

NEW EXECUTIVE ARRANGEMENTS

Joint Report of Chief Executive and Chief Solicitor

1. The Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) requires the Council to make changes to its executive arrangements before 31 December 2009 to take effect after the elections in May 2010.
2. At its meeting on 24 June 2009 the Council gave consideration to a report which recommended the process for implementing the changes and the necessary consultation which is required to be undertaken by the 2007 Act. It was agreed that would involve providing relevant information to the public about the specified forms of executive arrangements without expressing a preference by the Council at that stage.
3. Subsequently the Council considered a report on the outcome of the consultation undertaken at its meeting on 30 September 2009 and agreed the proposals for the new style Leader and Cabinet executive model be advertised as required by the 2007 Act. Accordingly a notice was placed in the Sunderland Echo on 14 October and the proposals were placed on deposit for inspection. Council also agreed that this meeting be convened immediately before the ordinary November 2009 meeting to adopt formally the proposals.
4. In drawing up the proposals, the Council must consider the extent to which, if implemented, the proposals are likely to assist in securing continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
5. Council also agreed at its last meeting to change the governance arrangements in respect of the Port and that these local choice executive functions would be redesignated as Council functions, and this is reflected in the proposals set out in Annex A of the Appendix. Annex B sets out the detailed changes to the Constitution.
6. A resolution of Council is required to make the change in governance arrangements which will come into effect on 10 May 2010. Following the passing of the resolution, a further notice must be placed in the local press with relevant details.

Recommendations

Council is requested to resolve:-

- 1) to approve the adoption by the Council of the new style Leader and Cabinet Executive model of executive arrangements as defined by the 2007 Act in the form set out in the Appendix to this report;
- 2) that the new form of executive arrangements be operative from 10 May 2010.

APPENDIX

PROPOSALS FOR CHANGES TO EXECUTIVE ARRANGEMENTS

This document sets out Sunderland City Council's proposals for changing its executive arrangements as required by Schedule 4 of the Local Government and Public Involvement in Health Act 2007 (2007 Act). The proposals have been drawn up after consultation with local government electors and other interested persons in the area as required by the Local Government Act 2000 (2000 Act), as amended by the 2007 Act. The consultation was undertaken during July/August 2009 via the Citizens' Panel, the Council's website notices at the Civic Centre and public libraries and an advertisement in the local press and items in the media.

1. FORM OF EXECUTIVE

The Council proposes to adopt the form of executive set out in Section 11(2A) of the 2000 Act (known as 'a leader and cabinet executive'). This means a councillor of the authority elected by the Council as leader of the executive, and between 2 and 9 councillors of the authority appointed to the executive by the executive leader.

2. EXECUTIVE STRUCTURE

The executive will consist of the executive leader and between 2 and 9 other councillors. The executive may not, by law, include the chair or vice chair of the Council.

Executive Leader

- 2.2 The executive leader will initially be elected at the annual meeting of the Council in 2010 and thereafter will be elected at the annual meeting held on the day when the executive leader's term of office expires (see paragraph 2.3 below).
- 2.3 The executive leader will hold office (subject to paragraphs 2.4 and 2.5 below) from the day of his/her election as executive leader until the first annual meeting after his/her normal day of retirement as a councillor (this being the fourth day after the ordinary day for elections in the year of expiry of his or her term of office as a councillor, which will normally be four years after his/her previous election as a councillor).
- 2.4 The Council may, by resolution of a simple majority, remove the executive leader from office. The procedure for this will be as currently set out in the Council's constitution (Article 7.03 (d)). If such a resolution is passed, the executive leader's term of office expires on the passing of that resolution and the Council will elect a new executive leader at the same meeting or a subsequent meeting of the Council.

- 2.5 The executive leader will also cease to hold office if she or he resigns as executive leader or ceases to be a councillor for reasons other than by normal retirement e.g. by resignation or disqualification. In this event a new executive leader will be elected by the Council at its next or any subsequent meeting.

Other members of the executive

- 2.6 The remaining members of the executive will be appointed by the executive leader, who will determine the number of councillors to be so appointed and their portfolios. The executive leader may, if s/he thinks fit, at any time remove any member of the executive from office on such notice (if any) as s/he considers appropriate.

Deputy executive leader

- 2.7 The executive leader may appoint one of the members of the executive to be his or her deputy (the deputy executive leader) to carry out such functions as the executive leader considers appropriate. The executive leader may, if s/he thinks fit, end such appointment on such notice (if any) as s/he considers appropriate.

Discharge of executive functions

- 2.8 Under the 2000 Act various Council functions are made the responsibility of the executive leader and his/her executive members. These are known as 'executive functions'. Under section 14 of the 2000 Act, the executive leader may choose to discharge any of those functions him or herself or may arrange for their discharge by the executive as a whole or by an individual member of the executive or by a committee of the executive or by an officer of the Council.

Local choice executive functions

- 2.9 In addition to the mandatory executive functions under the 2000 Act, there are other Council functions (known as 'local choice functions') which the Council can choose to make the responsibility of the executive either instead of or as well as the Council itself. It is proposed that the local choice functions set out in Annex A to these proposals will be designated as executive functions. This effectively continues the practice under existing arrangements, but there has been a change in respect of the functions relating to the Port which is now a Council function.

3. CONTINUOUS IMPROVEMENT

The Council has been operating the leader with cabinet model of executive arrangements since 2002, although under that existing model the whole executive is appointed by Council. That model will from 2010 be no longer legally available. The changes set out in these

proposals will continue to ensure that the executive leader has the support of the full Council. In addition the changes will provide the opportunity to ensure that executive roles are undertaken by those councillors who will be most effective. The new leader with cabinet executive is one of the two options considered by the Government to provide strong leadership in local authorities.

4. **TIMETABLE**

It is intended the Council will formally adopt these arrangements at a meeting specially convened for this purpose on 25 November 2009. They will come into effect on 10 May 2010, being the third day after the local government elections held in that month.

ANNEX A

LOCAL CHOICE EXECUTIVE FUNCTIONS

1. The obtaining of particulars of persons interested in land under Section 16 of the Local Governments (Miscellaneous Provisions) Act 1976.
2. The making of agreements for the execution of highway works.

ANNEX B – Detailed changes to the Constitution

Part 1, Summary and Explanation, paragraph headed The Executive, following the reference to Cabinet comprising Leader delete words “9 Councillors also elected by Council”.

Part 2, Article 4, Paragraph 4.0 2 (d). Only the Council will exercise the following functions after “Appointing the Leader” delete “and Deputy Leader and Members of the Cabinet”.

Article 7

Paragraph 7.01

Amend by adding underlined words. The executive to be called “the Cabinet” will exercise all of the local authority’s functions which are not the responsibility of any other part of the local authority, by law, under this Constitution, and subject (in the case of executive functions only) to the Leader determining to make the decision personally or that it should be undertaken by an individual Cabinet Member, by an officer, or under joint arrangements”.

Paragraph 7.02, amend to state,

“The Executive will consist of the Leader together with at least 2 but not more than 9 councillors appointed to the executive by the Leader” instead of “by the Council”.

Paragraph 7.04 Other Executive Members, amend paragraph (d) to state,

“they are removed from office either individually or collectively, by the Leader, by giving notice in writing to the executive member and the Chief Executive”. (Instead of by resolution of the Council).

Paragraph 7.05, amend to state,

“The Leader shall appoint one member of the Executive to be Deputy Leader who shall exercise the functions of the Leader in their absence. If the Deputy Leader is unable to act or the office is vacant then the Executive must act in the Leader’s place or must arrange for a Member of the Executive to act in their place, until a decision is made by the Council to appoint a new Leader”.

Paragraph 7.08, add a new paragraph

“The Leader will be invited before each annual meeting of the Council to consider at that stage whether he wishes to make any amendments to the arrangements for the exercise of executive functions by executive Members, officers or under joint arrangements. Any such amendments will be reported

to Council for information. The Leader may also make amendments during the course of the Council year (in compliance with the decision-making requirements for individual members) which shall also be reported to Council for information.

Article 11 – Joint Arrangements

References to “the Executive” to be amended to “the Leader” as appropriate in relation to establishing joint arrangements and appointing Members to joint committees.

Part 3 Section 3 Responsibility for Executive Functions

Exercise of Executive Functions

Insert new first paragraph,

“The Leader may personally discharge any executive function or may make arrangements for their discharge by the Executive, another Member of the Executive, or Committee of the Executive, or an officer of the authority.

New second paragraph, insert words, “Subject thereto” before “each executive Member shall be authorised to take any executive decision relating to a matter within the remit of their portfolio subject to the following:

Continue with existing wording.

Part 4, Section 1, Council Procedure Rules

Annual meeting of the Council,

1.1 After (vi) “elect the Leader” add “where his/her term of office has expired”

Replace (vii) with “note the decision of the Leader on the number of Members to be appointed to the Cabinet and those Members appointed by the Leader to the Cabinet and note any amendments to the arrangements for the delegation of executive functions made by him/her”.

N.B. No further changes are currently proposed other than those relating to the Port but it will be open to the Leader post the election in 2010 to change the scheme of delegation for executive functions. However, a significant portion of Part 3 of the Constitution, “Responsibility for Functions” remains a matter for full Council to determine in respect of non-executive functions hence existing paragraph (ix) is retained with the addition of the words “in respect of Council functions”.

Part 4 Section 4 – Executive Procedure Rules

Paragraph 1.2, Delegation of Executive Functions.

Amend to:

“At the annual meeting of the Council, the Leader will inform the Council of the delegations he/she has made (to be set out in Part 3 of this Constitution, for the Council to note”. Then continue as currently from “The document presented” to the end of paragraph (iv).

Paragraph 1.3, Sub-delegation of Executive Functions.

(a) insert between “they may delegate” and “further to” the words “unless the Leader otherwise directs”.

Amend (b) to “Unless the Leader directs otherwise, if he/she delegates functions to the Executive, then the executive may delegate further to a Committee of the Executive or to an officer”.

Amend paragraph 1.4 (b) to state only “The Leader may determine how an executive function is to be discharged”. Omit further words.

Paragraph 1.5 (b) after “by the person or body by whom the delegation was made” insert “or by the Leader” then continue as at present.