

# Executive Summary and Recommendations

**Title of Report:**    **New Executive Arrangements – Proposed Changes to the Constitution**

**Date:**    **21 October 2009**

## **1.    Summary of this Report**

- 1.1    This report seeks approval to the constitutional changes required following the decision by Council on 15 July 2009 to publish proposals to strengthen the existing role of the Leader of the Council. This is in accordance with the Local Government and Public Involvement in Health Act 2007, which requires the Council to adopt new executive arrangements to come into force on 9 May 2010. The new arrangements need to be adopted by 31 December 2009.

## **2.    Recommendations**

- 2.1    That the Council be recommended to approve the constitutional changes set out in Appendix A to come into force on 9 May 2010 as the new executive arrangements required by the Local Government and Public Involvement in Health Act 2007.
- 2.2    That the Head of Legal Services be authorised to make the necessary changes to the Constitution arising from 2.1 above.



City of Westminster

## General Purposes Committee

Item No:	
Date:	21 October 2009
Classification:	For General Release
Title of Report:	New Executive Arrangements – Proposed Changes to the Constitution
Report of:	Head of Legal Services
Wards involved:	Not applicable
Policy context:	Management of the Council
Financial summary:	There are no financial implications
Report Author:	Simon Gartshore
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### **3. Background**

- 3.1 The Local Government Act 2000 (LGA 2000) radically changed the decision making structures of local government in England by requiring local authorities to adopt new political management arrangements: specifically one of three models: (1) Leader and Cabinet, (2) directly elected Mayor and Cabinet and (3) directly elected Mayor and Council Manager. The Local Government and Public Involvement in Health Act 2007 amends the LGA 2000 so that only two models of executive are permissible, namely (1) Leader and Cabinet or (2) directly elected Mayor.
- 3.2 The Leader and Cabinet model under the 2007 Act is very similar to that which the Council adopted in July 2001 and currently operates. Therefore the extent to which the City Council is required to amend its arrangements to comply with the 2007 Act is limited. In essence, the Council needs to make amendments to the Constitution to widen the Leader's power to allocate responsibility for executive functions, by giving the Leader the power to determine his own terms of reference, and those of the Deputy Leader and the Cabinet. These changes are shown in more detail in Appendix A.
- 3.3 The provisions in the 2007 Act came into effect on 31 December 2007. However, the Act contains transitional provisions and the Council is not prevented from continuing to operate its "old style" arrangements until the end of the transitional period, which expires three days after the City Council elections in May 2010. However, a resolution to make a change in governance arrangements must be passed at a meeting of the full Council specifically convened for the purpose of deciding the resolution with notice of the object in the period ending 31 December 2009.
- 3.4 The Council, having had regard to the results of the consultation carried out during April and May (which showed little evidence that residents wanted major changes to the existing arrangements), agreed at the meeting on 15 July to publish proposals to amend its existing Constitution in order to widen the Leader's power to allocate responsibility for executive functions, as specified in 3.2 above. The Council has therefore already made the decision in respect of the model it wishes to adopt. This report therefore seeks the necessary approval to the revisions to the Constitution. These are set out in Appendix A.
- 3.5 Given the Council is proposing to seek a variation of executive arrangements, rather than adopt a new form of executive (ie a directly elected Mayor), the 2007 Act merely requires that the change in governance arrangements is agreed by 31 December 2009 and that the local authority comply with its own timetable of implementation.

- 3.6 The key change to the constitution involves an amendment to specify that the Leader of the Council is appointed by the council for a four year term at the annual meeting following the election of all members of the council until the day of the next post-election annual meeting, or until he is removed by resolution or a vacancy arises..
- 3.7 Other changes include a recognition of the requirement of the Leader of the Council to appoint a Deputy Leader of the Council to serve until the next election of all members of the Council, that the Leader of the Council can appoint up to 9 other Cabinet Members (including his Deputy) and the governance arrangements in the event of the offices of both Leader and Deputy Leader being vacant.
- 3.8 Appendix A of this report sets out the detailed changes to the City Council's constitution which are proposed in order to comply with the 2007 Act.

#### **4. Legal Implications**

- 4.1 These are set out in the body of the report.
- 4.2 The Council is required to have carried out a consultation, lasting at least 12 weeks. This was carried out during the spring and the results reported to the Council on 15 July 2009.
- 4.3 The Council is required to pass a resolution to make the change at a meeting which is specifically convened for the purpose. For the resolution to be passed at least two thirds of Members must vote on it. For these purposes the Council agreed on 15 July 2009 to hold a Special Council Meeting on the rising of the ordinary Council Meeting on 4 November 2009.

#### **5. Financial Implications**

- 5.1 There are no financial implications arising from this report.

<p>IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT: SIMON GARTSHORE ON 020 7641 2799</p>
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#### **Background Papers**

- Constitution
- Responses to consultation
- Reports to General Purposes Committee of 24 February and 1 July 2009
- Report to Council of 15 July 2009

**Proposed Changes to the Constitution** (changes in *italics*)

**Article 4**

4.02 (d)

**Amend** to “Appointing the Leader *until the day of the post-election annual meeting following his election as leader or until he is removed from Office*”

4.02 (e)

**Remove** reference to the Council having the power to agree and / or amend the terms of reference of the Leader / Deputy Leader as this is now, under the Local Government and Public Involvement in Health Act, within the Terms of Reference of the Leader.

**Add** “*Removing a Leader by the passing of a resolution which receives the support of a majority of all members of the council*”

**Article 7**

7.02

**Amend** to “The executive will consist of the Leader together with *up to 9* other Councillors appointed to the Cabinet by the Leader”

7.03

The Leader will be a councillor elected to the position of Leader by the Council. The Leader will hold office until:

- (a) he / she resigns from the office; or
- (b) he / she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he / she may resume office at the end of the period of suspension); or
- (c) he / she is removed from office by resolution of the Council.
- (d) **DELETED** “*he / she is no longer a councillor*”

**Amend final paragraph** to “The Leader of the Council will be elected at the Annual Council Meeting in the year of the City Council elections *to serve until the day of the post-election annual meeting following his election as leader. In the event of 7.03 (a to b) taking place, a new Leader of the Council will be elected at the next full meeting of the Council to serve until the day of the next post-election annual meeting. In the event of 7.03 (c) taking place, a new Leader of the Council will be elected at the meeting in which the Leader is removed or at a subsequent meeting and will remain in office until the day of the next post-election annual meeting*”.

**Add** in Article 7

*Deputy Leader*

*A Cabinet Member will be appointed by the Leader of the Council to serve as Deputy Leader.*

*The Deputy Leader of the Council holds office until the end of the term of office of the Leader unless:*

- (a) *he / she resigns from the office; or*
- (b) *he / she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he / she may resume office at the end of the period of suspension); or*
- (c) *he / she is no longer a councillor; or*
- (d) *The Leader of the Council chooses to remove the Deputy Leader from office*

*Where a vacancy occurs in the office of Deputy Leader, the Leader of the Council must appoint another Cabinet Member to the role.*

## **Standing Orders,**

### **Part II**

## **2. Annual Meeting**

**Amend 2** (f (iv) to *“elect the Leader of the Council at the first meeting after the election of all members of the Council”*

**Amend 2** (f (v) (a) to *“the appointment of the Cabinet, including a Deputy Leader (at the first meeting after the election of all Members of the Council), and the names of all other Cabinet Members, the wards they represent and their delegated authorities”*

**Amend 2** (f (vii) to *“note (~~delete~~ ‘agree’) the delegations (terms of reference) to the Leader / Deputy Leader, the Cabinet as a body, and the Urgency Committee of the Cabinet”*

## **Executive Procedure Rules**

### **1.2 Delegation by the Leader**

**Add** *“the name, address for correspondence and ward of the person appointed to the position of Deputy Leader by the Leader of the Council”*

## **Appendix 4 – Terms of Reference for the Leader**

### **1 – The Leader**

**Amend** (2) To Chair the Cabinet meetings, appoint / dismiss other Cabinet Members (*including the Deputy Leader*), and appoint / dismiss committees of the Cabinet

**Add** *“If for any reason, the Leader of the Council is unable to act or the office of Leader of the Council is vacant, and the office of Deputy Leader is vacant or the Office holder is unable to act, the Cabinet must act in the Leader of the Council’s place or must arrange for a member of the Cabinet to act in his place”*