



Havering

LONDON BOROUGH

GOVERNANCE COMMITTEE (Special) AGENDA

7.30pm

Wednesday
9 September 2009

Havering Town Hall
Main Road, Romford

Members 10: Quorum 4

COUNCILLORS:

Conservative Group
(6)

Frederick Thompson
(Chairman)
Gary Adams
(Vice-Chairman)
Robert Benham
Steven Kelly
Eric Munday
Michael White

Residents' Group
(2)

Clarence Barrett
Gillian Ford

**Independent Local
Residents' Group**
(1)

Jeffrey Tucker

Labour Group
(1)

Keith Darvill

**For information about the meeting please contact:
Taiwo Adeoye (01708) 433079
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NOTES ABOUT THE MEETING

1. HEALTH AND SAFETY

The Council is committed to protecting the health and safety of everyone who attends meetings of its Committees.

At the beginning of the meeting, there will be an announcement about what you should do if there is an emergency during its course. **For your own safety and that of others at the meeting, please comply with any instructions given to you about evacuation of the building, or any other safety related matters.**

2. MOBILE COMMUNICATIONS DEVICES

Although mobile phones, pagers and other such devices are an essential part of many people's lives, their use during a meeting can be disruptive and a nuisance. Everyone attending is asked therefore to ensure that any device is switched to silent operation or switched off completely.

3. CONDUCT AT THE MEETING

Although members of the public are welcome to attend meetings of the Committee, they have no right to speak at them. Seating for the public is, however, limited and the Council cannot guarantee that everyone who wants to be present in the meeting room can be accommodated. When it is known in advance that there is likely to be particular public interest in an item the Council will endeavour to provide an overspill room in which, by use of television links, members of the public will be able to see and hear most of the proceedings.

The Chairman of the meeting has discretion, however, to invite members of the public to ask questions or to respond to points raised by Members. Those who wish to do that may find it helpful to advise the Committee Officer before the meeting so that the Chairman is aware that someone wishes to ask a question.

PLEASE REMEMBER THAT THE CHAIRMAN MAY REQUIRE ANYONE WHO ACTS IN A DISRUPTIVE MANNER TO LEAVE THE MEETING AND THAT THE MEETING MAY BE ADJOURNED IF NECESSARY WHILE THAT IS ARRANGED.

If you need to leave the meeting before its end, please remember that others present have the right to listen to the proceedings without disruption. Please leave quietly and do not engage others in conversation until you have left the meeting room.

AGENDA ITEMS

1 CHAIRMAN'S ANNOUNCEMENTS

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

2 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS
(if any) - receive.

3 DECLARATION OF INTERESTS

Members are invited to declare any interests in any of the items on the agenda at this point of the meeting. Members may still declare an interest in an item at any time prior to the consideration of the matter.

4 NEW EXECUTIVE ARRANGEMENTS

5 DELEGATION OF POWERS TO THE LONDON ILLEGAL MONEY LENDING TEAM

6 POLICY FOR THE SUPPLY AND USE OF PERSONAL COMPUTERS, LAPTOPS, RSA TOKEN AND COMMUNICATION EQUIPMENT BY MEMBERS – consideration of a modification: faxes

**Cheryl Coppel
Chief Executive**

Governance Committee (Special), 9 September 2009



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	9 SEPTEMBER 2009	4

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007: PROPOSALS FOR EXECUTIVE ARRANGEMENTS

SUMMARY

Under Part 3 of the Local Government and Public Involvement in Health Act 2007 local authorities are required to make changes to the leadership of Councils. The act introduces two models both of which place all executive powers in the hands of one individual, either an elected Mayor or a “strong” Leader who, in the normal course of events will serve an uninterrupted term of four years. Under the new arrangements the Leader or Mayor once elected appoints and dismisses his or her Cabinet of up to ten Councillors and decides what (if any) executive powers they will exercise.

This report considers the public consultation which has taken place and seeks agreement to the Proposals to be put to Council for formal resolution.

RECOMMENDATIONS

1. That the outcome of the public consultation on the proposals for Executive Arrangements be noted.
2. That, having considered the response to the consultation, it be agreed to proceed with new Executive Arrangements based on the status quo of a Leader and Cabinet model.
3. That Council on 22nd October 2009 (no later than 31st December 2009) be recommended to adopt the Proposals for Executive Arrangements in the form set out in Appendix 2 to this report and based on the Leader and Cabinet Model, to be implemented on 9th May 2010.

Governance Committee (Special), 9 September 2009

4. That, in order to comply with the legislation the proposal be published describing the main features and the extent to which they secure continuous improvement and the proposals be advertised in one or more newspapers and made available at the Council's offices.
5. That a draft Constitution be prepared for decision by the Council in due course, to meet the requirements of the Local Government Act 2000, Local Government and Public Involvement in Health Act 2007 and the new Executive Arrangements chosen.
6. That the Proposals and the Constitution contain the power to Council that the term of office granted to the Leader can be taken away by majority vote in full Council.

REPORT DETAIL

1. Members at their May meeting received a report on the Local Government and Involvement in Public Health Act 2007. This dealt specifically with the requirements to consult and implement the new executive arrangements.
2. Under Part 3 of the Local Government and Public Involvement in Health Act 2007 local authorities are required, following consultation with local electors and other interested persons in the Council's area to adopt one of two executive decision making models set out under the statute:
 - Mayor and Cabinet - an elected mayor with a cabinet of councillors appointed by the elected mayor;
 - Leader and Cabinet - an executive leader elected by the council with a cabinet appointed either by the executive leader;
3. Before adopting a model, the local authority is required under Section 25 of the Act to take reasonable steps to consult local electors and other interested persons in the Council's area to express a preference for one of the models.
4. Following this consultation the Council is required, taking account of the results of consultation, to decide on the form and substance, including operational details, of its Executive Arrangements. The Council is also required to draw up Proposals for the intended Executive Arrangements and publish these.

CONSULTATION

5. The Act requires that local authorities must take reasonable steps to consult local electors and other interested persons in the Council's area to express a preference for one of the above forms of Executive. The Council's consultation exercise has been completed and the results analysed. The Council is required to take this into account.
6. Attached as Appendix 1 is the following:

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- A description of the steps Havering has carried out to meet these requirements; and
 - An analysis of the results of the consultation exercise.
7. In summary, there has been little interest in the consultation which was included in Living and on the Council's website. The information appeared on the website for the period of the consultation and the details of distribution of Living are included within Appendix 1. The response to the public consultation resulted in 75 returns, with a preference for Leader and Cabinet numbering 19 and Elected Mayor and Cabinet numbering 56. The response is so low and statistically so insignificant that it is suggested the Committee should recommend the status quo of a Leader and Cabinet Executive to Council.

8. **NEXT STEPS**

A. What Actual Decisions Are Required

Having completed and analysed the consultation, the Council is now required to make certain decisions regarding the form and function of its proposed Executive Arrangements. These are required to be included in a document which needs the approval of full Council at a meeting specifically convened for that purpose and which must be published and made available at its principal office in accordance with the legislation.

The decisions now required by the Council in relation to its proposed Executive Arrangements can generally be described as follows:

In light of the consultation:

1. Which of the following types of Executive Arrangements the Council intends to operate:
 - Mayor and Cabinet
 - Leader and Cabinet
2. Clarification regarding details of the specific manner in which those Executive Arrangements will operate, together with the implementation timetable to begin operating such Executive Arrangements. This is necessary in order to be able to submit a proposal to full Council which includes all the matters required under the legislation.

B. The Requirements of the Proposal

The proposals for this Council are set out as Appendix 2 to this report and have been drafted in accordance with the requirements of the Local Government and Public Involvement in Health Act 2007.

In addition to this, the Council must also consider the extent to which the proposals, if implemented, are likely to assist in securing continuous

improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness; and

THE PROPOSAL

9. The Council's draft Proposal document, as noted above, is attached at Appendix 2. The contents of Appendix 2 are supplemented by the Consultation information (Appendix 1) and the body of this report.
10. It is therefore recommended that the Governance Committee recommend Council to adopt the Proposal set out in this report, which under the legislation must have an implementation date no later than the third day after the local elections i.e. 9th May 2010.

Financial Implications and risk

Any sum necessary to finance the publicity requirements will be met from Contingency

Equalities and Social Inclusion Implications and risks:

None specifically, although all new arrangements will be drawn up to meet the Council's clear commitment to meeting equalities and diversity requirements.

Legal Implications and risk

These are addressed within the report

Human Resources Implications and risk

There are none

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CHERYL COPPELL
Chief Executive

Background Papers List

Consultation Responses

CONSULTATION ON EXECUTIVE ARRANGEMENTS

Background

The Council's Governance Committee in May approved a consultation exercise to comply with the requirements of the Local Government and Public Involvement in Health Act 2007. Consultation was on the options for new political structures, i.e., Elected Mayor and Cabinet and Leader and Cabinet and the consultation was through Living and the Council's Internet site. The Governance Committee concluded that this would reach all local government electors and other interested persons given the wide distribution of Living to every household and to all publicly accessible buildings, libraries, etc. and various distribution outlets. The consultation opened on the 18th May and closed on the 22nd June 2009. The information and consultation remained on the Council's website during this period.

An explanation of the issues and background was contained on the website and in Living.

A specific email address was set up to allow people to respond in more detail if required, and to request more information. A freepost address was also given and a response form appeared in Living.

The consultation and information was contained in Living which is distributed to 98,000 households, 5,000 businesses and 3,000 other buildings including libraries, doctor surgeries, Council buildings and some schools.

No comments were received in response to the consultation but one e-mail query was responded to.

Responses

75 responses have been received. The preferences expressed were as follows:

	Number
Leader and Cabinet	19
Elected Mayor and Cabinet	<u>56</u>
Total	75

This is statistically insignificant compared to the distribution numbers for Living of 106,000 and an electorate of 179,425. Of the responses received 46 were in response to the online poll and 29 were by way of paper return or e-mail.

Appendix 2

PROPOSALS FOR EXECUTIVE ARRANGEMENTS UNDER THE LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007

1. Introduction

These proposals for Executive Arrangements set out how the London Borough of Havering will take decisions. They comply with the Local Government Act 2000 and the Local Government and Public Involvement in Health Act 2007 and with regulations and guidance made under that Act. They take account of the views of local people. They also take account of the political character of the Borough which has only rarely produced a majority party administration, and which requires a flexibility of arrangements to allow differing political circumstances.

2. Form of Executive

- (1) The Executive is a Leader and Cabinet, consisting of:
 - (a) the Leader of the Council, chosen for a four year term by Council at its Annual Meeting or an extraordinary meeting of the Council called for that purpose; and
 - (b) Between two and ten other Members appointed by the Leader of the Council.
- (2) A Deputy Leader must be appointed by the Leader from amongst the Executive and the term of the office of the Deputy Leader is to be until the end of the term of office of the Leader.
- (3) The Leader may remove the Deputy Leader from office but must appoint another person in his place.
- (4) Cabinet Members may be removed from office by the Leader
- (5) If for any reason the Leader is unable to act or the office is vacant the Deputy Leader must act in his place.
- (6) If for any reason either the Leader or Deputy are unable to act or the office(s) are vacant then the Executive must act in the Leader's place or must arrange for a Member of the Executive to act in his place.
- (7) The term of office may be taken away from the Leader by a majority vote in full Council.
- (8) The delegated functions and responsibilities of individual members of the Executive will be determined by the Leader of the Council.

- (9) The delegated functions of staff of the Council is set out in the Scheme of Delegation within the Constitution

3. Functions and Roles of the Executive

- (1) The Executive:
- (a) leads the Council's community planning process and the search for best value
 - (b) leads the preparation of the Council's policies and budget
 - (c) takes decisions on resources and priorities to deliver and implement the Council's policies and budget
 - (d) is the focus for forming partnerships with other organisations to address local needs
 - (e) has responsibility for all functions of the Council which are not excluded from its remit by Regulations made under Section 13(3) of the Local Government Act 2000
 - (f) has responsibility for "local choice" functions as specified in Attachment 2.
 - (g) delegates functions which are its responsibility to staff of the Council in accordance with the Scheme of Delegation from the Executive to staff.
- (2) Individual members of the Executive may be allocated portfolios by the Leader. A member with such a portfolio in relation to a particular area of the Council's work (in relation to that work):
- (a) shall oversee the development and implementation of policy
 - (b) shall propose an appropriate course of action when a matter comes before the Executive for decision
 - (c) may establish a Panel of Councillors to assist them in drawing up proposals for policy development for consideration by the Executive
 - (d) may bring proposals for policy development before an Overview and Scrutiny Committee or a Panel thereof
- (3) The Leader shall notify the Chief Executive in writing of the allocation of the portfolio to a member of the Executive, and of any change to a portfolio.

4. Role of the Officers

Officer's delegations are set out within the Constitution and amended from time to time by the agreement of Governance Committee and Council.

5. Role of the Council

- (1) All Councillors, acting together as the full Council, have the following roles
 - (a) adopting and changing the Constitution
 - (b) approving the policy framework and the budget
 - (c) adopting the Code of Conduct
 - (d) taking decisions about any matter in the discharge of an executive function where the decision maker is minded to make it in a manner which would be contrary to the policy framework or the budget
 - (e) taking decisions in respect of functions which are not the responsibility of the Executive and which have not been delegated by the Council to Committees or staff
 - (f) appointing the Leader
 - (g) agreeing and amending the terms of reference for Committees
 - (h) adopting a Scheme of Members' Allowances
 - (i) confirming the appointment of Head of Paid Service
 - (j) performing "local choice" functions as set out in Attachment 2
 - (k) dealing with all matters which by law must be reserved to the Council.
 - (l) remove the term of office of the Leader by majority vote in full Council
- (2) (a) "The Policy Framework" means those policies either required by law to be approved by the Council or adopted by the Council as local choice.
 - (a) Children's Services Plan (Children and Young People's Plan)
 - (b) Local Implementation Plan (Transport Plan)
 - (c) Plans and alterations which together comprise the Development Plan
 - (d) Youth Justice Plan
 - (e) Licensing Authority Policy Statement
 - (f) Sustainable Community Strategy

- (g) Corporate Development Plan
- (h) Crime and Disorder Reduction Strategy

(b) Any other matters which are determined as requiring the approval of the Council within the Constitution from time to time.

6. Arrangements for Overview and Scrutiny

The Council will carry out its duty to appoint at least one overview and scrutiny committee by the establishment of eight overview and scrutiny committees. The arrangements in the constitution will be based on the current arrangements which were agreed by Council at its Annual meeting on 21st May 2009.

Areas of Responsibility

Committee	Membership	Area of responsibility
Overview and Scrutiny Liaison Committee	To include the Chairman and Vice Chairman of each overview and scrutiny committee ¹	<ul style="list-style-type: none"> • Oversight of the work programmes of each overview and scrutiny committee, including the resources available to service the programme • Considering the contribution of overview and scrutiny committees to the wider Council agenda • Ensuring overview and scrutiny committees do not duplicate work • Co-ordinating contact with the Executive on behalf of overview and scrutiny committees • Social inclusion
Corporate Overview and Scrutiny Committee	6 councillors, or the number of councillors determined by Council from time to time	<ul style="list-style-type: none"> • Community safety • Customer access • E-government and information communications technology • Finance (although each committee is responsible for budget process that affect its area of oversight) • Human resources • Oversight of best value functions (although each committee is responsible for best value functions in its area of oversight) • Property resources • Social inclusion • Diversity • Councillor call for action

¹ The Council agrees that this committee should be exempt from political balance requirements imposed under section 17(1) of the Local Government and Housing Act 1989.

Governance Committee (Special), 9 September 2009

Committee	Membership	Area of responsibility
Housing Overview and Scrutiny Committee	6 councillors, or number of councillors determined by Council from time to time	<ul style="list-style-type: none"> • Overview of ALMO • Housing Retained Services • Social Inclusion • Councillor call for action
Environment Overview and Scrutiny Committee	6 councillors, or the number of councillors determined by Council from time to time	<ul style="list-style-type: none"> • Environment • Transport • Social inclusion • Regulatory Services • Environmental Strategy • Planning & Building Control • Councillor call for action
Children's Services Overview and Scrutiny Committee	<ul style="list-style-type: none"> • 6 councillors, or the number of councillors determined by Council from time to time • 5 co-opted members • 3 non-voting members representing local teacher unions and professional associations² 	<ul style="list-style-type: none"> • School Improvement • Pupil and Student Services (including the Youth Service) • Strategy and Commissioning • Children's Social Services • Children's Health Services • Social Inclusion • Councillor call for action
Culture and Regeneration Overview and Scrutiny Committee	6 councillors, or the number of councillors determined by Council from time to time	<ul style="list-style-type: none"> • Leisure, art, culture • Social and economic regeneration • Social inclusion • Adult Education • Councillor call for action
Adult Services Overview and Scrutiny Committee	6 councillors, or the number of councillors determined by Council from time to time	<ul style="list-style-type: none"> • Adult Services • Social inclusion • Councillor call for action
Health Overview and Scrutiny Committee	6 councillors, or the number of councillors determined by Council from	<ul style="list-style-type: none"> • Health • Scrutiny of NHS Bodies under the Council's Health Scrutiny function

² The Council invites local teacher unions and professional association representatives to nominate, in each municipal year, three teacher representatives (one primary sector representative, one secondary sector representative and one head teacher representative).

Governance Committee (Special), 9 September 2009

Committee	Membership	Area of responsibility
	time to time	

The Terms of Reference, in the context of their respective areas -

To consider decisions that have been **requisitioned** (see Attachment 1) under the Requisition procedure and, where appropriate, make recommendations on them to the Cabinet

To consider decisions where the policies have been **referred** under the Referral procedure and agree whether any further review is necessary.

To undertake a **monitoring/review role** in terms of budget expenditure, best value reviews, service development plans and performance: the Committees can consult Community Area Forums about specific proposals.

To undertake **service and cross cutting reviews** of policies and including their application and their effect and to report to Council via Cabinet on these reviews.

7. Other features of the arrangements

- (1) The constitution will provide for nine Area Committees with the following terms of reference:

The committees are not required to be politically balanced.

Committee	Membership	Wards included	Purpose
North Romford Area Committee	All councillors from the wards concerned (6 councillors)	<ul style="list-style-type: none"> • Havering Park • Mawneys 	See paragraphs 10.02 (c) to (d)
Harold Hill Area Committee	All councillors from the wards concerned (6 councillors)	<ul style="list-style-type: none"> • Heaton • Gooshays 	As above
Romford	All councillors from the wards concerned (6 councillors)	<ul style="list-style-type: none"> • Brooklands • Romford Town 	As above
Gidea Park Area Committee	All councillors from the wards concerned (6 councillors)	<ul style="list-style-type: none"> • Pettits • Squirrels Heath 	As above
Emerson Park & Harold Wood Area Committee	All councillors from the wards concerned (6 councillors)	<ul style="list-style-type: none"> • Harold Wood • Emerson Park 	As above
Upminster Area Committee	All councillors from the wards concerned (6)	<ul style="list-style-type: none"> • Upminster • Cranham 	As above

Governance Committee (Special), 9 September 2009

Committee	Membership	Wards included	Purpose
	councillors)		
Hornchurch	All councillors from the wards concerned (6 councillors)	<ul style="list-style-type: none">• Hacton• St Andrews	As above
Elm Park & Hylands Area Committee	All councillors from the wards concerned (6 councillors)	<ul style="list-style-type: none">• Elm Park• Hylands	As above
South Hornchurch & Rainham	All councillors from the wards concerned (6 councillors)	<ul style="list-style-type: none">• Rainham• Wennington• South Hornchurch	As above

(b) Delegations

The Council and the Executive will include details of the delegations to area committees in Part 3 of this constitution, including the functions delegated, showing which are the responsibility of the Executive and which are not, the composition and membership of the committees, budgets and any limitations on delegation.

(c) To empower the area committees to undertake the following responsibilities:

1. To consider local issues, consult with local people, and make recommendations to the Council or Cabinet;
2. To be responsible for local highway management decisions, subject to certain limitations within the policies and practices set by the Regulatory Services Committee; and
3. To be responsible for any budgets allocated to them and that these responsibilities be exercised in accordance with the principles of the Rules and Conventions for Area Committees.

(d) To delegate to Area Committees decision making powers incorporating:

1. local highway management matters
2. local environmental improvement budgets – expenditure on capital projects, for the well being of the local community, of any budget that Council may make available for this purpose

(e) That the future process for approving highway schemes be that:

1. Where only one Area is concerned, the Area Committee shall receive a report on initial design of scheme and

(a) approve it in principle for public consultation or, if changes are required to the scheme before it goes to consultation,

delegate approval of them to the Head of Streetcare in consultation with the Chairman of the Area Committee; and

- (b) delegate approval of the final scheme in the light of the results of the public consultation to the Head of Streetcare in consultation with the Chairman of the Area Committee.
2. Where a scheme is set within more than one Area:
- (a) the views of the relevant Area Committees shall be sought on the initial design for public consultation;
 - (b) the Head of Streetcare in consultation with the Chairman of the Regulatory Services Committee and in the light of the views of the Area Committees may approve the scheme for public consultation; and
 - (c) the Head of Streetcare shall approve the final scheme in the light of results of the consultation and in consultation with the Chairman of the Regulatory Services Committee and the Chairmen of the relevant Area Committees.

Area committees: access to information

Area committees will comply with the Access to Information Rules in Part 4 of this constitution.

Agendas and notices for area committee meetings which deal with both functions of the Executive and functions which are not the responsibility of the Executive will state clearly which items are which.

Executive members on area committees

A member of the Cabinet may serve on an area committee if otherwise eligible to do so as a councillor.

Area Committees shall –

- (a) make decisions in respect of traffic matters or (the parameters to be defined) from time to time by the Governance Committee to be recommendation-makers to those taking the decisions;
- (b) be allocated a budget of £5,000 and be delegated authority to spend on minor locally-focused environmental initiatives (on the basis of criteria established by the Governance Committee from time to time).
- (c) be entitled to bid for an allocation from a £45,000 budget held on behalf of Cabinet, such bid to be accompanied by a business case

8. Implementation

Governance Committee (Special), 9 September 2009

It is intended that the new arrangements will come into effect on 9th May 2010 and that a new Constitution to reflect these arrangements will be agreed by Council before that date. The Constitution will encompass all other arrangements for the Executive and the Council and its committees including meetings; delegations; quorum and terms of reference, etc.

9. Transitional Arrangements and Alterations to the Constitution

It should be noted that whilst there are no particular transitional arrangements proposed, amendments to the Constitution are delegated to Governance and full Council with some limited delegations to the Monitoring Officer. The Constitution together with numbers and types of committees, delegations etc., is kept under constant review and alterations to these proposals may be made in the Constitution from time to time in accordance with procedure and the latest version of the Constitution will be adopted prior to the May 2009 implementation date. The Constitution contains provisions for the Chief Executive or Group Director to take decisions on the basis of urgency if it is necessary that action is taken before the appropriate body can meet.

10. Implementation Timetable

Activity	Target Date
Verbal update to Governance Committee on outcome of consultation	July 2009
Special meetings of Governance Committee to decide (taking into consideration the results of consultation) on: <ul style="list-style-type: none">• the form and role of executive, role of authority, arrangements for the operation of overview and scrutiny committees and such other features, involved in proposed executive arrangements:• the extent to which the full council and the executive leader will be responsible for determining the scheme of delegations for functions which are the responsibility of the executive.	9 th September 2009
Special meeting of the Council recommended to adopt the Executive Arrangements as set out in the Proposals	22 nd October 2009 (No later than 31 st December 2009)
Constitution to reflect the new arrangements	No later than 9 th May 2009
As soon as practicable after passing the resolution the local authority must ensure that copies of a document setting out the provisions of the arrangements are publicly available and notice has been published in one	Post decision. The latest being immediately after

or more of newspapers circulating in the area. Note: this is only a statutory minimum publicity requirement. In practice local authorities should achieve this through making their constitution widely available to the public.	31 st December 2009
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11. Best Value and Ethics

(i) Best Value

The Council has considered the extent to which these proposals are likely to assist in securing continuous improvement in the way in which the Council's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

There has been a period of political stability under the Leader and Executive Model adopted in 2002 and the continuation of this Model will enable the Council and the Executive to continue to develop and expand the Model bearing in mind that the legislation requires an alteration from the previous 'weak' Leader Model adopted by this Council to a 'strong' Leader Model.

Any proposed alteration to an Executive Mayor model is unlikely to provide any reduction in terms of costs as both an Executive Mayor and Executive Leader have similar powers under new Executive arrangements and therefore it will be for any Mayor or Leader to choose the number of Cabinet Members. Council will retain the right to set Members' Allowances.

Bearing in mind the statistically low response to the consultation it would appear to be inappropriate to choose a Mayoral model given that it is within the ability of the electorate to petition for a Mayoral model should they so wish.

(ii) Ethics

When developing the proposals for Executive Arrangements, the Council has considered the requirement to ensure that measures for probity and high ethical standards are incorporated in a rigorous and fair way in accordance with the provisions in and under legislation and in accordance with Regulations issued and Guidance issued by the Standards Board for England (now Standards for England). The Council has a fully compliant Standards Committee and Sub-Committees, the terms of reference of which are set out in the Constitution.

(iii) Conclusion

In adopting the Leader and Cabinet model, together with Overview and Scrutiny Committees the Council can be satisfied that the proposals laid out here will continue improvement in transparency

Governance Committee (Special), 9 September 2009

accountability and effective management of the Council's functions, and will continue to meet the duty of delivering continuous improvement and Best Value.

Attachment 1

REQUISITION AND REFERRAL PROCEDURE

Requisition (“call-in”) procedure

- (a) All decisions of Cabinet and individual Cabinet members, and all key decisions taken by staff or area committees, will be notified weekly to all members, and non-Executive members shall be entitled to requisition that decision. Notification will be by the weekly Calendar Brief (or supplementary Calendar Brief) to all members, indicating the latest date for submission of a requisition.
- (b) If the Chief Executive is notified of a requisition of a decision shown on that notification within three working days of the deemed receipt of a decision, then (subject to (g) following) that decision shall not be acted upon but shall be submitted to the next overview and scrutiny committee meeting, or one convened for the purpose, for determination.
- (c) At that meeting, the overview and scrutiny committee may resolve to initiate either of the specific call-in procedures set out in rule 5 of the Policy Framework Procedure Rules or in rule 6 of the Budget Framework Procedure Rules.
- (d) Any requisition submitted under (b) above must be in writing and must be signed by:
 - (i) at least two non-Executive members representing more than one group, or
 - (ii) at least one co-opted member and one non-Executive member.

Additionally, the requisition must give the grounds for the requisition.

- (e) Following the consideration of the matter by members if the requisition submitted under (b) above is upheld, the matter shall be referred to either
 - (i) The Council where the committee considers the matter is contrary or not wholly in accordance with the policy or budgetary framework, or otherwise
 - (ii) The Cabinet
- (f) A requisition under (b) above shall be determined at the committee meeting by simple majority.
- (g) The members may indicate at the time of submitting any requisition that it is “holding” requisition, to permit informal discussion with the Cabinet member as to the merits of the decision. Time shall be of the essence when dealing with “holding” requisitions. A “holding requisition” shall be treated as withdrawn if, eight working days having passed from the publication of the decision, both members have not confirmed by notice in writing to the Chief

Governance Committee (Special), 9 September 2009

Executive that the requisition should be subject to the full requisition procedure provided for in the preceding paragraphs.

- (h) Any requisition may be withdrawn at any time prior to it being disposed of.
- (i) For the avoidance of doubt, “notice given in writing” for the purpose of this Rule includes notice given by fax or by email from an address or number recognised as associated with the member sending it, and shall be regarded as validly signed by both members if either an identical fax or email is received from both of them or one clearly associates him or herself with a submission by the other,

Exception to the call-in (“requisition”) procedure

- (a) The call-in procedure set out above shall not apply where a decision being taken by Cabinet or an individual Cabinet member, or a key decision made by a member of staff or an area committee is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council’s or the public interests. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in.
- (b) The decision making person or body can only take an urgent decision and avoid the call-in procedures after obtaining agreement from the Chairman or in the absence of the Chairman, the vice Chairman of the relevant overview and scrutiny committee that the decision be treated as urgent. If there is no Chairman or vice Chairman of a relevant overview and scrutiny committee, or if the Chairman or vice Chairman of each relevant overview and scrutiny committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.
- (c) Any agreement obtained under this provision should be evidenced in writing.
- (d) The leader will submit quarterly reports to Council on decisions taken by Cabinet or individual Cabinet members, or key decisions made by a member of staff or area committees, in the circumstances set out in rule 17 (exception to the call-in (“requisition”) procedure) in the preceding three months. The report will include the number of decisions taken and a summary of the matters in respect of which those decisions were taken.
- (e) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

Attachment 2

Local Choice Functions

The following functions are specified as local choice functions in schedule 2 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the regulations).

Function	Decision-making body	Membership
1. Any function under a local Act other than a function specified or referred to in regulation 2 or schedule 1 of the regulations	Cabinet	10 councillors
2. Determining an appeal against any decision made by or on behalf of the authority	Adjudication and Review Committee	9 Councillors and 9 independent persons
3. The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools	Adjudication and Review Committee	9 Councillors and 9 independent persons
4. The making of arrangements pursuant to Sections 94(1), (1A) and (4) of the School Standards and Framework Act 1998 (admissions appeals)	Adjudication and Review Committee	9 Councillors and 9 independent persons
5. The making of arrangements pursuant to Section 95(2) of the School Standards and Framework Act 1998 (Children to whom Section 87 applies): appeals by governing bodies	Adjudication and Review Committee	9 Councillors and 9 independent persons
6. Conducting best value reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999	Cabinet	10 councillors
7. Any function relating to contaminated land	Head of Housing & Public Protection	
8. Discharging any function relating to the control of pollution or the management of air quality	Head of Housing & Public Protection	
9. Serving an abatement notice in respect of a statutory nuisance	Head of Housing & Public Protection	
10. Passing a resolution that schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	Regulatory Services Committee	10 Councillors
11. Inspecting the authority's area to detect any statutory nuisance	Head of Housing & Public Protection	
12. Investigating any complaint as to the existence of a statutory nuisance	Head of Housing & Public Protection	
13. Obtaining information under section 330 of the Town and Country Planning Act 1990 about interests in land	<ul style="list-style-type: none"> • Head of Housing & Public Protection • Head of Regeneration and 	

Governance Committee (Special), 9 September 2009

Function	Decision-making body	Membership
	Strategic Planning <ul style="list-style-type: none"> • Head of Development and Building Control • Assistant Chief Executive Legal & Democratic Services • Head of Streetcare 	
14. Obtaining particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976	<ul style="list-style-type: none"> • Head of Development and Building Control • Assistant Chief Executive Legal & Democratic Services • Head of Regeneration and Strategic Planning 	
15. Making agreements for the execution of highways works	<ul style="list-style-type: none"> • Head of Streetcare • Assistant Chief Executive Legal & Democratic Services 	
16. Appointing any individual: <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:</p> <ul style="list-style-type: none"> • the authority • a joint committee of two or more authorities, or <p>(c) to any committee or sub-committee of such a body</p> <p>And the revocation of such appointment</p>	Governance Committee	10 Councillors
17. Making agreements with other local authorities for the placing of staff at the disposal of those other authorities	Cabinet	10 councillors



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	9 SEPTEMBER 2009	5

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: DELEGATION OF POWERS TO THE LONDON ILLEGAL MONEY LENDING TEAM

SUMMARY

To inform the Committee of the work of the London Illegal Money Team that is operated by the London Borough of Tower Hamlets.

To request that Havering delegates powers to enforce and prosecute under the Consumer Credit Act 1974 to the London Borough of Tower Hamlets.

RECOMMENDATIONS

1. To recommend to full Council meeting of 21st October 2009 that the Council, in pursuance of Section 101(1)(b) of the Local Government Act 1972, Section 19 of the Local Government Act 2000 and Regulation 7 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 delegates to the London Borough of Tower Hamlets:
 - (A) Enforcement of Parts III and IV of the Consumer Credit Act 1974, and
 - (B) the enforcement functions and powers under Parts XI and XII of the Consumer Credit Act 1974, and
 - (C) the power of prosecution under section 222 of the Local Government Act 1972

all in connection with money-lending or the activities of money lenders and/or their agents and associates, and the laundering of the proceeds of illegal money-lending.

2. That Part 3, Section 2.3 of the Constitution (functions exercised by another authority on behalf of this authority) be amended accordingly
3. That the Assistant Chief Executive be authorised to agree the terms of the delegation agreement with the London Borough of Tower Hamlets.
4. To agree that the Council will enter into a joint Cross Border Working Protocol with the London Borough of Tower Hamlets in respect of illegal money lending.
5. To note that the Chief Executive will exercise her powers within Part 3, Section 3.1.8 of the Council's Constitution to temporarily delegate the above powers to the London Borough of Tower Hamlets to allow an investigation to proceed prior to the full Council meeting.

REPORT DETAIL

1. The London Illegal Money Lending Team was officially launched in January 2008 and is one of a number regional teams which are funded jointly by HM Treasury and The Department for Business Innovation and Skills (BIS). The Team's organisation and remit are based on projects that have already been running in other areas such as Birmingham. The London Borough of Tower Hamlets facilitates and services the Team.
2. The project is focussing on illegal money lenders; those not licensed by the Office of Fair Trading. These lenders, often known as loan sharks, prey on the vulnerable, charging extortionate interest rates. Victims often live in fear, resulting in ill health and other social problems, leading possibly into a criminal lifestyle to keep up with payments. Information on illegal lenders rarely comes to the attention of Trading Standards. This is in part due to fear, but sometimes there is a perception that these lenders are the only source of credit for those without an income. They may also feel a local authority would not have the ability to deal with such crimes.
3. In addition to the Consumer Credit Act 1974, the London Illegal Money Lending Team uses a wide range of other legislation to deal with illegal money lenders and their criminality, which includes fraud and violence.
4. The Illegal Money Lending project is a benefit to all Londoners, but particularly the vulnerable. It complements the aims of Havering's Sustainable Community Strategy of reducing poverty, improving safety and building confidence within the community.

5. Delegation of powers under the Consumer Credit Act 1974 to the London Illegal Money Lending Team would speed up enforcement action against unlicensed lenders within Havering. It would enhance confidentiality of operations and help avoid Havering officers being placed in possibly dangerous situations. It would save Havering's resources as it is envisaged that Havering staff would not be involved in operations, which are funded by the Government.
6. The project is a key part of the Government's financial inclusion agenda, one of the aims of which is to help people gain access to affordable credit. To this end, the London Illegal Money Lending Team focuses on providing support to victims as well as on securing convictions against illegal lenders.
7. Victims learn about the project through advice agencies, posters and some media activity. A hot line number has been set up to report incidents. Victims are offered protection. Likewise the officers involved in the investigations are protected from possible offenders through a level of security not normally available to local authority enforcement officers.
8. No formal needs assessment has been carried out in Havering. However it is generally the case that advice agencies across the UK have noticed a great increase in the number of queries concerning debt.
9. 20 London local authorities have already entered into similar partnership arrangements; the service will be advertised locally as being provided by the London Illegal Money Lending Team.
10. The London Illegal Money Lending Team need to have the delegated authority before the next meeting of full Council in order to carry out investigations in the borough into current complaints. It is proposed that the Chief Executive uses her powers under Part 3, Section 3.1.8 of the Council's Constitution to temporarily delegate the necessary powers, viz.

The Chief Executive or any Group Director is authorised to discharge the relevant functions of the Council where.....as a matter of it is necessary that action should be taken before the date of a meeting of a body in whom the power of decision rests.

Financial Implications and risks:

If delegated authority is given to the London Borough of Tower Hamlets Illegal Money Lending Team to enforce the provisions of the Consumer Credit Act 1974 within Havering this will be at no cost to Havering as the work is Government funded.

Legal Implications and risks:

This is a proposal to delegate powers to the London Borough of Tower Hamlets to enforce the provisions of the Consumer Credit Act 1974 within Havering in connection with money lending, or the activities of money lenders, and/or their agents and associates. The delegation will also include the power to institute criminal proceedings under s222 of the Local Government Act 1972.

The Council will still be able to take action itself if it needs to, although this would be done in consultation with Tower Hamlets. This will be made explicit in the delegation agreement.

The London Borough of Tower Hamlets when conducting prosecutions relating to this borough will make decisions in accordance with its Enforcement Policy and the Code for Crown Prosecutors.

The exercise of powers under the Consumer Credit Act 1974 is an executive function. Regulation 7 of the Local Authorities (Arrangements for the Discharge of Functions) Regulations 2000 gives the Executive the power to arrange for its functions to be carried out by the executive of another body.

The London Borough of Tower Hamlets has prepared a Protocol for Cross Border Working. This sets out the principles of how the London Borough of Tower Hamlets will conduct investigations, institute prosecutions and keep the London Borough of Havering updated on the progress of the project. It is proposed that this protocol agreement will be signed by the Group Director, Culture & Community.

It is proposed that the arrangement between the London Borough of Tower Hamlets and the London Borough of Havering will remain in place, unless the delegated function is rescinded in writing. Under the terms of the protocol agreement the London Borough of Havering will agree not to withdraw the delegated power unless it considers there is a sound reason to do so.

Human Resources Implications and risks:

No Havering staff will be involved in the investigations, ensuring that they are not exposed to any risk.

Equalities and Social Inclusion Implications and risks:

An equalities impact assessment on this proposal has been carried out. The main finding was that the proposed delegation was likely to have a positive impact on all groups, particularly the vulnerable.

Alternative options considered:

If delegated authority is not given, the Illegal Money Lending Team would still investigate issues arising in Havering. However, they will need to call upon Havering Public Protection staff to assist with entry warrants and searches and Havering would take any prosecutions. It is likely the offences will go beyond those of the Consumer Credit Act and include crimes of violence and threat, money laundering and fraud. The Illegal Money Lending project would be able to assist with legal advice but other prosecution costs would be Havering's responsibility.

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CHERYL COPPELL
Chief Executive

Background Papers List

- Legal opinion on delegated powers
- Draft protocol for cross border working
- Draft instrument of delegation
- Equality impact assessment



MEETING	DATE	ITEM
GOVERNANCE COMMITTEE	9 SEPTEMBER 2009	6

REPORT OF THE CHIEF EXECUTIVE

SUBJECT: POLICY FOR THE SUPPLY AND USE OF PERSONAL COMPUTERS, LAPTOPS, RSA TOKEN AND COMMUNICATION EQUIPMENT BY MEMBERS – consideration of a modification: faxes

SUMMARY

This report sets out detail around the Council provision of fax machines and telephone lines for them to enable Members to consider whether the previously agreed policy should be modified.

RECOMMENDATION

That the Committee decide whether or not to modify the current policy.

REPORT DETAIL

1. A couple of Members who do not use a pc or laptop or have an RSA token have made oral representations about the current policy on fax machines and their costs. This report sets out the policy agreed by the Committee in March and invites Members to decide whether they wish to change it.
2. **Agreed Policy**
 - 2.1 Under paragraph 2.1 –
 - 2.1 The Council will provide Members with a capability of working from home. This will consist of either

- 2.1.1 A laptop with docking station and separate mouse, a printer and a Havering linked broadband business line to connect the laptop to the Council's network (for which the Council will meet the cost for initial installation) or, alternatively,
- 2.1.2 An RSA token for use with Members' own IT equipment.

2.2 Under paragraph 8.1

New or replacement Fax machines are not provided. The Council does not meet the cost of running Fax machines or any telephone line that they use. For Council-provided machines the Council will provide toners and paper through Democratic Services.

- 2.3 It will be seen from the above then that the Council funds a broadband connection for a member's home connected to a Council laptop or Member's pc. The Council does not, however, pay for telephone lines for use by telephones and/or fax machines.
- 2.4 The meeting of this Committee which agreed the current policy and arrangements noted that, on approval of those arrangements, it was intended that the Head of Business Systems would:
 - **Remove** any second lines in use by those Members who had more than one business line into their homes
 - **Disable** outgoing calls on business data lines (but continue to allow incoming calls at no cost to the Council)
 - **Disconnect** Members' faxes connected to data lines, leaving such Members free to move their faxes to telephone lines they provide themselves.

The above action was subsequently taken .

3. Current Position

- 3.1 While the Council no longer provides fax machines for Members, there are some who were provided with them before the policy came into effect. Consumables (print cartridges and paper) continue to be supplied but machines are neither repaired or replaced.
- 3.2 One Member who used to have a Council pc and data line has now returned his equipment. The data line has been enabled to receive faxes but the Member cannot use the Council-funded data line to send faxes.
- 3.3 A second Member has never had a data line installed and has requested the provision, by the Council, of a fax and a telephone line to send and receive faxes.

- 3.4 In accordance with policy neither of the Members have been given the provision they seek. There are seven Members who do not have a Council pc, laptop or RSA token: none of these Members use a pc so far as is known.

4. Matters to be taken into account

- 4.1 At present Members who do not fax material to officers for attention (e.g. a constituent's letter or a note to a member of staff), dictate the material over the telephone to a member of staff in Member Support. This activity depends heavily on the availability of staff and, of course, means that during these dictation periods the members of staff cannot do anything else. It would certainly be more cost effective in this context if Members faxed material to Members Support or, indeed, sent material direct to the intended destination (eg an item of casework in respect of a service department). Members Support do sometimes struggle with workloads and anything sensible to reduce the call on their services at peak times needs to be considered carefully.
- 4.2 The Corporate Overview and Scrutiny Committee Topic Group, "The Paperless Councillor" (which might well be making recommendations to this Committee and Cabinet as appropriate shortly) has looked at ways of reducing paper being handled by Members. In brief, Members need an incentive to reduce paper consumption and their ability to use IT to access material could possibly be one such an incentive: Providing Members with faxes and the use of paper that that entails would seem to run contrary to the spirit of the Topic Group's current work and aspirations.
- 4.3 Notwithstanding the above it would appear that for the seven Members mentioned, the availability of Council-funded fax machines and lines paid for by the Council could well increase their effectiveness as Members and thus the public's perception of Councillors' and the Council's performance. An alternative could be that members be encouraged to make their own arrangements for the provision of faxes and telephone line.
- 4.4 Accordingly the Committee is asked whether it wishes to modify the current policy as described so that Members who are not issued with a laptop or RSA token have, as a further alternative, a Council funded fax and telephone line for the fax.

5. Financial Implications and risks:

The cost of installing a new fax is £100 with on-going running costs of approximately £300 per annum. The council would need to meet the

cost from the members ICT budget or from the contingency if a modification were to be agreed and taken up by members.

6. **Legal Implications and risks** - None
7. **Human Resources Implications and risks** - None
8. **Equalities and Social Inclusion Implications and risks** – The current policy treats all Members the same: this revision to the policy would treat Members broadly according to their particular needs.

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Background Papers List

None