



GOVERNANCE

RECOMMENDATIONS

- 1.1 That Council determines, in principle, whether it wishes to adopt either:
 - a leader and cabinet, or
 - a directly elected mayor and cabinet

model of executive arrangements and authorises appropriate consultation with the public and stakeholders.
- 1.2 That Council decides whether it wishes to consult appropriate persons over a move to whole Council elections from May 2011.
- 1.3 That a special Governance Committee, comprising the Leaders and Deputy Leaders of each political group, and chaired by the Leader of the Council, be established to agree consultation arrangements and oversee the process leading to final decisions.
- 1.4 That a special meeting of the Council be held on 15 December 2010 to take final decisions on the matters referred to in recommendations 1.1 and 1.2.
- 1.5 That Council determines that, in the light of the outcomes of the review of neighbourhood management, approved by the Council Cabinet on 16 March 2010, there is no need for a Community Governance Review.

SUPPORTING INFORMATION

- 2.1 This report asks the Council to take decisions about the following provisions of the Local Government and Public Involvement in Health Act 2007:
 - The future Executive Leadership Model of the Council
 - The future electoral cycle of the Council
 - Community Governance arrangements

Executive Leadership Model

- 2.2 The Local Government Act 2000 (the 2000 Act) radically changed the decision-making structures of English local government. Central to these reforms were the clear separation between Executive Councillors, in the Cabinet, and the majority of Members. The Act offered a choice of three specific executive models for local authorities:

- Mayor and Cabinet
- Leader and Cabinet
- Mayor and Council Manager

- 2.3 Derby City Council, in common with the majority of local authorities, adopted a Leader and Cabinet model. Under the Council's current constitutional arrangements, the Leader is elected annually by Full Council.
- 2.4 In its White Paper "Strong and Prosperous Communities" the previous Government set out the case for further reforms to local government leadership arrangements. It considered that most local authorities had adopted a cautious approach to change, with only a small number introducing elected mayors. The White Paper argued that a Leader and Cabinet model which did not authorise the Leader to act alone or to choose his or her own Executive hampered decision-making and that a Leader facing annual re-election might find it hard to take and see through essential decisions which might be unpopular in the short term. An extract from the White Paper is attached as Appendix 2 – it should be noted that the Government did not proceed with the third option of a directly elected executive referred to in the extract.
- 2.5 Consequently, the Local Government and Public Involvement in Health Act 2007 (the 2007 Act) requires changes to the executive leadership of Councils, giving only two options:
- a Mayor and Cabinet Executive, or
 - a Leader and Cabinet Executive.

In both options, all executive powers are placed in the hands of one individual, who would, in the normal course of events, serve for a four year term. To encourage more Councils to have a directly elected Mayor, the 2007 Act has repealed the requirement of the 2000 Act for a referendum to take place before a shift to an elected mayor form of leadership (although Councils may still choose to hold a referendum for this purpose).

Leader and Cabinet

- 2.6 Under this option, which is sometimes called the 'Strong Leader' model the Council appoints the Leader for a fixed term of four years. The Leader then appoints the Cabinet (within the statutory minimum and maximum of three and ten Members). The Leader is vested with all of the authority's Executive functions, and may discharge them personally, or delegate them to the Cabinet, a committee of the Cabinet, individual Members of the Cabinet or officers. He or she also decides what (if any) executive functions are delegated to local committees, or even to ward Councillors for some decisions.
- 2.7 However, if the Council decides to continue with its present arrangements of "partial-council elections", then the Leader's term of office will end when the Council holds its first annual meeting after the Leader's normal day of retirement as a Councillor. A member elected Leader with only two years left of his / her term as a Councillor will therefore be elected as Leader for a two year period.
- 2.8 The Council may also provide within its executive arrangements for the Council to remove the Leader by resolution. There is no requirement for such a provision to be made but, in view of the Council's present political make-up, this would be

advisable. Indeed, the Council's current Constitution provides for the Leader to be removed by resolution of the full Council. Under the new arrangements, since it will be the Leader who appoints the Cabinet members, it will be the Leader who can remove them.

Directly Elected Mayor and Cabinet

- 2.9 The alternative form of executive arrangements is for the Council to hold elections for a directly elected Mayor, who would hold office for a term of four years. The Mayor would appoint their own Cabinet and allocate all executive functions in a similar way to a Leader. The main difference is that an elected Mayor has a direct mandate from the electorate. This model would have implications for the current "Civic" functions of the existing mayoral position.

Timetable

- 2.10 The last day that the Council can continue to operate its current arrangements is the third day following the May 2011 elections, but it must pass a resolution deciding on the form of its new executive arrangements before 31 December 2010. The Council must pass this resolution at a meeting specifically convened for the purpose and the Council is required to agree a timetable with respect to the implementation of the proposals.
- 2.11 After the consultation referred to below, the Council is required to draw up its proposals and must:
- 1) Secure that copies of the document setting out the proposals are available at its principal office for inspection by members of the public at all reasonable times, and
 - 2) Publish in one or more newspapers circulating in its area a notice which:
 - (a) states that the Council has drawn up proposals
 - (b) describes the main features of the proposals
 - (c) states that copies of the documents setting out the proposals are available at the Council's principal office at such times as may be specified, and,
 - (d) specify the address of the principal office.
- 2.12 Proposals must include a timetable for their implementation and give details of any transitional arrangements. The Council is also required to consider the extent to which the proposals, if they are implemented, would be likely to help to secure continuous improvement in the exercise of its functions taking account of economy, efficiency and effectiveness.

Consultation

- 2.13 Before drawing up formal proposals, the Council is required to take reasonable steps to consult its electors and other interested persons in its area upon its proposed new arrangements. Statutory Guidance states that, this consultation, should:
- represent each of the forms of political management arrangement in a fair and balanced way;

- provide an opportunity for consultees to express a preference for any of those forms of arrangement;
- provide an opportunity for all local electors for, and other interested parties in, the local authority's area to respond to the consultation; and
- use both qualitative and quantitative methods of consultation.

It is suggested that a special committee be established, comprising the Leaders and Deputy Leaders of each political group, to agree consultation arrangements and oversee the process leading to final decisions and that a special meeting of the Council be arranged for 15 December 2010; this would allow sufficient time for adequate consultation, to consider the results of that consultation and to pass the formal resolution.

New Government's Proposals

- 2.14 The new Government has published a number of proposals affecting local authorities. Among these are the creation of elected mayors for the 12 largest English cities (with the possibility of this being extended to other cities in the future) and providing a power for councils to return to the former committee system. These changes will require amendments to legislation.

Electoral Cycle

- 2.15 In January 2004, the Electoral Commission published a report following its review of local government election cycles. The review followed a consultation exercise and research into public opinion. The Commission's report concluded:

- "We consider that the pattern of local election cycles in England is unnecessarily complex and confusing, and that there is a strong case for simplification of the current arrangements. We note the important debate on the merits of diversity of practice in local government. However, we can see no good reason why one of the fundamental elements of local democracy should vary from area to area."
- "Having taken into account the evidence and arguments presented during our consultation process, we have concluded that a pattern of whole council elections for all local authorities in England would provide a clear, equitable and easy to understand electoral process that would best serve the interests of local government electors."

The Commission formally recommended to the Secretary of State that:

- "the cycle of local and sub-national government elections in England should follow a clear and consistent pattern, within and across local authorities. Individual authorities should not be permitted to 'opt out' of this pattern, and any newly created authorities should also follow the same pattern."
- "each local authority in England should hold whole council elections, with all councillors elected simultaneously, once every four years."

- 2.16 Since 1979, Derby City Council has had a system of elections by thirds. This means that a third of councillors retire each year on a rotational basis. Councillors are elected for four years, so there is a fallow year in year 4 when county council elections take place.

- 2.17 All metropolitan district council and some unitary councils elect by thirds County Councils, London borough councils, some unitary councils and most shire district councils have whole council elections every four years. Seven district councils have elections by halves in Derbyshire only Amber Valley Borough Council¹ and Derby City Council have elections by thirds – all of the others have whole council elections. Leicester and Nottingham have whole council elections. The next whole council elections for shire districts and unitary councils are in May 2011.
- 2.18 A change in the electoral cycle – from thirds to whole council – can now be brought about through the passing of a resolution under Section 32 of the 2007 Act. The Act lays down the following conditions for such a resolution:
- It must be passed by not less than two thirds of the Members voting on it, at a meeting of the full Council specifically convened for the purpose.
 - Before passing the resolution, the Council must take reasonable steps to consult such persons as it thinks appropriate.
 - The resolution must be passed in a ‘permitted resolution period’. For Derby, this would be no later than 31 December 2010 for the first whole Council elections to take place in May 2011. Thereafter, a resolution may only be passed every fourth year, for example by 31 December 2014 for a May 2015 start.
- 2.19 A Council that chooses to change from elections by thirds to whole council elections may resolve to change back to a thirds system at the next ‘permitted resolution period’.
- 2.20 The advantages of elections by thirds are generally seen as:
- 1) Allowing electors greater influence over local decision-making through more regular opportunities to give their verdict on the authority’s policies and performance.
 - 2) Local choice of electoral cycle enables authorities to choose a cycle which reflects the character and needs of the area.
 - 3) There is less likelihood of a major swing caused by e.g. a local controversial issue or the unpopularity of the national government.
 - 4) Political parties have fewer candidates to select.
- 2.21 The advantages of whole council elections are usually summarised as:
- 1) A clearer focus on local democracy and improved turnout if the electorate can make a real difference to who runs the Council. There is also some evidence that the electoral system would be better understood by voters if there were a uniform pattern of four yearly elections.
 - 2) Relative certainty over the political management of the Council for a four year period, with either one political group in overall control or longer-term

^{*} Amber Valley BC have carried out some consultation under the 2007 Act with a view to moving to whole council elections from May 2011.

power-sharing arrangements. This leads to better policy and financial planning if the parties do not have to keep their eyes on imminent elections.

- 3) More opportunity to develop the community leadership role of councillors if there is a stable make-up of ward (neighbourhood) representation.
- 4) A better link with the new Executive Leadership models, referred to above, where the Leader or Elected Mayor serves a four year term of office.
- 5) A move from elections by thirds to whole council elections would save about £350,000 over four years at May 2008 spending levels. This figure, which excludes any by-elections, will rise as the demands of electoral legislation increase e.g. rising numbers of postal voters with more complex procedures.

2.22 As consultation must precede a formal resolution of the Council (by 31 December 2010) it is suggested that Council expresses its view at this meeting. If that view is that the Council should move to whole council elections from May 2011, then consultation on the electoral cycle could be run in tandem with consultation on executive arrangements.

Community Governance Reviews

2.23 The 2007 Act has codified legislation on the creation of parishes. It gives the power to all principal councils (urban and rural) to conduct community governance reviews of all or part of their areas. Community Governance reviews of all or part of the local authority's area may also be triggered by a petition from local electors, the number of electors being:

No of electors in the area	No of electors signing petition to require review
Fewer than 500	50%
Between 500 and 2500	At least 250
More than 2500	10%

2.24 Section 93(5) of the 2007 Act states that 'In deciding what recommendations to make [in the community governance review] the principal council must take into account any other arrangements... that have already been made or that could be made for the purposes of community representation or community engagement in respect of the area under review'. Statutory guidance refers to neighbourhood forums as possible alternative structures to parishes.

2.25 The Derbyshire Association of Local Councils has written to the Chief Executive seeking the Council's views on community governance in Derby.

2.26 In 2008, the Derby Community Safety Partnership commissioned research by the DeMontfort University, Leicester into Derby's neighbourhood working including neighbourhood boards and forums. Extensive consultation into the results of the

De Montfort study took place in 2009 and the Council Cabinet took decisions on the way forward at its meeting on 16 March 2010. It is considered, therefore, that the Council has effectively conducted a community governance review of the city and that, barring any petition, no further action is required.

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Background papers:	Letter from the DALC
List of appendices:	Appendix 1 – Implications Appendix 2 – Extract from the Local Government White Paper 'Strong and Prosperous Communities'.

IMPLICATIONS

Financial

- 1.1 Savings from a move to whole council elections are estimated to be £350,000 over four years at May 2008 spending levels. Following the General and Local Elections on 6 May 2010, the number of postal voters in Derby has grown from about 24,000 to about 32,000. This will increase postal voting costs at annual council elections by about 30%.

Legal

- 2.1 The Local Government and Public Involvement in Health Act 2007 has introduced changes to the present executive arrangements and the relevant implications are referred to in section 2 of this report. The changes will require amendments to be made to the Constitution in due course.
- 2.2 The implications for the electoral cycle and community governance reviews are detailed in the report.

Personnel

- 3.1 A change to the authority's executive arrangements may require a review of office support structures.
- 3.2 A move to whole council elections would create capacity within the Electoral Service team but this would be taken up with the proposed system of individual registration of electors introduced by the Political Parties and Elections Act 2009.

Equalities Impact

- 4.1 None directly arising.

Corporate Objectives and Priorities for Change

- 5.1 Issues relating to the political leadership of the Council form part of the Corporate Governance Action Plan.