

**Committee:** Constitution Working Group  
**Date:** 23 November 2009  
**Title:** Executive Arrangements  
**Author:** John Mitchell, Chief Executive

**Agenda Item**

**4**

**Item for  
decision**

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### Summary

- 1 The Council's corporate plan includes an action to 'establish a new and more effective committee structure..'
- 2 This report explains the procedure for moving to an executive format of decision making and seeks the working group's views on the possible implementation of such arrangements.

### Recommendations

- 3 That the working group considers the detail of this report and makes recommendations to the Council on
  - the merits of changing the Council's constitutional arrangements, with a view to introducing an executive format;
  - appropriate forms of consultation if a review is favoured; and
  - a timetable for taking the matter forward.

### Impact

Communication/Consultation	The procedure includes arrangements for public consultation.
Community Safety	None
Equalities	None
Finance	Financial implications would need to be assessed if the proposal is taken further.
Human Rights	None
Legal implications	There are statutory procedures to be followed.
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

## Situation

- 4 The Local Government Act 2000 permitted local authorities with less than an 85,000 population (as at June 1999) to retain a modernised committee structure format (known as the 'fourth option') to carry out its business, rather than being required to vest all executive powers in either a mayor or leader and cabinet format of governance.
- 5 This Council adopted, and has been operating, the fourth option. However, there have been concerns about the effectiveness of this system of decision making and the current corporate plan, approved by full Council in February 2009, includes an action to '*establish a new and more effective committee structure..*'
- 6 A high proportion of district councils now operate a leader/cabinet model, and some of the perceived advantages and disadvantages of that system are explained in Appendix A.

## Options for executive arrangements

- 7 There are currently two executive arrangements which may be adopted by district councils –
  - a. Mayor and cabinet (directly elected mayor plus two or more elected councillors appointed by the mayor); or
  - b. Executive leader and cabinet (leader elected by the Council plus two or more members appointed by the leader). A leader serves for the full term of the Council, unless he or she dies, resigns, becomes disqualified or is removed from office by the Council
- 8 This report concentrates on the approach for pursuing option b.
- 9 The legislation provides that unless otherwise stated, all functions of the Council are to be performed by the executive, although some are reserved to full Council. However, the leader may perform all the functions of the executive, or may arrange for them to be discharged by the executive, a member of the executive, a committee of the executive, or an officer.
- 10 Regulatory matters cannot be performed by the executive but, equally, are not reserved to full Council.
- 11 Functions of the executive cannot be performed by the Council or a Committee of the Council but may be performed by a committee of the executive. The executive and committees of the executive do not need to be politically balanced.

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- 12 There must be at least one Overview and Scrutiny Committee. Such committees are subject to rules on political balance and may not include any members of the executive.
- 13 The Development Control Committee would also need to be politically balanced. The Licensing Committee could be politically balanced (as at Uttlesford at present) but this is not a statutory requirement.

### **The procedure for moving to executive arrangements**

- 14 Before any proposals are drawn up, the Council must consult with its electorate and other interested parties. Consultation must be for at least 12 weeks.
- 15 Typical forms of consultation undertaken by other councils have included:
  - a. Specific consultation with potentially affected parties e.g. Parish and Town Councils, LSP partners, Community Fora;
  - b. Appropriate notification in the local press, seeking the views of local electors and other interested parties;
  - c. Neighbouring local authorities at district and county level.
- 16 Having considered the consultation response, the Council can resolve to operate executive arrangements and take the necessary steps towards implementation, which would include approval of a new constitution.
- 17 The earliest date for introducing an executive format is immediately following the next ordinary council elections. This would require a formal resolution to change to an executive model to be made before 31 December 2010. The new arrangements would take effect on the third day after the district council elections in May 2011.

### **The next steps**

- 18 If the working group is minded to recommend a review of constitutional arrangements on the lines indicated in this report, consideration needs to be given to the appropriate methods of consultation and a timetable for taking it forward.
- 19 A possible timetable, for consideration by the working group is attached at Appendix B.

### Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
<b>Failure to comply with statutory requirements.</b>	<b>1 – there is an awareness of statutory requirements</b>	<b>2 – could render the decision making process ultra vires</b>	<b>Through the Council’s Monitoring Officer, ensure that the necessary procedures are followed.</b>

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

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### APPENDIX A TO REPORT ON EXECUTIVE ARRANGEMENTS

#### LEADER AND CABINET OPTION

<b>SOME PERCEIVED ADVANTAGES</b>	<b>SOME PERCEIVED DISADVANTAGES</b>
<b>Leader and Cabinet assume responsibility for ensuring delivery of the Council's services within remit of corporate plan approved by full Council. Accountability is therefore easier to identify</b>	<b>Non – cabinet members may feel disenfranchised.</b>
<b>Decision making tends to be more focused.</b>	<b>Subject to allowances paid to members, there may be an increase in cost.</b>
<b>Collective decision making of cabinet can provide greater support to strategic decisions.</b>	<b>Portfolio holders may need to give more time to Council business.</b>
<b>Affords flexibility for responsive and reactive decision making.</b>	<b>Some members may fear that it gives too much 'power' to the Leader and Cabinet, BUT there remains a key role for both full Council and Overview &amp; Scrutiny.</b>
<b>4 year term secures continuity of leadership, providing stability and enhancing deliverability of Council objectives.</b>	<b>The decision making of the Council is very dependent on fewer people.</b>
<b>Faster decision making.</b>	
<b>Facility for specific delegation to portfolio holders.</b>	
<b>A Leader and Cabinet made up of portfolio holders allows the public to more easily know who is responsible for what, thereby strengthening accountability.</b>	

## **CONSTITUTION WORKING GROUP**

### **APPENDIX B TO REPORT ON EXECUTIVE ARRANGEMENTS**

<b>DATE</b>	<b>ACTION</b>
<b>15 December 2009</b>	<b>Working Group recommendation to full Council, following consideration of this report.</b>
<b>Jan – April 2010</b>	<b>Consultation period</b>
<b>April - June 2010</b>	<b>Working Group considers consultation responses. If the Working Group is minded to recommend a change to executive arrangements, it considers a proposals document and identifies functions and decision making structure.</b>
<b>July 2010</b>	<b>Full Council considers recommendations of Working Group and determines the way forward, including new constitution.</b>
<b>May 2011</b>	<b>If approved in July 2010, executive arrangements come into effect</b>