitution	Following the Leaders election in May 2010