

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

26 NOVEMBER 2009

REPORT OF CORPORATE MANAGEMENT TEAM

COUNCIL DECISION

Leader of the Council – Councillor Lupton
Corporate Management and Finance – Cabinet Member – Councillor Laing

NEW EXECUTIVE ARRANGEMENTS

1. Summary

The report outlines the outcome of the consultation which has taken place following on from the report of 6 August 2009 and Council's decision on 9 September 2009, and details the proposals for change which are required to be submitted to the Secretary of State and to be the subject of a referendum.

2. Recommendations

It is recommended that Cabinet considers the outcome of the consultation and the next steps in developing the Council's approach to implementing the requirements of the Local Government and Public Involvement in Health Act 2007.

3. Reasons for the Recommendations

To agree the procedure for complying with the requirements of the legislation following the consultation which has taken place.

4. Members Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (**paragraph 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held –

- In a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations,

answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;

- In any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the code**).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.

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NEW EXECUTIVE ARRANGEMENTS

SUMMARY

The report outlines the outcome of the consultation which has taken place following on from the report of 6 August 2009 and Council's decision on 9 September 2009, and details the proposals for change which are required to be submitted to the Secretary of State and to be the subject of a referendum.

RECOMMENDATIONS

It is recommended that Cabinet considers the outcome of the consultation and the next steps in developing the Council's approach to implementing the requirements of the Local Government and Public Involvement in Health Act 2007.

DETAIL

Background

1. At the meeting on the 6 August, 2009 Cabinet considered a report that outlined the requirements regarding new executive arrangements under the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act").
2. The Council is required by 8 May 2011 to adopt and update one of the following specific executive models:-
 - Directly elected Mayor and Cabinet; or
 - Council Leader and Cabinet
3. The Cabinet report explained that the 2007 Act set out certain requirements which had to be satisfied before a Local Authority could change its governance arrangements in accordance with the Legislation.
4. A key requirement was that consultation should take place with local government electors and other interested parties. Outline details of the form this would take were included in the report, and it was agreed that the Chief Executive should be authorised to work up and finalise the specific details in consultation with Cabinet Members. In the event, Leaders of each of the political groups were also consulted about what was proposed.

5. The outcome of the consultation would then be evaluated and, subject to consideration of that outcome, one of the two models would be agreed by Council and proposals for change based on that model would be drawn up and approved. When approved by Council, the proposals for change, which would indicate that they were subject to approval in a referendum, would be submitted to the Secretary of State.
6. As regards the consultation which would take place, on 9 September 2009, Council agreed that:-
 - Information regarding the two executive models would be provided:-
 - at information points in key council buildings, such as reception areas and libraries;
 - on the Council's website;
 - through a programme of consultation; and
 - in Keeping you in Touch
 - Interested persons would be asked to indicate which of the executive models they would prefer to see included in a referendum.
 - Responses should be able to be provided in a variety of ways e.g. in writing, by email.
 - An appropriate press release would be issued.
 - The consultation/response period would be 4 weeks.
7. In accordance with the Council's decision, information regarding the two executive models has been provided in key Council buildings, on the Council website and through KYIT and also in Stockton News. A question was included in the Viewpoint Residents Panel Survey, and interested parties have been consulted through existing formal mechanisms e.g. Local Strategic Partnership, the Disability Action Group and the Black Minority Ethnic Group. Social networking media has also been utilised as part of this consultation programme.

Outcome of the Consultation

8. The consultation programme ran from 9 September 2009 – 9 October 2009. Residents were consulted through a range of channels designed to gather information which will inform the next stage of the process. Details of the responses are provided at **Appendix 1**.

Proposals for Change

9. The proposals for change which are required to be submitted to the Secretary of State, must provide appropriate details of the executive model which is to be the subject of the referendum.
10. The details which have to be provided in relation to the proposals include:-
 - The form of executive that is proposed;

- A description of the roles of the executive including which functions are to be the responsibility of the executive;
 - A description of the roles of full Council, including which plans and strategies will be subject to approval by full Council;
 - The arrangements for overview and scrutiny.
11. The proposals for change must also include a statement about the extent to which they would, if approved, be likely to assist in securing continuous improvement in the way in which the Authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness; details of the steps taken to consult Local Government electors and other interested parties; the outcome of the consultation and the extent to which that outcome is reflected in the proposals. The proposals must also include a timetable for their implementation.
 12. Attached to the Cabinet report are two draft proposals for change (**Appendices 2 and 3 refer**).
 13. **Appendix 2** is the proposals for a Directly Elected Mayor and Cabinet executive form of governance.
 14. **Appendix 3** is the proposals for a Council Leader and Cabinet executive model.
 15. Both sets of proposals are based on the Authority's current governance arrangements, as set out in the Constitution, with the new form of executive incorporated in each case.
 16. In particular, this means that in relation to each model, whether it be the Directly Elected Mayoral model or the Council Leader model, the proposed governance arrangements will provide as follows:-

- *A description of the roles of the executive, including which functions are to be the responsibility of the executive.*

The Council functions, local choice functions and executive functions will be those set out in the published Constitution (<http://sbcinternet/yourcouncil/constitution/>)

- *A description of the roles of full Council including which plans and strategies will be subject to approval by full Council.*

The policy framework is to be that set out in the current Constitution.

- *A description of the arrangements for the operation of overview and scrutiny committees to be included in the proposed executive arrangements.*

The current arrangements for scrutiny, as detailed in the Constitution will be put forward as part of the proposals.

- *A description of such other features of the proposed executive arrangements as the Authority may determine to include in the proposals.*

The draft proposals include details of the Council's role in the Authority's existing governance arrangements, and of the Authority's present regulatory committees and other committees and panels.

17. The proposals relating to a Directly Elected Mayor and Cabinet executive model explain that the person presiding at the meetings of the full Council cannot be the Directly Elected Mayor and will also not be able to be called the (Civic) Mayor. The person presiding will be another Councillor, who will have another title, such as Chairman. This can be determined, if need be, at a later stage, after a referendum has taken place, when the duties and responsibilities of any such person, if required, can also be agreed. In default, the person concerned would be called Chairman or Chair and would have the same principal duties and responsibilities as the current (civic) Mayor (article 5 of the Constitution refers).
18. As indicated, in reaching a decision about the proposals for change, Cabinet and Council must consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the Authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
19. The key elements of both sets of proposals which evidence such consideration are specified at paragraph 10 of each draft document (Appendices 2 and 3 refer).
20. Taking all of this into account, Cabinet is asked to recommend one of the two executive models to Council for approval.
21. Subject to this, Cabinet is also asked to agree the relevant proposals for change, and to recommend them to Council for approval and for subsequent submission to the Secretary of State.

Submission of the Proposals for Change

22. If and when approved by Council, the agreed proposals for change relating to the executive model which is to be the subject of a referendum, can be submitted to the Secretary of State.
23. There is no specific acceptance period involved in this process. The timetable/project plan (**Appendix 5**) envisages that the agreed proposals for change will be submitted to the Secretary of State by no later than 11 December 2009 (following Council on 9 December).
24. After the proposals have been submitted to the Secretary of State, a notice has to be published as soon as possible in the local press. The notice will contain the details required by regulation 4 of the Local Authorities (Conduct of Referendums) (England) Regulations 2007 ("the 2007 Regulations") e.g. a description of the main features of the proposals and of the outline fall back proposals (if the proposals are not approved in the referendum, the fall-back proposals will be the Authority's existing executive arrangements); when and where the proposals can be inspected; that a referendum is to be held and the date when polling is to take place.

Arrangements for the Referendum

25. It is proposed that the referendum will take place on 11 February 2010.

26. The procedure for the conduct of the referendum is governed by the 2007 Regulations which include the Local Government Act Referendum Rules. This will mean that it will take place on a traditional election basis with polling stations, poll cards, ballot papers and postal voting (with personal identifiers) and proxy voting.
27. Under the 2007 Regulations, the Director of Law and Democracy, as the Returning Officer at the election of Councillors, will be the Counting Officer for the Referendum.
28. Polling hours on the day of the Referendum will be from 7.00 am to 10.00 pm. The Polling Stations to be used will be those which it is planned to use for the General Election. Whilst subject to final confirmation, a current list of stations is attached at **Appendix 4**.
29. It is proposed that the Count will take place on Friday 12 February, 2010 commencing at 9.00 am in the M&M Building, New Street, Thornaby.
30. The timetable/project plan for the period leading up to the Referendum, the Referendum process and for the subsequent implementation period is as attached at **Appendix 5**.
31. The Director of Law and Democracy, as Counting Officer, will finalise the details for the Referendum process in consultation with the Chief Executive and Group Leaders.

Raising Awareness

32. The referendum period begins on the date that the proposals for change are sent to the Secretary of State (No later than 11 December, 2009) and ends with the date of the Referendum (11 February 2010). During this period, the Authority must be careful not to issue or publish material which deals with sensitive or controversial issues which might reasonably be regarded as affecting public opinion in relation to the Referendum.
33. Balanced information about the two forms of executive models, the Council's current governance arrangements and the Referendum process can, however, be made available on a proactive basis, in order to encourage engagement and ensure that those wishing to be involved are as informed as reasonably possible.
34. The 2007 Regulations provide that general information about the Referendum, material which deals with any issues raised by the question to be asked in the Referendum, or which puts arguments for or against a particular answer to the question, cannot be proactively published by, or on behalf of the Council during the period of 28 days ending with the date of polling. In other words the period from 15 January, 2010 to 11 February 2010.
35. During this period, the Regulations do not, however, prevent such material being made available to persons specifically requesting it, nor do they prohibit the publication of information relating to the holding of the Referendum poll, or the publication of press notices containing factual information, where the sole purpose of the publication is to refute or correct any inaccuracy in material published by someone other than the Authority.
36. Subject to and in accordance with these restrictions, details of a draft communications programme are attached at **Appendix 6**. This is an outline of what is proposed and will need to be reviewed, updated and finalised when the executive model and proposals for change which are to be the subject of the Referendum have

been agreed. As before it is proposed that the Chief Executive be authorised to finalise the programme and details relating to it, and, as required, to vary the programme, in consultation with Cabinet Members and Group Leaders.

After the Referendum

37. As the timetable/project plan (**Appendix 5**) indicates, if the referendum vote is in favour of the executive model and proposals for change which the referendum questions refers to (whatever the turnout and however small the majority in favour may have been), the Council must then meet at a special meeting (within 28 days of the 11 February 2010) to pass the required resolution, agreeing to implement the new executive arrangements in May 2011 (after the next local government elections).
38. Until May 2011, the Council will continue to operate its existing executive arrangements.
39. If the referendum vote is not in favour of the executive model and proposals for change which the referendum question refers to (again whatever the turnout and however small the majority against may have been), the Council will also again continue to operate its existing executive arrangements, but will have to follow the legislative process to introduce the other, available new executive model, culminating in the implementation and operation of that other model in May 2011.
40. The Council has to introduce one of the models by May 2011. If we should fail to do so, the Secretary of State has default powers, enabling a new executive model to be imposed. Until a new executive model is introduced in May 2011, our current executive arrangements will continue.

FINANCIAL AND LEGAL IMPLICATIONS

Financial

41. The costs of the programme of consultation undertaken so far have been met from balances. The costs of a referendum will equate to the costs of a local council election. The 2007 Borough elections cost approximately £220k. It was agreed by Council that the costs of the consultation and also the referendum would be met from corporate balances.

Legal

42. There is a statutory requirement to change the Authority's current governance arrangements in accordance with the provisions introduced by the 2007 Act. The procedure for change is also prescribed in the principal legislation. The procedure which the Council is following as detailed in the previous report to Cabinet and in this report will ensure compliance with the provisions of the legislation.

RISK ASSESSMENT

43. Introducing new executive arrangements has been assessed, at this stage, as medium risk (risk score 12).

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

44. Enhancing local democracy is a key objective of the Council Plan (55).

EQUALITIES IMPACT ASSESSMENT

45. No assessment has been considered necessary at this stage.

CONSULTATION

46. Previous seminars and reports (to MAP and Cabinet) have been accessible to all Members. Consultation has been undertaken in order to inform the process of developing and implementing Stockton's approach to the new provisions. This report has been circulated in advance to the Leaders of each political group.

Director of Law and Democracy

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Background Papers:

The appendices to the report

Ward(s) and Ward Councillors:

Not ward specific

Property Implications:

None