

North Tyneside Council Report to Council Date: 21 January 2016

ITEM 8

Title: Future Governance
Arrangements for the
Authority

Portfolio(s): Elected Mayor

Cabinet Member(s): Mrs N Redfearn

Report from Service

Area: Law and Governance

Responsible Officer: Vivienne Geary, Head of Law and
Governance

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Wards affected: All

PART 1

1.1 Executive Summary:

At its Extraordinary meeting held on 23 November 2015, Cabinet considered a report on future governance arrangements for the Authority and agreed to request Council to hold a referendum on whether to retain the current Elected Mayor and Cabinet model of governance in North Tyneside and authorise the carrying out of a public engagement process on the alternative forms of governance available to the Authority if the current Mayor and Cabinet model of governance is not retained.

This report provides feedback on the outcome of the public engagement process and requests the Council to decide if it wishes to agree to hold a Referendum and if so to determine which one of the two alternative models of governance available to the Authority will be included on the ballot paper as an alternative to the current Elected Mayor and Cabinet model.

1.2 Recommendation(s):

It is recommended that Council:

- (1) note the outcome of the public engagement process on the alternative forms of governance available to the Authority if the current Mayor and Cabinet model is not retained; and
- (2) decide if it wishes to undertake a referendum on whether to retain the current Elected Mayor and Cabinet model of governance in North Tyneside or replace it with an alternative governance model and, if it agrees to do so, to:
 - (a) approve the referendum being held on 5 May 2016;
 - (b) determine which one of the two alternative forms of governance available to the Authority – either the executive leader and cabinet model or the committee system model (which includes a leader) - will be provided to voters in the Referendum as an alternative to the current Elected Mayor and Cabinet model; and

- (c) authorise the Head of Law and Governance to prepare the proposal documents for the potential changes in its governance arrangements in the light of the alternative form of governance agreed for inclusion on the ballot paper at (b) above as an alternative to the current Elected Mayor and Cabinet model.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 14 December 2015.

1.4 Council Plan and Policy Framework

This report has no direct relevance to the Our North Tyneside Plan priorities.

1.5 Information:

Background

1.5.1 North Tyneside Council adopted an elected mayor and cabinet form of governance from May 2002 following a Referendum held on 18 November 2001.

1.5.2 For a substantial period of time the Elected Mayor has maintained her support for the holding of a Referendum on whether the current Elected Mayor and Cabinet Model of governance within the Authority should continue, or whether residents would prefer a change from this model.

1.5.3 The Local Government Act 2000 (as amended by the Localism Act 2011) allows local authorities to change the form of governance arrangements under which they operate. However the legislation requires that a local authority must operate one of the following forms of governance:

- (a) Executive arrangements (must be either an Elected Mayor and Cabinet; or an Executive Leader and Cabinet); or
- (b) a committee system (including a leader).

1.5.4 In certain circumstances other novel forms of governance may be permitted; these are subject to a period of consultation with and formal agreement of the Secretary of State. It is of note that, to date, no such alternative models of governance have emerged and been agreed by the Secretary of State as required.

The Decision to undertake a Referendum

1.5.5 As part of the process of any change from the current governance model a Referendum is required. The requirement of a Referendum is necessary as the Authority's current governance model was adopted following a referendum. It is the responsibility of Full Council to determine whether to undertake such a Referendum and also to determine the form of governance to be introduced as the alternative in the event that residents reject the current model. The alternative model must be clearly identified on the Referendum ballot paper.

1.5.6 Council is now requested to decide:

- whether to hold a referendum on the current Elected Mayor and Cabinet form of governance; and if it agrees to do so:
- to approve the referendum being held on 5 May 2016;
- to determine which one of the two alternative forms of governance available to the Authority – either the executive leader and cabinet model or the committee system model (including a leader) - will be provided to voters in the Referendum as an alternative to the current Elected Mayor and Cabinet model; and
- to authorise the Head of Law and Governance to prepare the proposal documents for the potential changes in its governance arrangements in the light of the alternative form of governance agreed for inclusion on the ballot paper as an alternative to the current Elected Mayor and Cabinet model.

1.5.7 If the Council resolves to hold a referendum, the question to be put to the electorate is prescribed in law and can only be one of the following:

a) How would you like North Tyneside to be run?

By a Mayor who is elected by voters. This is how the Council is run now.

or

By a leader who is an elected councillor chosen by a vote of the other elected councillors. This would be a change from how the Council is run now.

b) How would you like North Tyneside to be run?

By a Mayor who is elected by voters. This is how the Council is run now.

or

By one or more committees made up of elected councillors. This would be a change from how the Council is run now.

1.5.8 It is proposed that, if agreed by the Full Council, the Referendum will take place on 5 May 2016. There is an opportunity to undertake the Referendum within current budget provision by holding it on the same day as the combined Local and Police and Crime Commissioner elections. The combining of the Referendum with the Local and Police and Crime Commissioner elections provides the most cost effective method of undertaking a Referendum particularly when compared against running a Referendum as a stand alone event. Other than the elections in May 2016 there are no other planned elections available to combine the Referendum with before the process to undertake the next Mayoral elections in May 2017 begins.

Engagement

1.5.9 An engagement process was carried out during the latter part of November and in early December 2015 with the intention of informing the decision of Full Council on which alternative model of governance will be provided to the current Elected Mayor and Cabinet model in the referendum.

1.5.10 Consultation/engagement has been undertaken with residents, staff involved in delivering council services (including those within our business partners), North Tyneside

businesses, our formal partners including NTSP, health, voluntary and community centres. The following methods of delivery have been utilised:

- Factual information, including frequently asked questions;
- Residents Panel event;
- The Authority's website;
- Online survey;
- Digital platforms including via the Authority's social media sites (Facebook and Twitter);
- An information leaflet distributed to public buildings, including Customer First Centres, libraries and the council's headquarters; and
- Using the media to share awareness of the Referendum and the opportunity for residents to have their say on future governance.

Further external consultation will be undertaken via a referendum should Full Council wish to pursue this option.

1.5.11 Details of the outcome of the engagement process are set out in Appendix 1 to the report.

Alternative Models of Governance

1.5.12 Further details of the two alternative models of governance – the executive leader and cabinet system and the committee system (including a leader) – are set out in Appendix 2 to this report.

The Procedure to change the Form of Governance

1.5.13 The process the Authority is required to take for changing the current form of governance comprises three broad stages:

Stage 1

Full Council agrees the alternative form of governance in the event that the residents of North Tyneside choose not to retain the current Mayor and Cabinet model of governance and agrees draft proposals for potential change in its governance arrangements (at the Council meeting on 21 January 2016). The draft proposals must subsequently be advertised and made available for inspection by the public and must specify:

- the date any change in governance arrangements would come into effect;
- the main features of the potential change; and
- where copies of the document setting out the provisions of the arrangements that are to have effect can be found.

Stage 2

The referendum is held on 5 May 2016 combined with local elections and the election of the Police and Crime Commissioner.

Stage 3

If the referendum supports the proposals for change in the Authority's governance arrangements a resolution of Full Council must be passed within 28 working days of the date of the referendum (by 14 June 2016) to the effect that the Authority intends to

change its governance arrangements. The making of the resolution must be advertised in the local press as soon as practicable.

1.5.14 If a change in the model of governance is supported by the referendum, this change will take effect at the end of the Elected Mayor's current term of office in May 2017. In the event that the outcome of the referendum is to support retention of the current Elected Mayor and Cabinet model of governance these arrangements will continue and the next Mayoral election will take place on 4 May 2017.

1.5.15 If, following a referendum, the current governance arrangements are retained, the legislation providing for changes in local authority models of governance does not permit any further referendum on whether to change from an Elected Mayor and Cabinet model for a period of 10 years; i.e. not before 2026.

1.6 Decision options:

The following decision options are available for consideration by Council:

Option 1

- (1) to agree to undertake a referendum to determine if the electors of North Tyneside wish to retain the current Elected Mayor and Cabinet model of governance; and
- (2) to determine which one of the two alternative forms of governance available to the Authority – either the executive leader and cabinet model or the committee system model (including a leader) - will be provided to voters in the Referendum as an alternative to the current Elected Mayor and Cabinet model.

Option 2

To defer a decision to a later date. If the decision to undertake the referendum is deferred, Officers would undertake further work and consider other options for change.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Option 1 is recommended for the following reasons:

1. It fulfils the commitment of the Elected Mayor to seek residents' views on whether to retain the Elected Mayor and Cabinet form of governance;
2. It co-ordinates a Referendum with the forthcoming Local and Police and Crime Commissioner elections in May 2016. This is a cost-effective method of undertaking a Referendum.

1.8 Appendices:

Appendix 1: feedback from engagement

Appendix 2: details of alternative models of governance

1.9 Contact officers:

Vivienne Geary, Head of Law and Governance: 0191 643 5339
Stephen Ballantyne, Lawyer Specialist – Governance and Employment: 0191 643 5329
Dave Brown, Democratic Services Manager: 0191 643 5358
Alison Campbell, Senior Business Partner: 0191 643 7038

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- (1) Report to Cabinet 23 November 2015
- (2) Feedback from engagement process (attached as Appendix 1)
- (3) Local Government Act 2000 (as amended)

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

To run the Mayoral Referendum as a standalone election would cost in the region of £0.230m. Following contact with the Cabinet Office, it has been confirmed that if the Referendum is combined with the Police and Crime Commissioners (PCC) and the Local elections due to be held on 5 May 2016 the cost will be shared equally between the different electoral processes. The Authority will pay two thirds of the overall cost for the Referendum and Local elections and the Cabinet Office would pay the remaining third for the PCC election. There are additional costs in relation to ballot papers and separate counts; however, this expenditure would be contained within the existing elections budget.

2.2 Legal

The legal implications of this report are set out in the body of the report.

2.3 Consultation/community engagement

Details of the engagement process are set out in the body of the report, and in Appendix 1 to the report.

2.4 Human rights

There are no human rights issues directly arising from this report.

2.5 Equalities and diversity

There are no equality and diversity issues directly arising from this report.

2.6 Risk management

There are no specific risk management implications directly arising from this report.

2.7 Crime and disorder

There are no crime and disorder implications directly arising from this report.

2.8 Environment and sustainability

There are no environment and sustainability implications directly arising from this report.

PART 3 - SIGN OFF

- Deputy Chief Executive X
- Head(s) of Service X
- Mayor/Cabinet Member(s) X
- Chief Finance Officer X
- Monitoring Officer X
- Head of Corporate Strategy X

Outcome of Engagement on Future Governance Arrangements for North Tyneside Council

The engagement programme included a web based questionnaire and discussions with the Residents Panel.

40 online questionnaires were completed and discussion at the Residents Panel was attended by 16 members of the Panel.

Online Questionnaire

The wording of the questionnaire was as follows:

If North Tyneside Council decides to hold a referendum on governance arrangements then the Council will also need to decide which alternative governance model to offer residents on the ballot paper.

Once you've read the supporting information on the Council's website, please let us know which alternative you'd like to see on the ballot paper.

Which option do you think should be the alternative model of governance offered at a referendum?

- **Leader and Cabinet**
- **Committee System**

Of the 40 completed questionnaires, 19 were in favour of Executive Leader and Cabinet as the alternative model of governance and 21 were in favour of a Committee System (which would include a leader) as the alternative model.

Residents Panel

The purpose of the Residents Panel event held on 3 December 2015 was to discuss which alternative option to the current Elected Mayor and Cabinet system should be put on the ballot paper in the event that a referendum is held in May 2016.

The Panel received a brief presentation, highlighting the information that was contained in a briefing note that had previously been circulated to Panel members. There was a question and answer session, following which the Panel members split into two groups, each facilitated by officers, and each group was asked the following question:

Which option do you think should be the alternative model of governance offered at a referendum:

1. Executive Leader and Cabinet?
2. Committee system (which would include a leader)?

The Panel members in each group were then asked to vote on their preferred option, and then asked to give their reasons for choosing

The key messages from the discussion with the Residents Panel were as follows:

Group 1

Executive Leader and Cabinet model

This model was preferred as the alternative model by 6 of the 8 panel members in this group because:

Positive Comments	Negative Comments
It's the best of both worlds, combining executive powers and involving back bench councillors.	There's a danger of some one being elected because it was 'my turn next' rather than because they were capable.
The leader would still be the figure head – but would they be as high profile as a Mayor?	When you have a minority Mayor large parts of the borough are not represented.
A leader would be elected by the majority of councillors.	

Committee System (which would include a leader)

This model was preferred as the alternative model by 2 of the 8 panel members in this group because:

Positive Comments	Negative Comments
This option is the biggest difference to the mayoral system so it gives more of a choice.	A committee system results in fudges and lack of clear direction.
A lot of councillors are excluded by the executive system.	It's too slow and unwieldy, so the alternative has to be Leader and Cabinet.
	You would not get the recognition that a Mayor gets.
	The committee system is out of date.
	Some people might vote for this option because they are disgruntled with a Mayor with out realising the negative implications.

Current Mayor and Cabinet System

During the discussion many positive statements were made about the current Mayor and Cabinet system, so the group was asked how many of them would vote for this option – 5 of the 8 said they would.

Positive Comments	Negative Comments
The Mayor is focused, she wants to make a difference.	We have had a Mayor with a minority of the votes – it was undemocratic.
Decision making is quicker – it's down to one person.	A minority Mayor can not be over ruled or got rid of – at least under the Leader system they can go before 4 years.
The Mayoral system seems to have been successful whoever is in power, they are a figure head who people can identify and have an opinion on.	Which model you have depends upon what role councillors want to have.
The Mayoral system seems to be working well –so if it's not broke you don't need to fix it. It works well if you have a majority Mayor.	
You get a lot done under a Mayor.	
The Mayor is a good figurehead, but it depends on personal charisma.	
Good working is continuing from council to council.	
Communications, community engagement and awareness has been better under the Mayor.	

Group 2

Executive Leader and Cabinet model

This model was preferred as the alternative model by 3 of the 8 panel members in this group because:

Positive Comments	Negative Comments
It seems more logical. There are no opportunities for factions as there is unlikely to be a mix of Party Councillors. It will therefore give direction.	
The Committee seems to be too “woolly” with a precept for decisions to drawn out and take too long to implement.	
This model works similar to the Elected Mayor model and decisions seem to taken and implemented quite quickly.	

Committee System (which would include a leader):

This model was preferred as the alternative model by 3 of the 8 panel members in this group because:

Positive Comments	Negative Comments
The Committee System will be cross-party and will have the interests of all Parties.	
It's a fairer system with more democracy, even though decisions may take longer. It was however suggested that there maybe concerns with possible 'larger' costs associated with implementing this model. The group wanted more information on this aspect.	

Current Mayor and Cabinet System

Two of the group abstained from voting as they didn't know which of the two alternative models they would like on the referendum paper.

The group were also asked if they would like to keep the Mayoral System, four of which said they would, whilst the remainder didn't vote.

Alternative Models of Governance available to North Tyneside Council

1 Change of Governance to a Committee System

- 1.1 The Localism Act 2011 allows local authorities to choose to operate either executive arrangements (as before) or a committee system.
- 1.2 Under a committee system, there would be a leader of the Council to represent the Authority, but they would have no individual decision making powers. This person would be a councillor chosen by the rest of the councillors. The Full Council would determine how long the leader would serve for and when the term of office ends. The Leader would provide political leadership and strategic direction for the Council and act as the political spokesperson for the Council.
- 1.3 A committee system means a governance arrangement which complies with the Local Government Act 1972. This means moving from a single party executive (Cabinet) to a model of decision making by service Committees on which all political groups are represented in proportion to their number of Councillors on the Council (and where a political group has a majority of Members on the Council, it would also have a majority of members on each committee). This is the current arrangement for Appeals and Complaints Committee, Appointments and Disciplinary Committee, Audit Committee, Licensing Committee, Outside Bodies Committee, Overview, Scrutiny and Policy Development Committee and its sub committees, Planning Committee, Regulation and Review Committee and Standards Committee. This will end the separations between executive and non-executive functions, and the executive and scrutiny, made by the Local Government Act 2000.
- 1.4 Power would be exercised by a number of committees made up of councillors, each committee having responsibility for making decisions on a key policy area such as children's services or neighbourhood services. In addition to these service committees, the Council would appoint regulatory and other committees such as Planning and Licensing Committees. The terms of reference of all committees and their membership would be agreed by the Full Council, which is the principal/most senior body, as would decisions such as setting the Council's annual budget and level of Council Tax.
- 1.5 Committees will take decisions concerning the responsibilities delegated to them by Full Council and will monitor and scrutinise performance. To avoid unnecessary delay in decision-making, there may be a fall-back delegation to a corporate Policy Committee to take decisions on behalf of other committees in between committee meeting cycles and on grounds of urgency. Full Council will also be able to take any decision on behalf of its committees.
- 1.6 An authority which adopts a committee system of governance will no longer be under a statutory duty to have one or more Overview and Scrutiny Committee to scrutinise its executive as there is no executive in this model. However, it may retain such committees if it chooses to do so. In addition, the statutory duty on the authority to scrutinise health, community safety and flood prevention will remain and may be incorporated into the terms of reference of a Committee of the Council.
- 1.7 A move to a committee system, and away from the separation between executive decision-making and scrutiny would also end the current inability of full Council to modify or cancel any decision taken by the Mayor and Cabinet (the executive). At present, under

the provisions of the Local Government Act 2000, all decisions of the authority must be taken by the executive unless they concern a function that by law must not be undertaken by them or that has been allocated to Council as a 'local choice' matter in accordance with one of the Local Authorities (Functions and Responsibilities)(England) Regulations. These responsibilities primarily concern development control, licensing and registration; health and safety at work; elections; constitutional and governance matters; byelaws; name and status of individuals; smoke-free premises and areas; public rights of way; staffing; and various miscellaneous matters.

- 1.8 Under a committee system, all responsibilities of the authority would be for the authority as a whole to exercise, either by itself (full Council), or by delegation to a committee or an officer. A committee could in turn sub-delegate some of its responsibilities to a sub-committee. There are no powers to delegate decisions to an individual Member of the Council under a committee system.

2 Change of Governance to an Executive Leader and Cabinet System

- 2.1 The Authority may choose to change its form of executive arrangement, from the current Elected Mayor and Cabinet model to that of Executive Leader and Cabinet. The Executive Leader and Cabinet model was the governance system that most councils operated following the introduction of the Local Government Act 2000.
- 2.2 Both the Mayor and Cabinet and Executive Leader and Cabinet models are classified as Executive decision-making governance structures. The two systems share many similarities. The one key difference between these two Executive governance models is that in a Mayor and Cabinet system, the Mayor is elected by the public and cannot be removed from office by Council whereas in the Executive Leader and Cabinet model, the Leader, who would also be a Councillor, is appointed by Council and Council can decide to remove them from office. The Leader would provide political leadership and strategic direction for the Council and act as the political spokesperson for the Council.
- 2.3 Under an Executive Leader and Cabinet system, the Council appoints a Leader for a term determined by the Council itself and may be for a period up until the expiry of his/her current term of office as a Councillor (and will usually be the leader of the largest party on the Council). The Leader then appoints and can remove Cabinet Members from office and assigns portfolios to these members.
- 2.4 The Cabinet can consist of councillors from one party or be a shared administration involving councillors from more than one political party.
- 2.5 Legislation specifies what matters must be discharged through the Executive and these matters form the majority of decisions made by the Authority. These Executive decisions can be made by a Cabinet meeting collectively in public or by individual Executive Councillors within their portfolio area. To facilitate Overview and Scrutiny, there is a legal requirement to give notice of proposed Executive decisions.
- 2.6 Issues that are defined as budget and policy framework items (ie a number of specific key plans and strategies that an Authority's Full Council is required to determine such as the Local Plan and the Community Safety Plan) have to be developed by Cabinet and then be approved by Council. Cabinet is then required to take decisions within these budget and policy framework constraints.
- 2.7 Councils operating the Executive Leader and Cabinet model must have at least one overview and scrutiny committee. This provides a check and balance through which

Executive decision makers are held to account and also enables detailed review work to be undertaken on matters such as policy development or on the impact of policy after implementation.

- 2.8 Decisions on some matters cannot be taken by the Executive. These decisions which are reserved as Council functions can either be taken by a meeting of Full Council or can be taken by a Committee of Council under delegated powers. An example of this would be Development Control issues.