

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Constitution Review Working Party

7 April 2009

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MOVE TO NEW EXECUTIVE ARRANGEMENTS: CHANGES TO THE CONSTITUTION REQUIRED FOR IMPLEMENTATION

Purpose and background

1. The Working Party is invited to consider the Constitutional changes required to implement new executive arrangements for the Council required in accordance with Part 3 of the Local Government and Public Involvement in Health Act 2007 ('the 2007 Act'), and to make recommendations to Council accordingly. Officers also wish to take this opportunity to provide clarification of various processes which should serve to make the Constitution clearer and more accessible to users within the Council and in the community as a whole.
2. Council resolved, at its meeting in July 2008, to consult on a change to its executive arrangements, the effect of which will be to confirm operation of the 'strong Leader' model of governance. The Council already operates key elements of this system, especially the power of the Leader of the Council to appoint Members to the Cabinet, therefore the principal changes required at this stage are as follows:
 - (a) To elect the Leader of the Council to serve a term of office which expires on the day of the Annual Meeting of Council which follows the date of his/her normal retirement as a Councillor (i.e. for a period of up to four years; at present, Council elects the Leader annually)
 - (b) To vest all executive powers in the Leader of the Council, whereas at present they are vested in the Cabinet collectively. The practical effect of this is that the table of delegations of executive functions will fall within the Leader's jurisdiction to amend as he/she sees fit.
3. Following the Council Resolution to consult on new executive arrangements, an article was placed in the Winter 2008 edition of the *South Cambs magazine* and on the Council's website. In addition, a statutory notice formally advising of the proposals was published in the *Cambridge News* on 16 January 2009. The articles invited comments on the proposals, and the web consultation provided a form upon which to do so, however no comments were received. In light of the lack of objections received, Council will be invited to proceed to adopt new executive arrangements, and subsequently to consider the recommendations of the working party in respect of the detailed changes required for implementation, at an Extraordinary Meeting convened for the purpose on 23 April 2009.

Considerations – Article 7 (The Executive) (APPENDIX A)

4. Article 7.02 describes the composition and process for the appointment of the Executive (Cabinet). It is recommended that the Leader be required to make initial appointments as soon as practicable following his/her election. It is anticipated that this will be at the meeting itself; however, it is considered that the arrangements

should be as flexible as possible, to cover situations where the Leader is not in a position to confirm the exact composition of the Cabinet immediately.

5. At present, arrangements for the removal from office of Cabinet require a period of two working days to take effect after the receipt of notice from the Leader to the proper officer (Article 7.04(d) refers). There is no corresponding requirement covering notice of appointment. Given that appointment and removal of Cabinet Members is initially the Leader's sole prerogative, it is considered that the two-day notice period is unnecessary and should be removed. For this reason, and for consistency, it is recommended that Articles 7.02 and 7.04(d) be amended to provide that appointments and dismissals by the Leader shall take effect immediately upon the receipt of written notice by the Proper Officer.
6. To give effect to these changes, the working party is requested to **recommend to Council** that Articles 7.02 and 7.04(d) be amended as follows:

7.02 Form and Composition

'The Executive will consist of the Executive Leader with a Cabinet of at least 2, but not more than 9, other members appointed to the Executive by the Executive Leader. **Executive members will be appointed by the Leader as soon as practicable following his/her election. Subsequent appointments may be announced at Cabinet or Council meetings. Appointments will take effect immediately upon the receipt of written notice of the appointment by the Proper Officer.** The Chairman and Vice-Chairman of Council may not be appointed to the Cabinet.'

7.04(d)

'(Other Cabinet Members shall hold office until) they are removed from office by the leader **who may announce the removal at a meeting of Cabinet or Council and shall give written notice of any removal to the Proper Officer. The removal will take effect immediately upon receipt of the notice by the Proper Officer.**'

7. At present, Article 7.03iii requires the Leader to appoint one member of the Cabinet to be the Deputy Leader. It is recommended that this paragraph is extended to clarify that the Deputy Leader shall be authorised to exercise the powers and functions of the Leader in the Leader's absence, or where the position of Leader is vacant:

'The Leader shall appoint one member of the Cabinet to be the Deputy Leader to assume the full powers of the Leader in any circumstances in which the Leader is unable to act. The Deputy Leader will also act as Leader if the post of Leader is vacant. The Deputy Leader shall hold office in accordance with the provisions of Article 7.04 below.'

8. The recommended change to Article 7.03(e) provides that the Leader shall hold office until the Annual Meeting following the normal date of his/her retirement as a councillor. For clarification, the following revised paragraph makes clear that, in order to be eligible for re-election, the Leader continue to hold office as a councillor:

(The Leader will hold office until) the annual meeting of the Council **following the normal date of his / her retirement as a councillor** unless previously removed by resolution of the Council in accordance with the Rules referred to above. **If continuing to hold office as a councillor**, he / she shall be eligible for re-election, unless previously removed from office under (d) above. In these circumstances a

period of at least 12 months from the date of the Council Resolution must have passed before he / she can be nominated for re-election.

9. Changes to Article 7.06 are proposed to confirm that the Leader shall determine which person or body should carry out executive functions, and it is **recommended** that paragraph 7.07 be deleted, as it refers to a specific executive function, not general principles.

Considerations – Part 3 Responsibility for Executive Functions, including Table 2B (Allocation of Executive functions) (APPENDIX B)

10. Changes to Part Three of the Constitution have been drafted to describe new executive arrangements under which all executive powers are vested in the Leader of the Council. The lengthy introduction to the section entitled ‘Responsibility for Executive Functions’ has been shortened and simplified, removing ambiguity and unnecessary duplication with the Delegation Rules, and is now set out in three sections:
 - (1) Arrangements for carrying out Executive functions – Providing for the Leader to allocate Portfolios to each Member of his/her Cabinet, and determine which functions he/she wishes to reserve for his/her own decision, and those he/she wishes to delegate (detailed delegations to be set out in a revised Table 2B – see below).
 - (2) Arrangements for the Leader to change the allocation of functions and responsibilities – the Leader’s scheme of delegation will have effect from the date of the adoption of new executive arrangements by the Council. The Leader may subsequently change the scheme of delegation by giving written notification to the Chief Executive. Details of changes made will be reported to the Cabinet at its next meeting.
 - (3) Providing that all matters, not specifically reserved under section (1) above shall be delegated to Chief Officers as operational management.

The working party is invited to **recommend to Council** that the Responsibility for Executive Functions section of Part 3, attached at Appendix B, be approved.

11. Table 2B has been re-drafted as the Leader of the Council’s Scheme of Delegation of Executive Functions. Following the adoption of new executive arrangements, it will be within the Leader’s power to amend the delegations as he/she sees fit, except in exceptional circumstances where the Council wishes to amend its definition of the budget and policy framework e.g. amending the discretion of the Leader to approve supplementary revenue and capital estimates. The table has also been updated for consistency with the revised wording of Part 3 (above), to remove unnecessary references to specific Cabinet Resolutions and remove duplication and outdated references to certain matters e.g. commercial services. The Working Party is requested to **note** the Leader of the Council’s Scheme of Delegation of Executive functions, which will be effective upon agreement of new executive arrangements by the Council.

Considerations – Executive Procedure Rules (Part 4, APPENDIX C)

12. The working party is invited to **recommend to Council** that revised Executive Procedure Rules be agreed. The rules have been amended to ensure consistency with the new executive arrangements, referring to the Leader’s power to make arrangements for the discharge of Executive functions. They have also been shortened, deleting large chunks of text describing arrangements for delegation which

duplicate information set out in Parts 3 (Responsibility for Functions) and 4 (Delegation Rules). The revised version focuses on procedure rules rather than allocation of functions and delegation.

Considerations – Delegation Rules (Part 4, APPENDIX D)

13. Changes to the Delegation Rules have been drafted for clarification and consistency with the provisions of Part 3 relating to the Leader of the Council's Scheme of Delegation and arrangements for its alteration. The working party is invited to **recommend to Council** that revised Delegation Rules be agreed.

Considerations – Council Standing Orders

14. It is proposed that Standing Orders are amended to reflect the Council's role in appointing the Leader of the Council for a period of longer than one year and removing the Leader and Cabinet in specific circumstances.

Standing Order 1 – Annual Meeting of the Council

15. Standing Order 1.1(b) sets out the business to be transacted at the Annual Council Meeting. This includes receipt of the Returning Officer's Return of councillors elected. For clarification, the working party is invited to **recommend to Council** that the relevant part of Standing Order 1.1(b) is amended to specify that such a report will be received only in years in which there are ordinary elections of councillors.
16. Standing Order 1.1(b)vii currently provides that the Annual Meeting shall elect the Leader. In order to reflect the new executive arrangements, and provision for the appointment of members to the Cabinet, it is **recommended** that this Standing Order be reworded as follows:

'(The Annual meeting will), at the meeting following the expiry of the Leader's term of office as Leader, elect the Leader and, where available, receive notification by the Leader of the number of members he/she is appointing to the Executive (Cabinet), their names and their portfolios.'

Standing Order 2 – Ordinary Meetings

17. Standing Order 2.1 sets out the business to be transacted at Ordinary Meetings of the Council. 2.1(iv) provides for the Council to elect a Leader of the Council, in the event that the position becomes vacant during the Civic Year. It is **recommended** that this Standing Order is altered for consistency with the amended Standing Order set out in paragraph 16 above:

'(Ordinary Meetings will) elect the Leader of the Council, in the event that the position becomes vacant during the Civic Year and, where available, receive notification by the Leader of the numbers of members he/she is appointing to the Executive (Cabinet), their names and their portfolios.'

Standing Order 12 – Notice of Motions

18. Standing Order 12.1(b)-(d) set out the procedure to be followed to remove the Leader from office as Leader, any individual member of the Executive or the removal of the members of the Executive from office collectively ('Removal' Motions). Ordinary notices of Motion may be submitted electronically in the name of one councillor; however 'removal' motions require the signatures of at least one quarter of the

councillors to be submitted. Given the significance of such Motions, it is **recommended** that words should be added to Standing Order 12.1(b) to provide that they may not be submitted electronically.

19. Under the current procedures, 'Any such Motion (under SO 12.1(b)) shall be carried only if at least two thirds of the members present at the meeting are in favour.' The practical effect of this requirement in a political context would be to prevent, in the event of a change in political control, the new majority group from removing the Leader of the Council, whose group had become the Major Opposition Group following the change, unless the new controlling group(s) had at least two thirds of the seats available. Given that the new executive arrangements involve the appointment of a Leader for up to four years where the Council elects its Members by thirds, such a provision is considered incompatible with the efficient conduct of the Council's business, therefore the working party is requested to **recommend to Council** that this provision be deleted from the Constitution.
20. Part 3 of the 2007 Act contains specific provision stating that, where the Council removes the Leader from office as Leader, a replacement may be elected at the same meeting or at a subsequent meeting. It is recommended that an additional SO 12(c) be added covering this provision. Where the Cabinet has been removed from office collectively, it will be necessary to require a new Leader to be elected immediately, in order to allow the efficient conduct of the Council's business. Consequently it is **recommended** that Standing Order 12.1(c) be added as follows (subsequent Standing Orders to be re-categorised as (d) and (e) respectively):

'In the case of any motion for the removal of the Leader from office as Leader being passed, the Council shall elect a new Leader at the same meeting, or at a subsequent meeting. In the case of any motion for the removal of the members of the Executive from office collectively being passed, the Council shall elect a new Leader immediately.'

Implications

21. Financial	None specific
Legal	The Council is obliged to pass a Resolution to move to new executive arrangements by no later than 31 December 2010. The latest date for implementation is the date of the Annual Council meeting in May 2011.
Staffing	None specific
Risk Management	None specific
Equal Opportunities	None specific

Effect on the Council's Strategic Aims, approaches and actions

22. The Council's revised executive arrangements should continue to ensure visible and accountable leadership and decision-making. The associated changes to the Constitution should make the document clearer and more accessible to users and residents. These improvements should enable the Council to work towards meeting all its strategic aims, approaches and actions in a more efficient, effective and accountable manner.

Recommendations

23. The working party is invited to consider the proposals set out in the report and to **RECOMMEND TO COUNCIL** that, subject to the Council agreeing to adopt new

Executive arrangements, changes to the following sections of the Constitution be approved:

- (a) Those changes to Article 7 (The Executive) set out in paragraphs 5-9 and Appendix A attached;
- (b) Those changes to Part 3 (Responsibility for Executive Functions) referred to in paragraph 10 above and set out in Appendix B attached.
- (c) Those changes to the Executive Procedure Rules referred to in paragraph 12 above and set out in Appendix C attached.
- (d) Those changes to the Delegation Rules referred to in paragraph 13 above and set out in Appendix D attached.
- (e) Those changes to the Council Standing Orders set out in paragraphs 15-20 above.

Background Papers: the following background papers were used in the preparation of this report:

Report to Council in respect of new executive arrangements, 17 July 2008:

[Link to the Council's website www.scambs.gov.uk](http://www.scambs.gov.uk)

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