

REPORT FOR RESOLUTION

Report to: City Council – 2 December 2009

Subject Executive Arrangements

Report of: The City Solicitor

Summary

In accordance with the requirements of the Local Government and Public Involvement in Health Act 2007 (LGPIHA) all local authorities that presently operate an “old-style leader and cabinet form of executive, including Manchester City Council, must change their form of executive to either a “new-style” Leader and Cabinet form of executive, or an Elected Mayor and Cabinet form of executive.

This report seeks formal approval to adoption of the “new-style” Leader and Cabinet Executive and to the related governance arrangements detailed in the Recommendations. The new form of executive arrangements must come into operation no later than the third day after the local government elections on 6 May 2010.

The LGPIHA provides that the Council must pass a resolution to make the change in executive arrangements at a meeting of the Council which has been specially convened for the purpose of deciding the resolution, and which has been given notice of the object of the meeting. The resolution to make the change in executive arrangements must be passed by the Council no later than the 31 December 2009.

Recommendations

The Council is recommended to resolve:

1. That the following changes in the Council’s governance arrangements, to come into operation on 9 May 2010, be approved:
 - (a) that the Council’s executive form should be the “new style” Leader and Cabinet executive (England)
 - (b) that the Council should have the power to remove the leader by way of resolution by a simple majority, in accordance with the current provisions for the removal of the leader in Article 7.4(e) of Part 2 of the Council’s Constitution.
 - (c) that the “local choice” functions should be discharged as set out in Appendix 1 to this Report

Transitional Arrangements

- (d) that the councillor who holds the office of leader of Manchester City Council who is in office on 9 May 2010 should remain in office until the annual meeting of Council on 19 May 2010
 - (e) The scheme of responsibility for Manchester City Council's executive functions listed in Part 3 Sections A, B, D and F of the Council's Constitution in force on 9 May 2010 should remain in force until the annual meeting of the Council on 19 May 2010.
2. To instruct the City Solicitor to secure that copies of a document setting out the main features of the new executive arrangements are made available for public inspection and to publish the requisite notice in a newspaper circulating in the area in accordance with Section 29(2) of the Local Government Act 2000.
3. To request the City Solicitor to bring forward the necessary amendments to the Constitution of the Council to a meeting of Council no later than 24 March 2010 so that they can come into effect on 9 May 2010.

Wards Affected: All

Implications for:

<u>Equal Opportunities</u>	<u>Risk Management</u>	<u>Legal Considerations</u>
No	No	Yes, as set out in report

Financial Consequences for the Revenue Budget

None

Financial consequences for the Capital Budget

None

Contact Officers:

Name: Susan Orrell
Position: City Solicitor
Telephone: 0161 234 3087
E-mail: s.orrell@manchester.gov.uk

Name: Rodney Lund
Position: Assistant City Solicitor
Telephone: 0161 234 4019
E-mail: r.lund@manchester.gov.uk

Name: Kathryn Saldanha
Position: Solicitor
Telephone: 0161 234 3539
E-mail: k.saldanha@manchester.gov.uk

Background documents (available for public inspection)

Constitution of the Council – May 2009

City Solicitor's Report on Executive Arrangements made to Council – 8 July 2009

City Solicitor's Report on Executive Arrangements made to Council – 7 October 2009

FORMAL ADOPTION OF NEW EXECUTIVE ARRANGEMENTS

1. Background

- 1.1. At its meeting on 7 October 2009 the Council received a report from the City Solicitor on the results of the public consultation on changes to the Council's executive arrangements. The outcome of the public consultation was that the general public and the Council's partners and stakeholders expressed a clear preference for the Leader and Cabinet form of executive.
- 1.2. Taking into account both the public consultation process and the Council's "best value" duty, the City Solicitor in consultation with the Leader of the Council and the Leader of the Opposition drew up Draft Proposals for changes to the Council's executive arrangements for consideration by the Council. At its meeting on 7 October 2009 the Council resolved to approve the City Solicitor's Draft Proposals.
- 1.3. In accordance with the statutory requirements, the Council published its Proposals for changes to the Council's executive arrangements by way of notices in Manchester Evening News, The South Manchester Reporter, The North-East Manchester Advertiser and Wythenshawe World.

2. Formal adoption of proposals for changes to the Council's executive arrangements

- 2.1. The Council is now required to formally resolve to change its executive arrangements. In accordance with the requirements of paragraph 3(4) of Schedule 4 to the LGPIHA the Council must pass a resolution to make the change in its executive arrangements "at a meeting which is specially convened for the purpose of deciding the resolution with notice of the object". The Council must pass the resolution to change its executive arrangements before the 31 December 2009. The Council is therefore requested to adopt the recommendations set out above, which will come into effect on 9 May 2010.
- 2.2. Until the new form of executive arrangements comes into operation, the old arrangements will continue to apply. Under the "new-style" Leader and Cabinet form of executive arrangements, the leader must be elected at the first annual meeting of the Council following the adoption of the new arrangements and their term of office will start on that day. There will therefore be a number of days between the adoption of the new form of executive (which must be no later than 9 May 2010) and the date on which the new leader is elected at the Council's annual meeting on 19 May 2010.

3. **Constitutional amendments**

- 3.1 Constitutional amendments will be required in order to reflect the change in executive arrangements. The main constitutional amendments which will be required concern:
- Article 7 (which relates to the Executive)
 - Council Procedure Rules
 - Executive Procedure Rules
 - Responsibility for the Council's executive functions
- 3.2 There will also be a number of consequential minor amendments throughout the Constitution.
- 3.3 The City Solicitor will bring forward the necessary amendments to the Constitution of the Council to a meeting of Council no later than 24 March 2010, so that they can come into effect on 9 May 2010.
- 3.4 If the Council passes a resolution to change its executive arrangements and adopt the "new-style" leader and cabinet form of executive, then responsibility for the Council's executive functions will not be finally determined until after the election of the "new-style" leader on 19 May 2010. This is because the legislation provides that under the new form of executive it is the leader who will decide the allocation of the Council's executive functions.

4. **Recommendations**

The recommendations appear at the front of the report.

APPENDIX 1

Local Choice Functions

Responsibility for Local Choice Functions

Local Choice Functions		Executive or Non-Executive	Decision Making Body	Delegation to Officers
1	Any function under a Local Act not specifically excepted.	See Table 1 below	See Table 1 below	See Table 1 below
2	The determination of any appeal against any decision made by or on behalf of the Authority.	See Table 2 below	See Table 2 below	See Table 2 below
3	Making of arrangements in relation to appeals against the exclusion of pupils from maintained schools.	Non-Executive	Full Council	City Solicitor
4	Making arrangements for school admission appeals.	Non-Executive	Full Council	City Solicitor
5	Making arrangements for appeals by governing bodies.	Non-Executive	Full Council	City Solicitor

6	Making of arrangements for enabling questions to be put on the discharge of the functions of a police authority.	Non-Executive	Full Council	Not Delegated
7	Making appointments of Council Members to police authorities.	Non-Executive	Full Council	Not Delegated
8	Any function relating to contaminated land.	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
9	The discharge of any function relating to the control of pollution or the management of air quality.	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
10	The service of an abatement notice in respect of a statutory nuisance.	Non-Executive	Licensing and Appeals Committee	Head of Street Management and Enforcement
11	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area.	Non-Executive	Full Council	Not Delegated
12	The inspection of the Authority's area to detect statutory nuisance.	Non-Executive	Licensing and Appeals Committee	Head of Street Management and Enforcement
13	The investigation of any complaint as to the existence of a statutory nuisance.	Non-Executive	Licensing and Appeals Committee	Head of Street Management and Enforcement

14	Obtaining information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Non-Executive	Full Council	Head of Planning
15	Obtaining particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Non-Executive	Full Council	All Chief Officers Head of Planning, Head of Highway Services and Head of Street Management and Enforcement
16	Making agreements for the execution of highway works.	Non-Executive	Planning and Highways Committee	Head of Highway Services
17 (i)	The appointment of any individual – (a) to any office other than an office in which he is employed by the authority (b) to any body other than (i) The Authority (ii) A Joint Committee of 2 or more Authorities or (c) to any Committee or Sub-Committee of such a body, and the revocation of any such appointment. (In the case of Appointments to outside bodies in connection with executive functions)	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>

17 (ii)	<p>The appointment of any individual –</p> <p>(a) to any office other than an office in which he is employed by the authority</p> <p>(b) to any body other than (i) The Authority (ii) A Joint Committee of 2 or more Authorities or</p> <p>(c) to any Committee or Sub-Committee of such a body, and the revocation of any such appointment.</p> <p>(In the case of Appointments other than those to outside bodies in connection with executive functions)</p>	Non-Executive	Full Council, Committee or chief officer, as provided.	
18	The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.	Non-Executive	Personnel Committee	Chief Executive
19 (i)	<p>Functions under sections 106(1) of the Local Government and Public Involvement in Health Act 2007 relating to local area agreements (approval of draft LAA for submission under s. 106(1))</p>	Non-Executive	Full Council	Not Delegated

19 (ii)	Functions under sections 106, 110, 111 and 113 of the Local Government and Public Involvement in Health Act 2007 relating to local area agreements (apart from (approval of draft LAA for submission under s. 106(1))	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
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*Under the Local Government and Public Involvement in Health Act 2007, the 'new-style' Leader and not the Council is responsible for the allocation of all the Council's Executive Functions.

TABLE 1

There are a number of functions in the Greater Manchester Act 1981 ('the Local Act') and the responsibility for the discharge of these functions should be as follows:

Function			Executive or Non-Executive	Decision Making Body	Delegation to Officers
1	Section 11	Bye-laws as to Leisure Centres	Non-Executive	Full Council	Not Delegated
2	Section 12	Closure of Parks	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
3	Section 13	Provision of Parking Places in Parks, etc	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
4	Section 14	Provision of Vehicles in Parks etc.	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
5	Section 15	Contribution towards Provision of Recreational Facilities	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
6	Section 21	Recovery of Street Works Charges Where Owner Unknown	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
7	Section 22	Street Numbers	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>

8	Section 24	Provision of Trees and Shrubs	Non-Executive	Planning and Highways Committee	Head of Highway Services
9	Section 26	Prohibition of Parking of Goods Vehicles in Residential Streets	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
10	Section 27	Control of Verges	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
11	Section 28	Temporary Stoppage of Footpaths and Bridleways	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
12	Section 29	Vesting of Former highway Land	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
13	Section 30	Hairdressers and Barbers	Non-Executive	Licensing and Appeals Committee	Head of Street Management and Enforcement
14	Section 32	Acupuncturists, Tatoois, Ear Piercers, Electrolysis etc.	Non-Executive	Licensing and Appeals Committee	Head of Street Management and Enforcement
15	Section 34	Dust etc. from Building Operations	Non-Executive	Licensing and Appeals Committee	Head of Street Management and Enforcement
16	Section 35	Carrying or Storage of Waste Food	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>

17	Section 36	Power to Order Alteration of Chimneys	Non-Executive	Licensing and Appeals Committee	Head of Street Management and Enforcement
18	Section 37	Control of Rats and Mice	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
19	Section 38	Powers of Entry for Prevention of Damage by Pests Act 1949	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
20	Section 42	Control of Stray Dogs	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
21	Section 43	Repair of Walls etc. of Yards	Non-Executive	Licensing and Appeals Committee	Not Delegated
22	Section 44	Temporary Repair of Defective premises	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
23	Section 47	Urgent Repairs to Water, Gas and Electricity apparatus	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
24	Section 48	Artificial Lighting Inhabitable Rooms etc.	Non-Executive	Licensing and Appeals Committee	Not Delegated
25	Section 49	Trees impeding Natural Light to Houses, Shops and Offices	Non-Executive	Licensing and Appeals Committee	Not Delegated

26	Section 50	Weatherproofing of Property	Non-Executive	Licensing and Appeals Committee	Not Delegated
27	Section 53	Prohibition of Interference with Bird Traps	Non-Executive	Licensing and Appeals Committee	Head of Street Management and Enforcement
28	Section 54	Dealings in Second Hand Goods	Non-Executive	Licensing and Appeals Committee	Head of Street Management and Enforcement
29	Section 55	Safety of Ceilings in Bingo Halls	Non-Executive	Licensing and Appeals Committee	Not Delegated
30	Section 58	Safety of Stands	Non-Executive	Licensing and Appeals Committee	Head of Planning
31	Section 59	Bye-laws with regard to Certain Temporary Structures	Non-Executive	Full Council	Not Delegated
32	Section 60	Touting, Hawking, Photographing etc.	Non-Executive	Licensing and Appeals Committee	Head of Regulatory and Enforcement Services
33	Sections 61 & 63-66	Fire Precautions	Non-Executive	Licensing and Appeals Committee	Head of Planning
34	Sections 67-73	Storage of Flammable Material	Non-Executive	Licensing and Appeals Committee	Head of Planning
35	Sections 74-81	Entertainment Clubs	Non-Executive	Licensing and Appeals Committee	Head of Street Management and Enforcement

36	Section 98-106	Aviation	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
37	Section 117	Power to Compound to Payment of Tolls	Non-Executive	Licensing and Appeals Committee	Director of Commercial Services
38	Section 118	Power to District Council to require information	Non-Executive	Licensing and Appeals Committee	Not Delegated
39	Section 119	As in Public Meetings etc.	Non-Executive	Licensing and Appeals Committee	Director of Commercial Services
40	Section 120	Market Bye-laws	Non-Executive	Full Council	Not Delegated
41	Section 136-144	Night Cafes in Manchester	Non-Executive	Licensing and Appeals Committee	Head of Street Management and Enforcement
42	Section 148	Appointment of Art Galleries Committee	Non-Executive	Full Council	Not Delegated
43	Section 149	Manchester Central Art Gallery	Non-Executive	Art Galleries Committee	Not Delegated
44	Section 152	North Western Museum of Science and industry	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
45	Section 162	Restriction on the use of Armorial Bearings	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>

46	Section 163	Unauthorised Activities on Playing Fields (education)	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
47	Section 164	Pedal Cycles	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
48	Section 165	Prohibition of Entry of Goods Vehicles in Front Gardens	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
49	Section 166	Hackney Carriage Fares	Executive	<i>* To be determined by the Leader</i>	<i>* To be determined by the Leader</i>
50	Section 167	Signs on Vehicles	Non-Executive	Licensing and Appeals Committee	Head of Street Management and Enforcement

*Under the Local Government and Public Involvement in Health Act 2007, the 'new-style' Leader and not the Council is responsible for the allocation of all the Council's Executive Functions.

TABLE 2

Appeals		Executive or Non-Executive	Decision Making Body	Delegation to Chief Officers
1	To determine appeals where payments of the National Non-Domestic Rate would cause hardship, appeals in function to Discretionary Rate Relief, and appeals to reduce amount of council tax payable.	Non-Executive	Licensing and Appeals Committee	Not Delegated
2	To determine appeals against the decisions of Chief Officers to remove companies from approved lists of contractors in relation to the execution of works and the supply of goods and services.	Non-Executive	Licensing and Appeals Committee	City Treasurer
3	To determine appeals by market traders where the trader's licence has been revoked.	Non-Executive	Licensing and Appeals Committee	Director of Commercial Services
4	To determine any other appeals referred to the Committee against any decision made by or on behalf of the authority.	Non-Executive	Licensing and Appeals Committee	All Chief Officers
5	To determine appeals against dismissal.	Non-Executive	Employee Appeals Committee	Not Delegated
6	To determine in relation to grievances submitted before 1 st October 2004 grievance appeals which cannot be resolved by the Chief Executive or at departmental level.	Non-Executive	Employee Appeals Committee	Not Delegated