

WYRE FOREST DISTRICT COUNCIL

CABINET
16th NOVEMBER 2010

Local Government and Public Involvement in Health Act 2007

OPEN	
SUSTAINABLE COMMUNITY STRATEGY THEME:	Stronger Communities
CORPORATE PLAN AIM:	A Well-Run and Responsive Council
CABINET MEMBER:	Councillor J-P Campion
DIRECTOR:	Chief Executive
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APPENDICES	Appendix 1 - summary of comments on governance models from the public consultation Appendix 2 - summary of comments on electoral arrangements from the public consultation Appendix 3 - consultation paper and explanatory note

1. PURPOSE OF REPORT

- 1.1 To make recommendations to a special meeting of Council on changes to governance arrangements and the election cycle, following the public consultation that has been undertaken from 8th July to 8th October 2010.

2. RECOMMENDATION

Cabinet is asked to DECIDE:

- 2.1 **To consider the information in this report including the outcome of the consultation on the two proposed forms of governance and options for electoral arrangements and formulate recommendations to a Special Meeting of Council.**

3. BACKGROUND

- 3.1 At its meeting in June 2010, the Cabinet authorised a period of public consultation for three months about the provisions of the Local Government and Public Involvement in Health Act 2007.
- 3.2 Part 3 of the Act introduced requirements for new Executive arrangements in England and specifies the deadline for a decision by each Council which is 31st December 2010 in the case of non-metropolitan district councils. Section 33O(5) of the Local Government Act 2000 (as inserted by the 2007 Act) and section 33(6) of the 2007 Act also specify a window, which occurs every four years, during which executive arrangements and electoral arrangements can be changed – this is the period ending 31 December 2010 and then the

period between the annual general meeting in 2014 and 31st December 2014, and so on.

- 3.3 The consequences of the Act are that the Council must consult on and decide its executive arrangements during 2010. The Government has announced its intention to amend this legislation and to allow Councils to return to the committee system, should they wish to. The Localism Bill (which is due to be introduced to Parliament shortly) will not receive Royal Assent before the end of the year. Therefore the Council has to comply with the timetable and options in the 2007 Act. There is no requirement to alter election arrangements but, under the current legislation, the power to change from elections by thirds to elections every four years exists during 2010 but is then not available until 2014.
- 3.4 While the Cabinet is leading the process in terms of commencing consultation, considering responses and making recommendations to Council, decisions on what form of executive arrangements to adopt and whether or not to change the electoral arrangements will be taken by full Council.

4. KEY ISSUES

Governance Arrangements

- 4.1 Under the 2007 Act the current Leader and Cabinet model is no longer an option. All Councils operating this scheme will be required to adopt one of the new governance models before 31st December 2010.
- 4.2 Two models of executive arrangements are possible:
- (a) an elected Mayor and Cabinet Executive (proposals to adopt this model are subject to a referendum);
 - (b) a new style Leader and Cabinet Executive (the so-called “strong leader” model where the Leader is elected by Council but s/he appoints members of the cabinet and allocates responsibility for executive functions)
- 4.3 The terms of office for both models would be 4 years. The first such 4 year term would commence in May 2011.
- 4.4 All the executive functions of the Council will be vested in the Leader or Mayor, who will decide how those powers are to be discharged. He or she will appoint the Cabinet directly and allocate responsibility for the discharge of executive functions.
- 4.5 The Council is able to choose whether to allow for the removal and replacement of the Leader by Council during the 4 year term. The constitution would be amended to reflect this. However, this is not an option in respect of the Mayoral model.
- 4.6 All District Councils in England are required to:

- (a) Draw up a timetable that outlines implementation of the proposals.
 - (b) Before drawing up its proposals, the local authority must take reasonable steps to consult the local government electors and other interested persons in the Authority's area.
 - (c) In drawing up the proposals, the local authority must consider the extent to which the proposals, if implemented, would be likely to assist in securing continuous improvement in the way in which the local authority's functions are exercised having regard to a combination of economy, efficiency and effectiveness.
 - (d) After drawing up the proposals the local authority must:
 - (i) Ensure that copies of a document setting out the proposals are available at their principal office for inspection by Members of the public at all reasonable times and
 - (ii) Publish in one or more newspapers circulating in its area a notice which:
 - (a) States that the authority has drawn up the proposals.
 - (b) Describes the main features of the proposals.
 - (iii) States that copies of a document setting out the proposals are available at their principal office for inspection by Members of the public at such times as may be specified by the notice and
 - (iv) Specifies the address of their principal office.
- 4.7 All District Councils must decide by the end of December 2010 which form of governance to adopt for their executive arrangements and implement the new model of governance 3 days after the 2011 elections (Sunday 8th May 2011).
- 4.8 To date the vast majority of Metropolitan, County and London Boroughs have favoured the Leader and Cabinet form of Governance. These authorities were required by the legislation to make decisions on their form of governance ahead of District Councils.
- 4.9 If the Council failed to make the change to its governance arrangements in accordance with the legislative requirements, the Secretary of State can make an order specifying that the new Leader and Cabinet Executive arrangements will apply.
- 4.10 129 responses were received to the on line consultation and 86 (67%) of responses supported the option of the new style Leader and Cabinet executive. 43 (33%) of responses supported the option of an elected mayor and Cabinet executive.

- 4.11 The English Democrats are known to be gathering signatures on a petition to demand a referendum on an elected mayor. The threshold that a petition needs to reach is 5% or 3,893 electors. At the time of writing, no petition had been received.
- 4.12 The relatively low level of response to the consultation compared to the number of electors in the district (75,000) means that the response is not statistically significant. While the Cabinet and Council should take account of the consultation response in reaching decisions, it should not be assumed that the consultation response is necessarily an accurate reflection of the views of residents in general.
- 4.13 Responses raised a number of other matters related to the governance model and these are summarised in appendix 1. Although most people were in favour of the New Leader and Cabinet Model some of the electorate considered that a Mayor might be more accountable to the electorate.
- 4.14 A seminar for councillors was held on 7 June and was facilitated by a councillor peer from Local Government Improvement and Development. 25 members attended and the feedback from the event suggested that there was little or no appetite among councillors for an elected mayor as it was perceived that it would be putting too much power into the hands of one person.
- 4.15 While the consultation shows that there is a range of views about this question and the response slightly favours the New Leader and Cabinet model, as noted above, this has not reached a statistically reliable level where Councillors could interpret it as an accurate reflection of the views of residents across the district. Both options therefore remain open to the Cabinet in formulating its recommendation to Council. The Cabinet is entitled also to have regard to the clear preference of Councillors for the Leader and Cabinet model of governance, and to consider which option is more likely to assist in securing continuous improvement. This report therefore proposes that the Cabinet should recommend to Council that the new style Leader and Cabinet model of governance should be implemented with effect from 8th May 2011.

Electoral Arrangements

- 4.16 Section 32 of the 2007 Act contains powers for District Councils to change their electoral arrangements. Currently Wyre Forest District Council has a scheme for elections by thirds. The legislation allows the Council to opt for whole Council elections.
- 4.17 If the Council is minded to change its electoral arrangements it must take reasonable steps to consult persons as it thinks appropriate on the proposed change. A resolution to implement any change would need to be passed:
- (a) At a meeting which is specially convened.
 - (b) by a majority of at least two thirds of the members voting on it.

- 4.18 If the Council decided to opt for whole-Council elections it would be required to:
- (a) Produce an explanatory document,
 - (b) Make the explanatory document available for public inspection at the council's principal office at all reasonable times.
- 4.19 If a resolution was passed by the Council to change its electoral arrangements to whole council elections, the scheme would commence in 2011 and elections would be held in May 2011 and every four years thereafter. The Council would also be required to notify the Electoral Commission that it had passed a resolution to change to whole Council elections.
- 4.20 115 responses were received to the on line consultation and 64 (55.65%) of responses supported retention of election by thirds 51 (44.35%) of responses supported whole council elections being held once every four years.
- 4.21 The relatively low level of response to the consultation compared to the number of electors in the district (75,000) means that the response is not statistically significant. While the Cabinet and Council should take account of the consultation response in reaching decisions, it should not be assumed that the consultation response is necessarily an accurate reflection of the views of residents in general.
- 4.22 Responses raised a number of other matters related to elections and these are summarised in appendix 2. Whilst 10 of the respondents felt that all out elections would save money, 9 respondents considered that yearly elections offered more frequent opportunity to hold the Council to account.
- 4.23 A seminar for councillors was held on 7th June and was facilitated by a councillor peer from Local Government Improvement and Development. 25 members attended and the feedback from the event suggested that there was a mixture of views about the best electoral cycle. Whilst many Members recognised that 4 yearly elections would be cheaper for the Council, other Members perceived that annual elections kept political parties on their toes.
- 4.24 While the consultation shows that there are a range of views about this question and the response slightly favours retaining the current arrangements of elections by thirds, as noted above, this has not reached a statistically reliable level where councillors could interpret it as an accurate reflection of the views of residents across the district. Both options therefore remain open to the Cabinet in formulating its recommendation to Council. The Cabinet is entitled also to have regard to the comments from councillors in the seminar and the various arguments that have been advanced in favour of and against making change, which were summarised in the consultation document that was issued (appendix 3).
- 4.25 Arguments for changing the electoral cycle to four years include:

- (a) It promotes stability and a strategic approach in the councillor body: councillors know they have to work together as a team for four years and, subject to any by-elections that may occur, there is consistency of membership with strong relationships being formed over the term of office;
 - (b) It would avoid the current situation where councillors may be tempted to put off difficult decisions because there are elections in almost every year – in particular there is a risk of “blight” in the months before any election period;
 - (c) It aligns with the present statutory requirement for the leader to be elected for a four year term;
 - (d) significant cost savings: one set of elections rather than three would save an estimated £140+k over a four year period. When cuts in services and staff are having to be contemplated as a consequence of the economic situation, the cost of elections by thirds seems inefficient.
- 4.26 A potential disadvantage of elections every four years is that there can be a significant change in councillors at each set of elections, whereas elections by thirds tend to result in more gradual change in personalities. Elections by thirds also allow the electorate to express their displeasure with the council generally or particular political groups on a regular basis, although this does not necessarily outweigh the advantages of four yearly elections set out above.

Implications for Parish Councils

- 4.27 At present, Parish Council elections are held in each of the three years when there are District Council elections. A change to the electoral cycle would mean that some Town and Parish Council elections would no longer be held at the same time as District Council elections. The consultation paper made clear that, in such cases, the District Council would recover the full cost of Parish Council elections from the Parish Councils concerned. For the 4 Parish Councils that are due to hold their elections in 2011, a recharge would be made but this would represent a lower relative cost than for Parish Councils whose elections fall in 2010 or 2012.
- 4.28 The views of Parish Councils have been sought as part of the consultation process. Three responses asked that, if the District Council’s electoral cycle changes, the District Council should use the power that it has to move the date of parish council elections to align with the District Council’s i.e. 2011, 2015 and so on. 3 responses asked for the present cycle of parish council elections to be maintained.
- 4.29 The request from the Parish Councils would have some practical implications for the administration of elections but it is recognised that it would represent a pragmatic approach to keeping down the cost of their elections if the District Council chose to move to elections every 4 years.

5. FINANCIAL IMPLICATIONS

- 5.1 If the Council decides to hold a referendum about an Elected Mayor (or is required to do so by a petition with the requisite number of signatures), there would be significant costs associated with holding a referendum – similar to the cost of holding an election across the whole district.
- 5.2 If the Council gave its approval to whole-Council elections there would be savings as whole Council elections every four years are less costly to run than elections covering most of the district three years in every four.

£	Current budget provision (estimate in 2013-14 onwards)	Estimated budget provision if elections held every four years	Difference
2011-12	152,760	180,000	+27,240
2012-13	156,300	72,000	-84,300
2013-14	73,000	73,000	0
2014-15	159,000	74,000	-85,000
Total saving over four years			-142,060

6. LEGAL AND POLICY IMPLICATIONS

- 6.1 There are a number of legal requirements which have been covered in the key issues section in 4 above.
- 6.2 The Council will need to amend its constitution to reflect the change to the new form of governance and may need to make further amendments if the electoral cycle is changed. Depending on the decisions taken by full Council, appropriate amendments will be drafted and will be the subject of consultation with group leaders via the Transformation Board, prior to formal adoption by Council at its meeting in February.

7. EQUALITY IMPACT NEEDS ASSESSMENT

- 7.1 An equality impact assessment has been undertaken and it is considered that there are no discernable impacts on the six equality strands.

8. RISK MANAGEMENT

- 8.1 If the Council failed to make the change to its governance arrangements in accordance with the legislative requirements, the Secretary of State can make an order specifying that the new Leader and Cabinet Executive arrangements will apply.

9. CONCLUSION

- 9.1 The report sets out the results of the public consultation and other relevant factors. It explains in section 4 the considerations that have led to the proposed recommendations to Council.

10. CONSULTEES

- 10.1 Leader of the Council.
- 10.2 Corporate Management Team.

11. APPENDICES

- 11.1 Appendix 1 – summary of comments on governance models from the public consultation.
- 11.2 Appendix 2 – summary of comments on electoral arrangements from the public consultation.
- 11.3 Appendix 3 – consultation paper and explanatory note.

12. BACKGROUND PAPERS

- 12.1 Local Government Act 2000.
- 12.2 White Paper : Strong and Prosperous Communities.
- 12.3 Local Government and Public Involvement in Health Act 2007.
- 12.4 Report to Cabinet, 15th June 2010,

Appendix 1

Summary of Comments on Governance Models from the Public Consultation

Number of responses received: 129

Number of comments made: 33

Breakdown of responses:

Response	Number of Responses	Percentage	Percentage of Electorate (78,923)
New Leader and Cabinet Model	86	67%	0.11%
Elected Mayor and Cabinet Model	43	33%	0.054%

Summary of Comments made:

(Please note that the total of the 'Number of Responses' column does not match the number of comments received. This is because several responses did not address the question).

Type of Response	Number of Response
Elected Mayor and Cabinet Model:	
Mayor more accountable to the electorate	5
Could attract an inexperienced or inappropriate Mayor	3
Mayor could add additional costs	3
Mayor could bring greater influence and stronger leadership	1
Mayor could be less political	1
Mayor could be too powerful	1
New Leader and Cabinet	
Questions over accountability of Cabinet/Leader	3
Leader and Cabinet more suited to the area	2
Leader should be elected by Councillors	1
Either System	
Neither system is responsive/accountable enough	3
Don't ,make one person too powerful	2

Electoral Cycle Consultation

Number of responses received: 115

Number of comments made: 33

Breakdown of Responses:

Response	Number of Responses	Percentage
I support a move to whole Council elections (once every 4 years)	51	44.74%
I support the current electoral arrangements of elections by thirds (this means elections 3 years in every 4)	63	55.26%

Summary of Comments Made:

(Please note that the total of the 'Number of Responses' column does not match the number of comments received. This is because several responses did not address the question).

Type of Response	Number of Responses
All out elections will save money	10
Yearly elections offer more frequent opportunities to hold the Council to account	9
All out elections could undermine continuity of experience of Members	4
All out elections might benefit large parties	2
Bring Parish and Town Council election cycles in line with District if moved to all out elections	
Have less elections	1
Yearly elections might mean sensitive issues are avoided near to elections	1

Consultation Paper and Explanatory Note

**Consultation on Political Structures and Elections and
Background Information**

Consultation Questions

1. Which political model do you support

Please select one option only

New Leader & Cabinet Model

Elected Mayor & Cabinet Model

2. Please give us any comments about the political models

3. How often do you think District Council elections should be held?

Please select one option only

I support a move to whole Council elections
(every 4 years)

I support the current electoral arrangements of
Elections by thirds (this means every 3 years in 4)

**4. Please give us any comments on how often District Council elections
Should be held**

**5. To enable us to analyse the result by area please enter your name and
postcode**

**6. If you would like notification of the summary of consultation responses and
future reports on this please enter your email address**

Background Information

This document provides further information about the options for political structures and elections and issues that you might like to take into account in providing your comments.

Political structures

Under the 2007 Act the current Leader and Cabinet model is no longer an option. All Councils operating this scheme will be required to adopt one of the new governance models before 31st December 2010.

Two models of executive arrangements are possible:

- (a) An elected Mayor and Cabinet Executive (proposals to adopt this model are subject to a referendum);

- (b) A new style Leader and Cabinet Executive (the so-called “strong leader” model where the Leader is elected by Council but s/he appoints members of the Cabinet and allocates responsibility for executive functions)

The terms of office for both models would be 4 years. The first such 4 year term would commence in May 2011.

All the executive functions of the Council will be vested in the Leader or Mayor, who will decide how those powers are to be discharged. He or she will appoint the Cabinet directly and allocate responsibility for the discharge of executive function

The Council is able to choose whether to allow for the removal and replacement of the Leader by Council during the 4 year term. The constitution could be amended to reflect this. However, this is not an option in respect of the Mayoral model.

If the Council failed to make the change to its governance arrangements in accordance with the legislative requirements, the Secretary of State can make an order specifying that the new Leader and Cabinet Executive arrangements will apply.

Local residents are invited to form their own view on which is the best model for Wyre Forest and to let us know by taking part in the consultation. To assist, here is some information about potential strengths and weaknesses of the two options:

Elected Mayor and Cabinet

Potential strengths	Potential weaknesses
Clear accountability of an individual to provide political leadership and direction for the district	Requires a referendum before it can be implemented which would cost money to organise (c £100k)
Enhanced ability for the Mayor to take decisions swiftly	May be perceived as putting too much power in the hands of one person
Fixed Term	Clash in identity between Elected Mayor and Town Mayors
Easily identified individual	4 year term what if the Elected Mayor was incompetent.

Leader and Cabinet

Potential strengths	Potential weaknesses
Does not require a referendum – can be implemented with minimum cost	
Can provide strong leadership but can also be removed from office by Council before the end of the four year term	

Electoral Arrangements

Section 32 of the 2007 Act contains powers for District Councils to change their electoral arrangements. Currently Wyre Forest District Council has a scheme for elections by thirds. The legislation allows the Council to opt for whole Council elections.

If a resolution was passed by the Council to change its electoral arrangements to whole council elections, the scheme would commence in 2011 and elections would be held in May 2011 and every four years thereafter (which means that the next elections would be in May 2015, May 2019 and so on).

Local residents are invited to form their own view on which is the best model for Wyre Forest and to let us know by taking part in the consultation. To assist, here is some information about potential strengths and weaknesses of the two options:

Whole council elections every four years

Potential strengths	Potential weaknesses
<p>Promotes stability and a strategic approach among councillors: councillors know they have to work together as a team for four years and, subject to any by-elections, there is consistency of membership with strong relationships being formed over the term of office</p>	<p>There can be a significant change in councillors at each set of elections</p>
<p>Avoids the current situation where councillors may be tempted to put off difficult decisions because there are elections in almost every year – in particular there is a risk of “blight” in the months before any election period</p>	<p>Clash with General election in 2015</p>
<p>Aligns with the statutory requirement for the leader/mayor to be elected for a four year term</p>	<p>Can make it more difficult for smaller parties to contest most/all seats</p>
<p>Significant cost savings: one set of elections rather than three would save an estimated £140+k over a four year period.</p>	<p>Possible loss of experienced councillors en bloc</p>
<p>Potential savings for political parties particularly those that contest all seats.</p>	<p>Annual elections keep political parties on their toes.</p>

Elections by thirds

Potential strengths	Potential weaknesses
Tend to result in more gradual change in personalities/political balance of the council.	More costly than whole council elections
Allow the electorate to express their displeasure with the council generally or particular political groups on a regular basis	Doesn't always support a strategic approach by Councillors particularly on difficult decisions which keep being put off because of frequent elections.
Easier for smaller parties to contest most/all seats	Doesn't align with 4 year term for leader/mayor
Keeps political parties on their toes	More costly for political parties that contest all seats

Implications for Parish and Town Councils

A change to the electoral cycle could mean that some Town and Parish Council elections would no longer be held at the same time as District Council elections. If District Council elections were held in 2011 and every four years thereafter, the cost of holding Town and Parish Council elections in other years would be charged in full to the Town and Parish Councils.

Under section 53 of the 2007 Act, the District Council may make an order to alter the years in which the ordinary elections of Parish Councils are held.

If the District Council opts to move to whole Council elections, views are invited from Town and Parish Councils on whether such an order should be made, to provide that ordinary elections of Parish Councils should be held in the same year as elections to the District Council.

We look forward to receiving your views.