

**COUNCIL
23 JUNE 2004**

**EXECUTIVE MEMBERSHIP AND PORTFOLIOS
(Constitution Review Group)**

1. INTRODUCTION

- 1.1 The purpose of this report is to recommend alterations to the Constitution to clarify that during the course of the municipal year the Leader may:-
- vary the composition of the Executive,
 - vary the portfolios allocated to individual Executive Members or Executive Committees, and
 - determine that a particular decision should be reserved to the Executive or an Executive Committee

2. RECOMMENDATION

- 2.1 **That the Constitution be amended as proposed in paragraph 4.5 below.**

3. ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 3.1 The Borough Solicitor has drafted this report.

Borough Finance Officer

- 3.2 There are no financial implications directly arising from this report.

Access Implications

- 3.3 None

4. THE CURRENT POSITION

- 4.1 When the Council moved to Executive Arrangements it decided to adopt the “strong Leader” model i.e the composition of the Executive and the allocation of portfolios are determined by the Leader. The other major option was the “weak Leader” model i.e the composition of the Executive and the allocation of portfolios rest with the Council.
- 4.2 Article 7 of the Constitution makes clear that the Leader may remove a Member from the Executive during the course of a municipal year. However,

Article 7 is silent as to whether the Leader may, during the course of the municipal year, appoint replacement or additional Members to the Executive.

- 4.3 The Executive Procedure Rules (Part 4.4 of the Constitution) stipulate that at the annual meeting of the Council the Leader will present to the Council a written record of delegations made by him/her; there is no provision for revision of the scheme of Executive delegation during the course of a municipal year. The rules do state (paragraph 1.3 (iv)) that where executive functions have been delegated, that does not prevent the discharge of delegated functions by the person or body who delegated; although that rule would allow the Leader to take a decision within the scope of another Executive Member's portfolio it is not clear whether the decision may then be re-allocated by the Leader to the full Executive. Since the adoption of Executive Arrangements there have been occasions when although a decision has fallen within the scope of an individual Executive Member's portfolio the decision might perhaps have fallen more comfortably to the full Executive.
- 4.4 Given that the Council has preferred the "strong Leader" model of Executive arrangements it would appear to be appropriate that the Constitution should empower the Leader as proposed in the Introduction to this report.
- 4.5 In order to give the Leader the powers as proposed it is suggested that the Constitution be amended as follows (amendments are set out in bold):-

Article 7.02

The Executive will consist of the Executive Leader together with at least two but not more than nine Councillors appointed by the Executive Leader. **The Leader may appoint Councillors to the Executive either at the annual meeting of the Council or, on giving written notice of appointment to the proper officer, at any time thereafter. Appointment of a Councillor to the Executive after the annual meeting of the Council will take effect immediately on receipt of the notice by the proper officer and shall be reported to the next meeting of the Council.**

1.2 Delegation by the Leader

- 1.2.1 At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about executive functions in relation to the coming year:-
- (i) the names, addresses and wards of the people appointed to the Executive by the Leader;
 - (ii) the extent of any authority delegated to Executive Members individually, including details of the limitation on their authority;
 - (iii) the terms of reference and constitution of such Executive committees as the Leader appoints and the names of Executive members appointed to them;

- (iv) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those Executive Members appointed to any joint committee for the coming year

1.2.2 At any time after the annual meeting of the Council the Leader may, by written notice to the proper officer, alter the delegations made by him/her. The notice to the proper officer shall contain the information set out in paragraph 1.2.1 in so far as it shall apply to the remainder of the municipal year. Any alteration to the delegations shall be reported to the next meeting of the Council.

1.3 Sub-delegation of Executive Functions

- (i) Where the Executive, a committee of the Executive or an individual member of the Executive is responsible for an executive function, they may delegate further to joint arrangements or an officer.
- (ii) Unless the Council directs otherwise, if the Leader delegates functions to the Executive, then the Executive may delegate further to a committee of the Executive or to an officer.
- (iii) Unless the Leader directs otherwise, a committee of the Executive to whom functions have been delegated by the Leader may delegate further to an officer.
- (iv) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.
- (iv) Where executive functions have been delegated the person or body to whom the functions have been delegated may, by notice in writing to the proper officer, remove the delegation, either generally or in respect of one or more specific matters. In such event the person or body by whom the functions have been delegated may either discharge the function or, in accordance with paragraphs (i) to (iii) above and on written notice to the proper officer, delegate the function**

Background Papers

None

Contact for further information

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