

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

2 SEPTEMBER 2010

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 further consultation which has taken place following on from the report of 26 November and Council's decision on 9 December 2009, and details the proposals for change which are required to be submitted to the Secretary of State.

2. Recommendations

- (i) It is recommended that Cabinet considers the outcome of the further 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.
- (ii) Subject to this, Cabinet is asked to recommend to Council that delegated authority be given to the Chief Executive in consultation with the Leader of the Council and the Cabinet Member for Corporate Management and Finance to finalise the agreed proposals for change for submission to the Secretary of State.

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 further consultation which has taken place following on from the report of 26 November 2009 and Council's decision on 9 December 2009, and details the proposals for change which are required to be submitted to the Secretary of State.

RECOMMENDATIONS

1. 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.
2. Subject to this, Cabinet is asked to recommend to Council that delegated authority be given to the Chief Executive in consultation with the Leader of the Council and the Cabinet Member for Corporate Management and Finance to finalise the agreed proposals for change for submission to the Secretary of State.

DETAIL

Background

1. At the meeting on the 26 November, 2009 Cabinet considered a report which outlined the feedback from the initial consultation which had been undertaken on new executive arrangements.
2. This followed an earlier report to Cabinet on 6 August, 2009 and a decision by Council on 9 September, 2009 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.
3. In accordance with the Council's decision, information regarding the two executive models had been provided in key Council buildings, on the Council website and through KYIT and also in Stockton News. A question had also been included in the Viewpoint Residents Panel Survey, and interested parties had been consulted through existing formal mechanisms e.g. Local Strategic Partnership, the Disability Action Group and the Black Minority Ethnic Group. Social networking media had also been utilised as part of this consultation programme.
4. This initial consultation resulted in only 425 replies and of these, opinion was fairly evenly split with regard to which of the following two models was preferred:-
- Council Leader and Cabinet
 - Directly Elected Mayor and Cabinet
5. Taking this into account and although Council had previously (9 September 2009) resolved that a referendum should be held on a preferred or chosen model identified via the consultation, Cabinet Members expressed concern at the apparent lack of public interest shown both in Stockton Borough and other parts of the country, which it was felt cast doubt as to whether the cost of holding a full scale referendum (the equivalent of full local elections at an approximate cost of £200k) was justified in the current economic climate.
6. On the 26 November 2009 Cabinet therefore recommended to Council and Council agreed (on 9 December, 2009) that:-
- (i) the decision to hold a referendum regarding the chosen executive model and related proposals for change be rescinded.
 - (ii) further consultation takes place as follows:-

Information regarding the two executive models will be provided to all local government electors, who will be asked to indicate which of the executive models they would prefer to see introduced by the Council.
 - (iii) a report be submitted to Cabinet regarding the outcome of this further consultation, with a view to one of the executive models and the related proposals for change being recommended to Council for approval.
 - (iv) the Chief Executive, in consultation with Cabinet Members and Group Leaders, be authorised to finalise:-
 - the details of and arrangements relating to the further consultation outlined at recommendation 2, including the timescale for replies.

- A communications programme regarding the outcome of Council's consideration of these recommendations; and subject to that the reporting of the results of the further consultation to Cabinet and Council.

(v) the costs of further consultation process be met from corporate balances.

The Further Consultation

7. In accordance with Council's decision, information (**Appendix 1**) regarding the two executive models was provided to all Local Government electors, who were asked to signify their preferred model by completing and returning a consultation reply slip in a prepaid envelope.
8. In addition, details about the consultation and the supporting information were placed on the Council's website; an article appeared in Stockton News and a press release was issued.

The Outcome of the Further Consultation

9. The further consultation ran from 7 July to 29 July 2010. Details of the replies are set out at **Appendix 2**.

The Next Steps

10. Taking the further consultation outcome into account, it is now for the Council to determine which of the two executive models should be adopted. The next steps after this decision are set out in the timetable/project plan at **Appendix 3**.
11. The next steps must culminate in the Council implementing/operating one of the two new executive models by 8 May 2011.

The Proposals for Change

12. Proposals for change are required to be submitted to the Secretary of State, providing appropriate details of the new executive model which is to be implemented/operated.
13. The details which have to be provided in relation to the proposed model include:-
 - The form of executive that is to be operated
 - 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.
14. 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.

15. Attached to the Cabinet report are two draft proposals for change (**Appendices 4 and 5 refer**).
16. **Appendix 4** is the proposal for a Directly Elected Mayor and Cabinet executive form of governance.
17. **Appendix 5** is the proposal for a Council Leader and Cabinet executive model.
18. 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.
19. 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.

20. 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, 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).

21. 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.
22. The key elements of both sets of proposals which evidence such consideration are specified at paragraph 10 of each draft document (Appendices 4 and 5 refer).
23. **Taking all of this into account, Cabinet is asked to recommend one of the two executive models to Council for approval.**
24. **Subject to this, Cabinet is 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.**
25. **Cabinet is also asked to recommend that delegated authority by given to the Chief Executive, in consultation with the Leader of the Council and the Cabinet Member for Corporate Management and Finance, to incorporate amendments to and to finalise the proposals for change to be submitted to the Secretary of State. This will enable any changes to be made which are considered necessary or appropriate after Council's decision, thereby avoiding delay and the need to report back to Council.**

Submission of the Proposals for Change

26. If and when approved by Council, the agreed proposals for change relating to the executive model which is to be implemented, subject to any changes as referred to in the previous paragraph, can be submitted to the Secretary of State.
27. There is no specific acceptance period involved in this process. The timetable/project plan (**Appendix 3**) envisages that the agreed proposals for change will be submitted to the Secretary of State by no later than 10 September 2010 (following Council on 8 September).
28. After the proposals have been submitted to the Secretary of State, a notice has to be published as soon as possible. The notice will state that the Council has drawn up the proposals, describe briefly what they are and state that they are available for inspection at the Municipal Buildings.
29. Subject to this, a resolution will then have to be passed at a Special Council meeting (to be held preferably immediately before a scheduled Council Meeting – 20 October or 24 November, 2010) agreeing to implement the new proposals for change.
30. A further notice must then be published confirming this decision has been made and indicating when the new arrangements will come into force.

FINANCIAL AND LEGAL IMPLICATIONS

Financial

31. It was agreed that the costs of the programme of consultation would be met from balances.

Legal

32. Whilst it is the Government's intention to change the current legislation regarding Councils' executive governance arrangements, which may mean that new governance models adopted now will have to be changed later on when the Government's proposals become law, there is still a statutory requirement now to change the Authority's existing 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 reports to Cabinet and in this report will ensure compliance with the provisions of the legislation.

RISK ASSESSMENT

33. Introducing new executive arrangements has been assessed as medium risk (risk score 12).

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

34. Enhancing local democracy is a key objective of the Council.

EQUALITIES IMPACT ASSESSMENT

35. No assessment has been considered necessary.

CONSULTATION

36. Previous seminars, briefings and reports have been accessible to all Members. Initial and further 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