

## WIRRAL COUNCIL

COUNCIL 14 December 2009

### REPORT OF THE DIRECTOR OF LAW, HR AND ASSET MANAGEMENT

## GOVERNANCE REVIEW- PROPOSED GOVERNANCE ARRANGEMENTS

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### 1. Executive Summary

- 1.2 The Local Government and Public Involvement in Health Act 2007 (“the Act”) requires the Council to review its governance arrangements and move to either:
- a. a new style ‘Leader and Cabinet’ model; or
  - b. a ‘directly elected Mayor and Cabinet’ model.
- 1.3 Before drawing up its governance proposals, the Council is required to take reasonable steps to consult local government electors and any other interested persons, in the authority’s area.
- 1.4 The Council’s consultation period commenced on 6 October 2009 and ended on 30 November 2009. The steps taken to consult local government elector and interested parties included:
- a. a press release placed in a local newspaper (Wirral Globe) on 8 October 2009 (although the press release was issued on 7 October 2009);
  - b. the Council’s Website amended to advertise the new governance arrangements and invite local electors and other interested persons to make comments and express their views/opinions on the proposals;
  - c. the Cabinet Report dated 24 September 2009 detailing the proposed governance arrangements were highlighted at all eleven Area Forums by the Chairperson and copies of the Report made available to the public.
- 1.5 Furthermore, both the Daily Post and Wirral News featured a discussion forum on the proposed governance arrangements; and Heart FM Radio, Severn Waves Radio and BBC Radio Merseyside all featured the proposed governance proposals. The Wirral Globe further published letters received in relation to the governance proposals on 29 October, 5, 11 and 18 November 2009.

- 1.6 Such measures, articles and features have enabled this matter to maintain a reasonably high public profile during the period of consultation.
- 1.7 According to the Council's PR and Marketing Department, the consultation undertaken by this Council was similar to that undertaken by other Merseyside Local Authorities.
- 1.8 The Council received a total of 45 responses during the consultation period. Whilst it is acknowledged that there has been a low response rate, this Council has received a similar response to the consultation as other neighbouring Councils (and in one case a considerably greater response). A summary of the responses are set out at Appendix 1. Of the total number of responses received 62.2% [28 replies] have indicated a preference for the directly elected 'Mayor and Cabinet' model with 20% [9 replies] preferring the new style 'Leader and Cabinet' model. The remaining 17.8% of responses (8 replies) either failed to indicate a preference or their reply too ambiguous for a preference to be drawn.
- 1.9 Given the limited number of responses received, Council should give careful consideration to the level of weight that ought to be attached when deciding which model of governance it should adopt.
- 1.10 The Act requires the Council adopt its new governance arrangements by 31 December 2009.
- 1.11 The Council's Cabinet considered this matter on 9 December 2009 and the Director of Law, HR and Asset Management shall provide a verbal update to Council in relation to any comments and/or recommendations made by Cabinet.

## **2. Background**

- 2.1 The Local Government and Public Involvement in Health Act 2007 requires the Council to review its governance arrangements and move to either a new style 'Leader and Cabinet' model of governance or a directly elected 'Mayor and Cabinet' model. The Council must undertake appropriate reasonable consultation and draw up and publicise proposals for new executive arrangements. The change can only be made by a resolution within the 'permitted resolution period'. For Metropolitan Districts including Wirral, that must be before 31<sup>st</sup> December 2009. As required by the Act, an extraordinary meeting of Council has been scheduled for 21 December 2009 in order that all final resolutions can be passed.
- 2.2 The Council is required to take reasonable steps to consult upon its proposed new governance arrangements but is not required to hold a referendum since its current arrangements were not approved by a referendum. Alternatively a referendum will be necessary if the Council receives a valid petition for the election of a Mayor. The Local Democracy Economic Development and Construction Act 2009, received royal Assent on 12 November 2009, and includes clauses dealing with electronic petitions and petition schemes which reduces the percentage of electors required to sign any petition. However, the relevant provisions have yet to come into force. The current requirement is 5% which equates to 12,118 electors within Wirral.

- 2.3 The guidance on consultation is not prescriptive but the emphasis is on giving the local community the opportunity to indicate their views on the options between the two new differing models of governance.

### **3. OLD-STYLE LEADER AND CABINET EXECUTIVE**

- 3.1 Where a local authority is operating an 'old-style leader and cabinet executive', the authority can continue to operate such arrangements until the end of the transitional period. An old-style leader and cabinet executive means a leader and cabinet executive specified in Section 11 (3) of the Local Government Act 2000, which the form of executive arrangements is currently operating at the Council. The transitional period starts when Section 62 (5) came into force (31 December 2007) and ends with the third day after the Wirral Council election in May 2010.

### **4. NEW STYLE LEADER AND CABINET EXECUTIVE**

- 4.1 Under the 2007 Act, the Executive Leader would be elected at the relevant annual Council meeting. This would be the first annual meeting to be held after the local authority starts to operate the 'Leader and Cabinet Executive (England)' arrangements. The term of office of the Leader, where, as in Wirral, there are partial council elections, would start on the day of his/her election and end, when the Council holds its first annual meeting after the leader's normal day of retirement as a Councillor.
- 4.2 The Council can, if it so chooses, retain the power to remove the Leader by resolution.
- 4.3 These provisions are subject to Regulations by the Secretary of State, which may require, for example, a Council resolution to be passed by a minimum number or a proportion of members present and voting. The Executive Leader would have power to appoint Councillors to the Executive (Section 11 (2A) Local Government Act 2000). The maximum number of Executive members (including the Leader) remains at 10.

### **5. MAYOR AND CABINET EXECUTIVE**

- 5.1 The alternative form of executive arrangements is for the Council to hold elections for a directly elected Mayor.
- 5.2 A directly elected Mayor would hold office for a term of four years and would appoint his/or her own Cabinet of Councillors and allocate all executive functions.
- 5.3 Unlike the 'Leader and Cabinet Executive (England)' arrangements, Council would NOT be able to remove the directly elected Mayor.
- 5.4 An authority may be required to hold a governance referendum on proposals for a move to a Mayor and Cabinet Executive, either by virtue of being petitioned by local people (as detailed above) or if directed or ordered by the Secretary of State.

## **6. DETERMINATION**

- 6.1 Following the consultation period the Council must determine whether it wishes to move to a 'new style Leader and Cabinet' model or a 'directly elected Mayor and Cabinet' model of governance arrangement.
- 6.2 Once the Council has determined its preferred governance model, the Council is required under the Act to draw up proposals for the change in its governance arrangements and must give consideration to the extent to which the proposals would be likely to help in securing continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 6.3 The draft proposals for both models are set out at Appendix 2 and 3 in respect of which Council approval is also sought (as applicable).
- 6.2 The new governance proposals must be made available to the public. The Council must ensure that the new arrangements can be inspected by the public at its principal office at all reasonable times and must publish the details in one or more newspapers circulated within the area a public notice stating that the Council has drawn up proposals for changes in its governance arrangements and specifying where copies of the detailed proposals can be inspected. The arrangements will need to include a timetable with respect to the implementation of the proposals and details of any necessary transitional arrangements.
- 6.4 A further report will need to be considered by Council at an extraordinary Council meeting on 21<sup>st</sup> December 2009, seeking approval of the new proposals for the new governance arrangements.
- 6.5 Following Council's approval of the new governance arrangement proposals, the Council must ensure that the adopted proposals can be inspected by the public at its principal office at all reasonable times and must publish in one or more newspapers circulated within the area a public notice stating that the Council has resolved to operate the new governance arrangements, specify when they take effect, describe the main features and specify where copies of the detailed proposals can be inspected.

## **4. Financial implications**

- 4.1 The costs incurred in respect of the proposed alternative governance arrangements will be found from departmental budgets.

## **5. Staffing implications**

- 5.1 There are none arising directly from this report

**6. Equal Opportunities implications**

6.1 An equality impact assessment will be carried out on this report

**7. Community Safety implications**

7.1 There are none arising directly from this report.

**8. Local Agenda 21 implications**

8.1 There are none arising directly from this report.

**9. Planning implications**

9.1 There are none arising directly from this report.

**10. Anti-poverty implications**

10.1 There are none arising directly from this report.

**11. Human Rights implications**

11.1 There are none arising directly from this report

**12. Social Inclusion implications**

12.1 The proposed governance arrangements will enable public involvement in the proposed change in governance arrangements

**13. Local Member Support implications**

13.1 New governance arrangements have relevance to all wards.

**14. Background Papers**

14.1 Local Government and Public Involvement in Health Act 2007

## **15. Recommendations**

### 15.1 That Council:

- a. resolves to adopt:
  - i. the new style 'Leader and Cabinet' model of governance (including provision of the power for Council to remove the Leader by resolution); or
  - ii. the 'directly elected Mayor and Cabinet' model of governance.
- b. subject to the model of governance adopted under 15.1a above, approves the applicable draft governance proposals as set out in Appendix 2 or 3 to this report (subject to any amendments agreed by Council); and officers be authorised to undertake all steps necessary to give effect to the proposals and ensure compliance with the Local Government and Involvement in Health Act 2007; and
- c. in relation to the extraordinary meeting of Council on 21 December 2009, agrees to amend paragraph 5 of the Access to Information Procedure Rules, Part 4 of the Constitution, so as to allow copies of any report(s) relevant to that Council meeting to be made open to the public at least "five days" before the meeting as opposed to "five clear working days".

**Bill Norman**

Director of Law, HR and Asset Management