

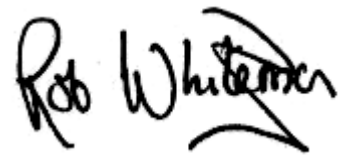
## Notice of Meeting

### ASSEMBLY

**Wednesday, 9 December 2009 - 7:30 pm  
or on the rising of the Assembly  
Council Chamber, Town Hall, Barking**

To: Members of the Council of the London Borough of Barking and Dagenham

**Chair:** Councillor W F L Barns  
**Deputy-Chair:** Councillor M McKenzie MBE



R. A. Whiteman  
Chief Executive

Date of publication: 1/12/09

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### AGENDA

1. **Apologies for Absence**
2. **Declaration of Members' Interests**

In accordance with the Council's Constitution, Members are asked to declare any personal or prejudicial interest they may have in any matter which is to be considered at this meeting.
3. **Changing Governance Arrangements in 2010: New Executive Arrangements (Pages 1 - 6)**
4. **Any other public items which the Chair decides are urgent**
5. **To consider whether it would be appropriate to pass a resolution to exclude the public and press from the remainder of the meeting due to the nature of the business to be transacted.**

## **Private Business**

The public and press have a legal right to attend Council meetings such as the Assembly, except where business is confidential or certain other sensitive information is to be discussed. The list below shows why items are in the private part of the agenda, with reference to the relevant legislation (the relevant paragraph of Part 1 of Schedule 12A of the Local Government Act 1972 as amended). ***There are no such items at the time of preparing this agenda.***

- 6. Any confidential or exempt items which the Chair decides are urgent**

**SPECIAL ASSEMBLY****9 December 2009****REPORT OF THE CORPORATE DIRECTOR OF RESOURCES**

<b>Title: Changing Governance Arrangements in 2010: New executive arrangements</b>	<b>For Decision</b>
<p><b>Summary:</b></p> <p>This report seeks approval of the Assembly by resolution to change the Council's existing governance arrangements following the decision of the Executive on 8 September 2009 to publish proposals to strengthen the existing role of the Leader of the Council. This is in accordance with the Local Government and Public Involvement in Health Act 2007 (the Act), which requires the Council to adopt new executive arrangements to come into force on 9 May 2010. The new arrangements must be adopted by 31 December 2009.</p> <p><b>Wards Affected:</b> All</p>	
<p><b>Recommendation(s)</b></p> <p>That in the light of the results of the response to the public consultation exercise the Assembly is asked to implement by resolution the following changes in the Council's governance arrangements, to come into effect at midnight on 9 May 2010:</p> <ul style="list-style-type: none"> <li>(i) the Executive will be the new indirectly elected Leader and Cabinet model;</li> <li>(ii) the size of the Cabinet to remain at 10 although the final decision will be taken by the newly elected Leader following Annual Assembly in May 2010;</li> <li>(iii) that the power to remove the Leader at any time be by way of a vote of no confidence to be taken at the Assembly;</li> <li>(iv) to agree that any consequential changes brought about by (i),(ii) and (iii) above be incorporated into the Council's Constitution for subsequent approval by the Assembly to take effect from 9 May 2010, and</li> <li>(v) to note the proposed decision making arrangements to ensure the business of the Council can continue to be conducted between the coming into force of the new arrangements at the end of the third day after the local elections and the Annual Assembly provisionally planned for 26 May 2010.</li> </ul>	
<p><b>Reason(s)</b></p> <p>To ensure that the Council complies with its statutory duties under the Act.</p>	

## Implications

**Financial** - No specific implications.

**Legal** –The decision to agree new executive arrangements needs to be made by a specially convened meeting of the Assembly before 31 December 2009 in accordance with the provisions of the Local Government and Public Involvement in Health Act 2007.

The report is concerned with the duty placed on the Council under the Act to change its governance arrangements and the various statutory requirements are addressed in the body of the report.

**Contractual** - No specific implications.

**Risk Management** - No specific implications.

**Staffing** - No specific implications.

**Customer Impact** - No specific implications.

**Safeguarding Children** - No specific implications.

**Crime and Disorder** - No specific implications.

**Property/Assets** - No specific implications.

**Options appraisal** - The options available to the Council in relation to its main governance arrangements from May 2010 are prescribed by legislation.

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<b>Report Author:</b> John Dawe	<b>Title:</b> Group Manager Democratic Services	<b>Contact Details:</b> Tel: 020 8227 2135 E-mail: john.dawe@lbbd.gov.uk

## Background

1. Under Local Government Act 2000 local authorities operating executive arrangements were required to follow one of the following models: (1) Leader and Cabinet, (2) directly elected Mayor and Cabinet and (3) directly elected Mayor and Council Manager. Under the Local Government and Public Involvement in Health Act 2007 the Local Government Act 2000 is amended so that only two models of executive are permissible, namely (1) a strengthened Leader and Cabinet model or (2) a directly elected Mayor. The Council's current structure is the Leader and Cabinet model.
2. The key features of the new Leader and Cabinet model are:

- The Council appoints the Leader who then appoints and determines the size of the Cabinet.
- The Leader can in addition to him/herself appoint two or more councillors to the Cabinet. The maximum number of Members on the Cabinet still remains as ten.
- The new style Leader will have a fixed term of office of four years from the annual meeting to the next post election annual meeting. However, the Council may resolve to give itself the power to remove the Leader during his/her term of office through a vote of no confidence taken at the Assembly. The Executive has recommended that Assembly include such a provision in the Constitution.
- The purpose of the fixed term of office is to give the leadership greater stability and encourage elected leaders to take stronger long term decisions in the interests of residents.
- The Leader is required to appoint a Deputy Leader whose term will be the same as the Leader's. The Deputy Leader would act in the Leader's absence.
- The Act vests in the Leader all of the Authority's member executive functions as set out in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. He/she will have the power to determine how these powers are to be discharged. The Leader can either discharge executive functions directly, or delegate to the Cabinet group of councillors either collectively (as is the current position), individually (i.e. Portfolio decision-making) or to officers. The Cabinet may also delegate functions further to a Sub Committee or officer unless the Leader prohibited this when granting the original delegation. The Leader is able to exercise or take back powers previously delegated.

Once the new Leader is appointed he/she will be invited to confirm what functions he/she wishes to retain and those to be delegated and to whom. Such delegations will be incorporated into the Council Constitution upon confirmation. In the meantime the existing scheme of delegation will continue.

- As the power to appoint Cabinet Members no longer falls to the Assembly on an annual basis they may be appointed or dismissed by the Leader at any time during the four year term of the Council. Any changes will then be reported to the next available Assembly meeting(s).
3. The new arrangements come into effect three days after the local elections on 6 May 2009, i.e. midnight on 9 May 2009. Between the election and the third day councils may continue to operate old style executive arrangements. Councillors who lose or stand down from their seats at the May election by law retire from office on the fourth day after the election and their successors (and surviving councillors) commence the new term on the same day. (Paragraph 6, Schedule 2 Local Government Act 1972). This coincides with the coming into force of the new executive arrangements.

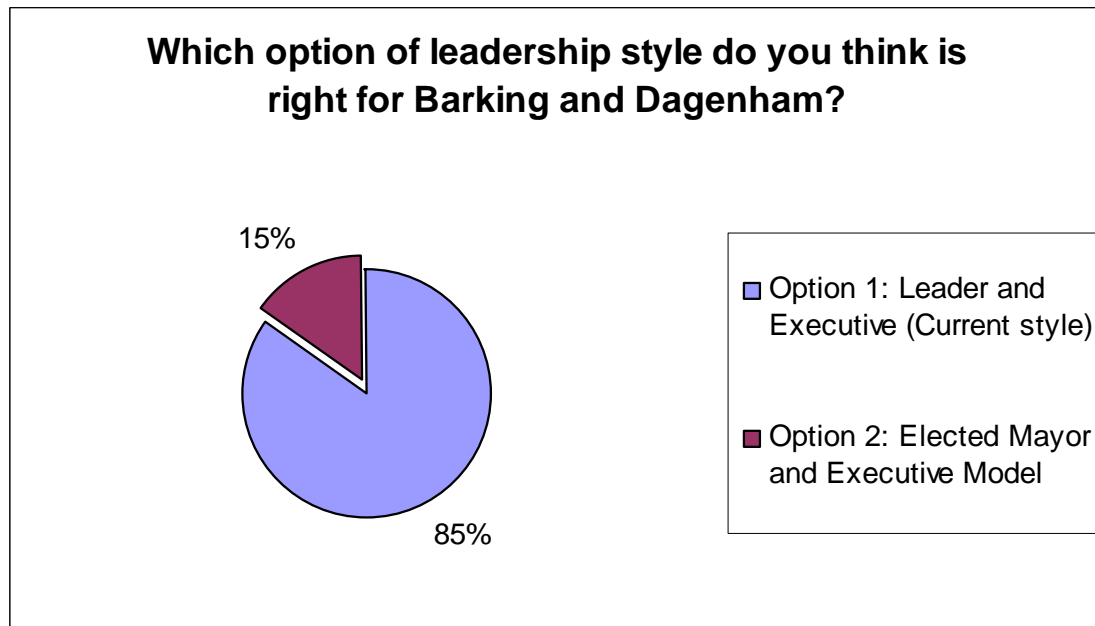
4. There will then follow a period when new arrangements are in force but before the election of a new Leader, as the Annual Assembly meeting (at which the new Leader will be appointed), will not take place until 26 May 2010 (provisionally). If the existing Leader is re-elected as a councillor he would not be able to exercise the executive functions unless and until he was re-elected at that meeting.
5. In the period between the coming into force of the new arrangements at the end of the 3<sup>rd</sup> day after the elections and the Annual Assembly, and to ensure the business of the Council can continue to be conducted, it is proposed that in line with practice, the Chief Executive take any urgent executive decisions in accordance with the urgency provisions in the Council's Constitution. This will afford stability during the time of change.
6. Pursuant to the requirements of the Act, the required resolution to make the change in governance arrangements must be made at a meeting of the Assembly that has been specially convened for the purpose, and which must take place by 31 December 2009 (the 'permitted resolution period' under the Act).
7. The Assembly in May 2007 indicated at that time that based on the leadership models contained in the legislation, it favoured the adoption of a revised strengthened indirectly elected Leader and Cabinet model. This view was re-affirmed at the meeting of the Executive on 8 September 2009, who in addition agreed the approach of a statutory public consultation exercise which commenced on 19 September 2009 and closed on 31 October 2009.
8. The results of the consultation exercise (Appendix 1) which were reported to the Executive on 17 November 2009, indicated that there is no justification to alter the Council's initial preferred option of the strengthened Leader and Cabinet model. This view was reinforced by the fact that despite running public notices in the local community newspaper (The News), and an online consultation, only thirteen people responded.
9. The Executive has formally recommended the adoption of the new model, which in accordance with the provisions of the Act has been published in a notice in The News outlining the Council's intention to adopt its preferred model of governance in advance of this specially convened meeting.

#### **Consultees**

- Councillor Liam Smith, Leader of the Council
- Rob Whiteman, Chief Executive
- Nina Clark, Divisional Director of Legal and Democratic Services
- Winston Brown, Legal Partner

#### **Background Papers Used in the Preparation of the Report:**

- Local Government and Public Involvement In Health Act 2007
- Communities in Control: Real People, Real Power: Changing Council Governance Arrangements – Mayors and Indirectly Elected Leaders. A Consultation
- "Modernising the Political Structure" Report and Minutes, Council 22 March 2000
- "Report of the Governance Working Party" Report and Minutes, Assembly 16 May 2007.



### Comments received

#### Option 1

- This is the most appropriate model for us. I hope the council will introduce Junior Cabinet Members scheme to develop up and coming politicians!
- The main reason for selecting option 1 is that I am not in favour of an elected Mayor who cannot be removed from office for 4 years; if an appointee is doing a very bad job he/she should not have the ability to remain in office simply because the rules say so.
- The current style has only been in force for five years and needs more time to develop. To change the system, again, so soon, would mean another strain on local finances. Implementation of a Mayoral scheme would not come cheap and this council already wastes too much money on empire building!
- I feel that the leader should be an elected councillor member. However i do not want the leader to be elected for 4 years. I do not however think that allowing the leader to choose his own executive would be likely to assist in securing continuous improvement in the way in which the local authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- Seems reasonable and able to remove if required.
- I would like a Mayor, but it could be quite dangerous to have one that can't be removed - especially in this borough.
- Too much power invested in one person through the other schemes. Loss of tradition!

## **Option 2**

- I don't like the people who are appointed which is due to party politics.

## **Written submissions**

### **Option 1**

- I prefer the more democratic option 1 to the authoritarian option 2. I do not like the fact that in option 2, once elected, the Mayor cannot be removed from office and wields absolute power. Neither does he/she need to be a councillor or a member of a political party! So where is the 'accountability' for decisions that are deemed by the majority of councillors – or even the ratepayers – to be unpractical?

### **Option 2**

- Referring to the above act [Local Government and Public Involvement in Health Act 2007] and your community newspaper of 3 October 2009, I wish to state that my choice for the election of the Mayor for this council is the following.

**Option 2**, which means the people of Barking and Dagenham elect a Mayor every four years.

- The Mayor can make most decisions on his/her own.
- Once elected the Mayor cannot be removed from office.
- The Mayor does not need to be a councillor or a member of a political party.