

MEETING:	COUNCIL
DATE:	19 NOVEMBER 2010
TITLE OF REPORT:	NEW EXECUTIVE ARRANGEMENTS
REPORT BY:	CORPORATE STRATEGY AND FINANCE

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

The Council is required to consider new forms of executive arrangements in order to comply with the provisions of the Local Government and Public Involvement in Health Act 2007 to come into effect in May 2011.

Recommendations

THAT Council

- (a) notes the two available “strong leader” governance models and the results of the public consultation;
- (b) agrees to adopt either a Mayor and Cabinet, or Leader and Cabinet, executive governance model with effect from the 3rd day after its elections on 5 May 2011;
- (c) should it adopt a Leader and Cabinet model, agrees whether to provide that the Council may remove and replace the appointed Leader during his or her term of office or not;
- (d) Approves the proposals set out in the Appendix to reflect Council’s determination of b) and c) above; and
- (e) Authorises the Monitoring Officer to make all necessary amendments to the Council’s constitution.

Key Points Summary

- The council needs to select a new form of governance for its executive arrangements, to be implemented after its next elections on 5 May 2011.
- New legislation means that the current Leader and Cabinet model cannot continue in

its present form.

- In compliance with the legislation, the Council has undertaken a consultation and must consider and approve proposals for a change in governance. The Council currently operates a Leader and Cabinet model which is similar to but not the same as the new Leader and Cabinet model.
- There are two options which must be reconsidered now so if any changes are to be made they can be put into effect in May 2011 – either a Mayor (directly elected by popular vote) or Leader (elected by Council) both of whom are required to appoint a Cabinet.
- The term of office for either Mayor or Leader is 4 years (the life of the Council).
- If it adopts a Leader model, Council can choose whether to allow for the removal and replacement of the Leader by Council during that 4 year term. This is not an option in respect of a Mayor.

Alternative Options

- 1 It is a legislative requirement under the Local Government and Public Involvement in Health Act 2007 to consider the two new forms of executive arrangements and adopt one of them. All Councils have had to do so on a phased basis; each council having to do so to coincide with local elections.
- 2 The current Herefordshire leader and cabinet model is no longer an option because it provides for the Leader to be elected **annually** by Council. The law no longer allows that.
- 3 There are now only two options:
An elected Mayor and Cabinet executive
Or
A new style Leader and Cabinet Executive
- 4 Neighbouring county councils have all adopted the new style Leader and Cabinet executive.

Reasons for Recommendations

- 5 The Council is required to consider and adopt a new form of executive arrangements in order to comply with the provisions of the Local Government and Public Involvement in Health Act 2007 to come into effect in May 2011.

Introduction and Background

6. The Local Government and Public Involvement in Health Act 2007 require councils to adopt what has been described as a 'strong leader' in governance terms for executive arrangements.
7. This "strong leader" can only be either a 'new-style' Leader of the Council appointed by the Council for a period of 4 years, or a directly elected Mayor. Responsibility for

the executive functions of the Council will vest in the Leader or Mayor, who will decide how those functions are to be discharged and the extent of delegations. He or she will appoint the Cabinet Members directly and allocate responsibility for the discharge of executive functions – whether by him or herself, the Cabinet collectively, individual members of the Cabinet, or officers, or any combination.

8. Herefordshire Council currently has a Leader who appoints his own Cabinet and allocates responsibilities and who is ultimately responsible for determining how the delegations in the Functions scheme approved by the Council as part of its Constitution should apply. The new strong Leader and Cabinet model if adopted by Herefordshire Council will in essence only involve one substantive change. That is that the Leader is adopted annually currently and under the 2007 Act that is not now possible and the Leader will be elected for a four year term.
9. Non executive functions (Planning, Regulatory, Scrutiny and Standards) would remain unaffected regardless of the model adopted.
10. The Council must decide by the end of December 2010 which governance model to adopt, and implement the new model three days after the elections on 5 May 2011.
11. A new style Leader will have a strengthened role and becomes directly responsible for the discharge of executive functions as he or she wishes to arrange it. The Leader must also appoint a deputy. Under the new style Leader model, a Council appoints the Leader who then appoints the Cabinet and who allocated responsibilities. Cabinet will consist of the Leader and between two and nine Cabinet Members.
12. The legislation provides that Leaders or Mayors will effectively have a fixed term of office of nearly 4 years. A Leader would be appointed at the first Council meeting following the next elections. His term of office would come to an end at the next elections.
13. Whether a Leader can be removed and replaced during that 4 year term once appointed is a secondary choice for those Councils adopting the new Leader and Cabinet model. Early removal is not an option in respect of a Mayor.
14. The Council will continue operating existing models until the end of the transitional period (which, for Herefordshire Council will be just after the elections in May 2011). The Council's Constitution will need to be amended in line with the legislative requirements and to reflect the decision taken by the Council on the recommendations in this report. It is proposed that responsibility for making the technical changes to the Constitution be delegated to the Monitoring Officer.

Key Considerations

15. In coming to its decision, the Council must consider the extent to which the model would be likely to assist in securing continuous improvements in the exercise of its functions, having regard to economy, efficiency and effectiveness.
16. Council must come to a formal resolution on its governance structure before the end of December 2010.

Responses to Consultations

- 17 The Council carried out a consultation on the options for new executive arrangements and took account of advice provided by the Minister for Housing and Local Government to Leaders of all non-Metropolitan District Councils in a letter of 7 July 2010 indicating how to approach reasonable consultation. Consultation was conducted via local newspaper advertisement, press release and via an online survey carried on the Council's website. The formal consultation period ran between 30 September and 4 November.
- 18 There have been 16 responses in total, 15 in response to the online consultation and one letter. 7 indicated a preference for the strong Leader and Cabinet Model, 8 indicated their preference for the elected Mayor and Cabinet Model, one person indicated no preference.

Transitional provisions

- 19 The Council will continue to operate its current executive arrangements until the implementation of the new arrangements after the May 2011 elections.
- 20 Should the Leader model be chosen by Council, there will be a delay before a new style Leader is appointed by Council on 27 May 2011 and can establish new executive arrangements. It is therefore recommended that as far as is able to the Council authorises the continuance of the current Chief Executive scheme of delegation until after the 2011 elections until altered by the Mayor/leader/Council as appropriate. Proposals must also indicate how functions which *may* be there responsibility of the executive will be dealt with (i.e. where there is choice). It is recommended this continues as for the current Council, until altered by the Leader/Mayor or Council under the new governance arrangements.

Community Impact

- 21 The Council must consider whether the strong Leader and Cabinet model (akin to the current arrangements) or a Mayoral model better reflects the needs and aspirations of the communities of Herefordshire. The Council has undertaken consultation with a view to assessing the public view of the most suitable model.

Financial Implications

- 22 If the Council chooses to adopt a strong Leader and Cabinet model, there will be no adverse financial implications. The Leader will continue to receive the allowance allocated for that role in accordance with the current allowance scheme.
- 23 If the Council chooses to adopt a directly elected Mayor and Cabinet form of governance, then it is required in law to hold the elections for the Mayor at the same time as the next Council elections in May 2011. It can choose to hold a referendum to establish whether the electors of Herefordshire support their choice. Either of these choices will involve additional costs in respect of a separate election for a directly elected Mayor (albeit alongside the local elections) including the production and distribution of the voting material in respect of that election. There would be an additional cost attached to the conduct of a Mayoral referendum. The mayor would receive an allowance (albeit offset by a saving in respect of the allowance currently paid to the Leader).

Legal Implications

24 There are no legal implications other than those set out in this report.

Risk Management

25 If the Council does not make a governance decision by the end of December 2010, it will by default have to draw up and adopt the new style Leader and Cabinet model to take effect after the 2011 elections. In those circumstances the Council would be unable to adopt arrangements to enable it to remove the Leader within the four year term of office.

Consultees

26 The Council carried out a consultation on the options for new executive arrangements as detailed in this report

Appendices

26 Proposals for Change in Governance and Transitional Arrangements (with Timetable)

Background Papers

There are none