

**PLEASE NOTE THE DAY FOR THIS  
SPECIAL CABINET MEETING**

Please contact: Trevor Baker  
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Our Ref: TLB/Cabinet  
Date: 21 April 2010

**NOTICE OF A SPECIAL CABINET MEETING:**

**DATE: THURSDAY 29 APRIL 2010**

**TIME: 5.00 p.m.**

**PLACE: GODDARD ROOM, COUNCIL OFFICES,  
KNOWLE GREEN, STAINES**

***[Refreshments for Members will be available from 4.30pm in the Members' Room.]***

**TO: ALL MEMBERS OF THE CABINET:**

<b>Members of the Cabinet</b>	<b>Cabinet Member Areas of Responsibility</b>
J.D. Packman [Chairman]	Leader of the Council
R.A. Smith-Ainsley [Vice-Chairman]	Planning and Housing
F. Ayers	Community Safety
S. Bhadye	Independent Living
C.A. Davis	Economic Development
G.E. Forsbrey	Environment
Mrs. D.L. Grant	Young People and Culture
A.P. Hirst	Communications
Mrs. V.J. Leighton	Finance and Resources

**EMERGENCY PROCEDURE [THE LIFT MUST NOT BE USED]**

**In the event of an emergency the building must be evacuated. All Members and Officers should assemble on the green adjacent to Broome Lodge. Members of the public present should accompany the Officers to this point and remain there until the Senior Officer present has accounted for all persons known to be on the premises.**

**[PLEASE NOTE THAT THIS AGENDA IS AVAILABLE IN LARGE PRINT ON REQUEST TO Trevor Baker ON (01784) 446267**

## IMPORTANT PUBLIC NOTICE

### MOBILE TECHNOLOGY – ACCEPTABLE USE

Use of mobile technology (e.g. mobile telephones, Blackberries, XDA's etc.) in meetings can:

- Interfere with the Public Address and Induction Loop systems;
- Distract other people at the meeting;
- Interrupt presentations and debates;
- Mean that you miss a key part of a decision taken.

#### PLEASE:

Either switch off your mobile telephone etc. **OR** switch off its wireless/transmitter connection and sound for the duration of the meeting.

***THANK YOU FOR YOUR CO-OPERATION IN THIS MATTER.***

## **AGENDA**

### **1 APOLOGIES FOR ABSENCE**

To receive any apologies for non-attendance.

### **2 DISCLOSURES OF INTEREST**

To receive any disclosures of interest from Members in accordance with the Council's Code of Conduct for Members.

### **3 THE LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007- KEY DECISION**

To consider the report of the Deputy Chief Executive on the Local Government and Public Involvement in Health Act 2007 in relation to the introduction and operation of new forms of executive arrangements.

### **4 CHANGES TO OVERVIEW AND SCRUTINY**

To consider the report of the Monitoring Officer on changes to the arrangements for Overview and Scrutiny.



**THE LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH  
ACT 2007- KEY DECISION**

**Cabinet: 29 April 2010, Council: 29 April 2010**

**Recommendation Required**

**Report of the Deputy Chief Executive**

**REPORT SUMMARY**

**How does the content of this report improve the quality of life of Borough Residents**

Not applicable. However, robust and effective executive arrangements underpin all areas of Spelthorne's work and support the Council in delivering key services to local residents.

**Purpose of Report**

This report summarises the Local Government and Public Involvement in Health Act 2007 in relation to the introduction and operation of new forms of executive arrangements.

**Key Issues**

Borough councils currently operating executive arrangements must change to either a Strong Leader and Cabinet model or a Directly Elected Mayor and Cabinet model.

The Council must consult local residents and other interested parties on the two options.

After consultation, the Council must pass a resolution to change to a new form of executive arrangements by 31 December 2010.

The Council must introduce the new governance arrangements by May 2011

**Financial Implications**

Any costs associated with the consultation process can be covered by existing budgets.

**Corporate Priority:**

Not applicable.

**Officer Recommendations**

**The Cabinet is asked to recommend to the Council that:**

- (1) The proposals for consultation from 1 May to 31 July 2010 on the Council's future executive arrangements be agreed.
- (2) The Council should consult on the basis that it prefers the Strong Leader and Cabinet model rather than the Elected Mayor and Cabinet model.
- (3) Authority be delegated to the Chief Executive, in consultation with the Leader, to agree the final wording for the consultation exercise on the future executive arrangements.

**Contact: Nigel Lynn, Deputy Chief Executive, Telephone: 01784 446300**

**Cabinet Member: Councillor John Packman, Leader of the Council**

## MAIN REPORT

### 1. BACKGROUND

- 1.1 The Local Government and Public Involvement in Health Act 2007 makes provision in respect of a range of local government functions and procedures, including new forms of executive arrangements in England.
- 1.2 This report summarises the provisions in relation to the required introduction and operation by the Council of one of two new forms of executive arrangements and how this must be implemented.

### 2. KEY ISSUES

- 2.1 The Act requires all borough or district councils currently operating executive arrangements to change to one of two new prescribed governance options, either a Strong Leader and Cabinet model or a Directly Elected Mayor and Cabinet model.
- 2.2 All councils must consult with local government electors and any other interested persons in the local area on the two governance options and invite comments over a consultation period of twelve weeks.
- 2.3 The Council must pass a resolution by 31 December 2010 to change to one of the two new prescribed forms of governance arrangements and publish its proposals describing how the arrangements will work.
- 2.4 The new arrangements for Borough/District Councils must be introduced by May 2011.
- 2.5 Once the Council has approved new executive arrangements, it must cease operating the old form and introduce the new form after the third day after the first ordinary election of borough councillors following the end of the permitted resolution period, i.e. three days after the May 2011 elections. The proposals must ensure that this can happen and will need to include transitional arrangements within the constitutional changes.

#### **Strong Leader and Cabinet model:**

- 2.6 In the case of Spelthorne, a "Strong Leader" model comprises a councillor elected as Leader by the Council [who will also be the Chairman of the Cabinet] for a four year term and two or more borough councillors appointed by the Leader to the Cabinet. One of the two or more councillors will be appointed by the Leader as his or her Deputy.
- 2.7 This gives the Leader "security of tenure" as his appointment will be for a term of four years. Under this model, the Leader would be appointed by the Council at its Annual Meeting in May 2011 for a period of 4 years, after the start of the new Executive arrangements, and thereafter every four years. This places more power in the Leader's hands as the Leader will hold all executive powers. The Leader is responsible for the discharge or delegation of all executive functions so it will be the Leader that decides large parts of the scheme of delegation.
- 2.8 The Leader will be responsible for determining the size of the Cabinet (between two and ten members), for appointing and removing members of the Cabinet at any time during the term of the Council and for deciding and allocating their

areas of responsibility or portfolios. The Leader must appoint a Deputy Leader who will hold office until the end of the Leader's term (but a Deputy can be removed and replaced mid-term by the Leader). The 2007 Act specifies that the Deputy will take up the full role of the Leader if the latter is unable to act or the office becomes vacant. As all of the executive functions of the Council will be devolved to the Leader, he in turn decides which functions (if any) he wishes to delegate to other Members of the Cabinet, to Committees and to Officers under a new scheme of delegation to be written into the Council's Constitution.

- 2.9 The Leader can delegate executive functions to back-bench members for them to exercise in their own ward. Regulations will define what can be covered by excluding certain functions and placing conditions on how such a function is exercised. This form of delegation will be decided by the Cabinet in relation to executive functions. In all other cases, including those functions which are not executive functions, it will be for the Council to decide on any delegation and the form of such delegation to back-bench members.
- 2.10 Major changes to the Council's Constitution will be needed to implement new governance arrangements, including Cabinet functions, procedure rules, the policy framework, the scheme of delegation [including transitional arrangements], and decision making.
- 2.11 The Leader could be removed from office by resolution of the Council provided the authority's Constitution provides for this.

#### **Directly Elected Mayor and Cabinet model:**

- 2.12 This model is a directly elected Mayor who appoints two or more councillors to the Cabinet. If the Council chooses to move to this model by resolution, then the Mayor would adopt full executive powers.
- 2.13 There would be very little difference between what a new Elected Mayor and a new Strong Leader could do. The functions of the Mayor would include appointing the Cabinet and deciding on which functions (if any) he wishes to delegate to other Cabinet Members, Committees and Officers. A decision to elect a Mayor would however bring a shift in culture to a council. A fundamental difference is that an Elected Mayor is not a councillor. He or she does not have a ward to represent and would work full time as Mayor.
- 2.14 The other major difference is that once elected the Mayor cannot be removed by a resolution of Council during the four year term of office.
- 2.15 Borough and district councils are able to adopt the mayoral model following consultation with their communities, but without the need for a referendum. They can however, if they chose to do so, put the matter to a referendum but the result of this referendum would be binding.
- 2.16 I would also point out that the usual rules regarding petitions for mayoral government survive so that, outside this consultation exercise, it would still be possible for residents to petition for a referendum as they have been able to since 2000.
- 2.17 As a Borough with a Charter, Spelthorne currently has a Mayor. The introduction of an Elected Mayor would affect the traditional role of Mayor. He or she would

officially take the title of “Chairman of the Council” but could use the title “Civic Mayor” when attending ceremonial occasions.

- 2.18 The Council would retain a Chief Executive and the same officer management structure if it chose the Elected Mayor and Cabinet model. The Elected Mayor does not take the same wide powers as Elected Mayors in other countries where the election of a Mayor replaces the administrative functions of the organisation as well as the political decision making powers.

### **Consultation Exercise:**

- 2.19 Before drawing up proposals, the Council must take reasonable steps to consult electors and other interested parties on the two governance options. The consultation must be limited to the two governance options and needs to be undertaken in order to establish the form of executive arrangements that will be the subject of detailed proposals at a later stage.
- 2.20 It is suggested that the appropriate time is 1 May to 31 July 2010. The method of consultation is to include a feature on the Council’s website with feedback options and also writing directly to the usual resident and community groups.
- 2.21 A similar approach was adopted by Surrey County Council in September 2008 in undertaking their public consultation exercise on new governance arrangements. It should be noted that under the Act, county councils had to introduce the new forms of arrangements in time for the elections in 2009.
- 2.22 In addition the Monitoring Officer will make presentations at each Have your Say Event this summer and an article is scheduled for the June edition of the Bulletin. Again feedback will be requested so that proposals can be drawn up for the Autumn in good time for the resolution in December 2010.
- 2.23 **Implementation:**  
Following the consultation exercise, the Council must draw up proposals for change that include, a schedule of the proposed changes to the Council’s Constitution, the implementation timetable and details of transitional arrangements. The proposals must take into account the extent to which the new arrangements will assist in securing continuous improvement in the way the functions are exercised, having regard to a combination of economy, efficiency and effectiveness. Once the proposals have been drawn up, the Council must make them available to the public and advertise that they are available.
- 2.24 Prior to the adoption of the new arrangements by Council resolution (at a meeting of the Council likely to be on 17 December 2010) the Council must publicise the proposals.
- 2.25 As indicated in the paragraphs above, a major review of the Council’s Constitution will be required to take into account the new governance arrangements and this commenced from early January 2010. Work is also going on in tandem with other Surrey councils through the Surrey Administrators and Solicitors Group. The new Constitution will need to be adopted by the Council before the Borough Council Elections in May 2011.



### **3. OPTIONS ANALYSIS**

- 3.1 Under the 2007 Act the Council is required to change to one of two new prescribed governance options, either a Strong Leader and Cabinet model or a Directly Elected Mayor and Cabinet model and these are the only two options available to Spelthorne.

### **4. PROPOSALS [For recommendation to Council]**

- 4.1 That public consultation on a new form of governance arrangements for the Council be held over a 12 weeks period from 1 May to 31 July 2010.
- 4.2 That the Council should consult on the basis that it prefers the Strong Leader and Cabinet model rather than the Elected Mayor and Cabinet Model for these reasons:
- (a) Strong Leader and Cabinet model preserves the links with the councillors and representation of wards in the present political system
  - (b) Elected Mayor model introduces the prospect of personality into local politics which although it may be conducive to city government is less appropriate in a small district such as Spelthorne
  - (c) A Strong Leader can be removed by the Council during the term of four years and this is an important constitutional safeguard
- 4.3 That authority be delegated to the Chief Executive, in consultation with the Leader, to agree the final wording for the consultation exercise on the future executive arrangements

### **5. BENEFITS AND SUSTAINABILITY**

- 5.1 Not applicable.

### **6. FINANCIAL IMPLICATIONS**

- 6.1 There are no direct financial implications. Current staffing resources will be deployed to introduce the changes.
- 6.2 Should the Council wish to have a referendum on an Elected Mayor it would cost in the region of £80,000 and no budget provision has been made for this.
- 6.3 There could be some changes in the allowances for a Strong Leader or an Elected Mayor but this is for an independent panel to determine and changes cannot accurately be predicted at this time.

### **7. LEGAL IMPLICATIONS**

- 7.1 These are mandatory statutory changes under the 2007 Act and the Council must comply with them.

### **8. RISKS AND HOW THEY WILL BE MITIGATED**

- 8.1 None apparent.

### **9. PROPOSED TIMETABLE FOR IMPLEMENTATION**

- 9.1 Briefing to Groups on the 2007 Act provisions from 29 March 2010 onwards.
- 9.2 Public consultation on the 2 options be carried out from 1 May to 31 July 2010.
- 9.3 Council makes a resolution by 31 December 2010 to change to one of the two new forms of governance arrangements.

9.4 Council implements a new form of governance arrangements by May 2011.

**Report Author:**

Michael Graham, Head of Corporate Governance, Telephone: (01784) 446227.

**Background Papers:**

There are none.

**CHANGES TO OVERVIEW AND SCRUTINY  
Cabinet 29 April 2010; Council 29 April 2010**

**Recommendation required**

**Report of the Monitoring Officer**

**EXECUTIVE SUMMARY**

**How does the content of this report improve the quality of life of Borough Residents**

Not applicable, but the benefit of the proposal is increased efficiency in the running of the Council's business.

**Purpose of Report**

To seek Members' approval for changes to the arrangements for Overview and Scrutiny to move from two committees to one.

**Key Issues**

- ⇒ Overview and Scrutiny
- ⇒ Crime and Disorder Scrutiny

**Financial Implications**

There will be a saving of £3012.00 per annum on the Special Responsibility Allowance paid to one of the scrutiny committee chairmen and there is an opportunity to save costs in Committee Services in the next two years.

**Corporate Priority**

Not appropriate.

**Officer Recommendations**

- (1) To change the Constitution to abolish the current arrangements for Performance Management and Review Committee and the Improvement and Development Committee.**
- (2) To institute one new Overview and Scrutiny Committee with the initial remit**
  - a. To act as the Council's Overview and Scrutiny Committee under the Local Government Act 2000**
  - b. To take on the responsibilities for crime and disorder scrutiny under the Police and Justice Act 2006**
- (3) To authorise the Monitoring Officer to make such incidental and consequential changes to the Constitution as are necessary to give effect to the changes.**
- (4) To ask the Overview and Scrutiny Committee in consultation with the Standards Committee to advise the Council on the future remit of the Overview and Scrutiny Committee**

**Contact: Michael Graham, Head of Corporate Governance, 01784 446227  
Portfolio Holder: Councillor Colin Davis**

## MAIN REPORT

### 1. BACKGROUND

- 1.1 For the last seven years, the Council has operated a system of Overview and Scrutiny with two committees. The remit of the Performance Management and Review Committee (PMR) is supposed to be backward looking in nature, reviewing the Council's performance over time. The remit of the Improvement and Development Committee (I&D) is supposed to be forward looking in nature, considering improvements in the Council's operations and policy.
- 1.2 Such a division can be argued to be artificial since there is considerable overlap between the committees. For instance, where a deficiency in performance might be detected in one service or policy by PMR the natural next step will be to suggest improvements. It would not ordinarily be the case that PMR would hand over to I&D at such a juncture. For the sake of continuity and efficiency it has always been taken that PMR committee would continue its work once it is seized of an issue.
- 1.3 In practice this has resulted in an agenda for PMR which has had a tendency to be busier than I&D since many agenda topics arise from the examination of current performance and the Council's successes and weaknesses. I&D has been notably successful in dealing with new policy development and service development where there has been no existing provision. An example of this would be the work on the introduction of the new fortnightly refuse and recycling collections.
- 1.4 The division is also brought into focus by the times when the two Committees work together because of this unnatural division of responsibilities. For instance the most recent example of this would be the Budget Task Group for the 2010/11 budget setting process which advised Cabinet in advance of the February budget meeting this year. Here it was recognised that both committees would have a legitimate expectation to recommend savings and efficiencies. As a result of this, a cross party task group was formed with membership of both committees to address the tough circumstances faced by the Council in balancing a budget and identifying savings for future years in advance of expected cuts in grant and other income.

### 2. KEY ISSUES

- 2.1 The Council is obliged to have at least one Overview and Scrutiny Committee under the Local Government Act 2000. From a benchmarking exercise earlier this year (for the budget task group), councils in Surrey reported different models depending on local circumstances. Elmbridge and Waverley borough councils each have three Overview and Scrutiny Committees. Mole Valley DC has one which also includes Audit. Reigate and Banstead BC, Runnymede BC, Tandridge DC and Woking BC each have one. Guildford BC and Spelthorne BC each have two.
- 2.2 Under the Police and Justice Act 2006 the Council has to designate one of its overview and scrutiny committees as the Crime and Disorder Scrutiny Committee. If the Council reduces its number of overview and scrutiny committees from two to one then it follows that this new committee must also be designated as the Crime and Disorder Scrutiny Committee. (I would however

advise that if the Council wished to do so, it could have a separate and dedicated Crime and Disorder Scrutiny Committee. The Council has discretion to do this. Within Surrey I understand that only Epsom and Ewell BC and Runnymede BC have taken the option to have a dedicated Crime and Disorder Scrutiny Committee.)

### **3. OPTIONS ANALYSIS**

- 3.1 It is within the Council's discretion to decide upon the number of overview and scrutiny committees that it has and (subject to the comments above in relation to crime and disorder) the remit of each committee.
- 3.2 In order to consider in more detail the remit of a new committee it could be appropriate to allow the members of that new committee the opportunity to review the remits of the two previous committees and decide how it would wish to operate in the future. In which case the initial remit of the committee need not be specified in detail to allow the members to review expectations on the overview and scrutiny function some ten years after the introduction of the changes by the Local Government Act 2000.
- 3.3 Given the role of the Standards Committee in advising the Council in changes to the Constitution it would also be appropriate to invite the Standards Committee to comment on the review of terms of reference once the members of the Overview and Scrutiny Committee have had an opportunity to consider all the issues in depth.
- 3.4 Alterations to the terms of reference could be reported to a future council for consideration by way of a recommendation from the Overview and Scrutiny Committee.

### **4. PROPOSALS**

- 4.1 It is proposed as follows, to recommend to Council:
  - (a) To change the Constitution to abolish the current arrangements for Performance Management and Review Committee and the Improvement and Development Committee.
  - (b) To institute a new Overview and Scrutiny Committee with the initial remit
    - i) To act as the Council's Overview and Scrutiny Committee under the Local Government Act 2000
    - ii) To take on responsibilities for crime and disorder scrutiny under the Police and Justice Act 2006
  - (c) To authorise the Monitoring Officer to make such incidental and consequential changes to the Constitution as are necessary to give effect to the changes outlined above
  - (d) To ask the Overview and Scrutiny Committee in consultation with the Standards Committee to advise the Council on the future remit of the Overview and Scrutiny Committee.

### **5. BENEFITS AND SUSTAINABILITY**

- 5.1 The benefits of changing the system can be summarised as follows:
  - (a) Improved efficiency in the running of the Council's business by streamlining committee arrangements.

- (b) Removal of the artificial overlap between the forward looking and backward looking current overview and scrutiny committees.
- (c) To concentrate all efforts of overview and scrutiny under one work programme which can bring together all task groups in a co-ordinated effort.
- (d) To improve the effectiveness of the Overview and Scrutiny function by improving the focus of the Committee and removal of artificial barriers.
- (e) An opportunity to consider financial savings in Committee Services in future years once the implications of this and future governance changes are understood.

## **6. FINANCIAL IMPLICATIONS**

- 6.1 There will be a saving of £3012.00 per annum on the Special Responsibility Allowance paid to one of the scrutiny committee chairman.
- 6.2 Management Team has considered reports from the Head of Corporate Governance about the staffing of Committee Services in future years. Some savings have been identified in the 2010/11 budget and the potential exists to make further savings if the Council rationalises its support requirements from Committee Services. This is a matter which Management Team will keep under active consideration and review. Future savings will be reported through Cabinet.

## **7. LEGAL IMPLICATIONS / OTHER CONSIDERATIONS**

- 7.1 Considered in the main body of the report.

## **8. RISKS AND HOW THEY WILL BE MITIGATED**

- 8.1 None apparent.

## **9. TIMETABLE FOR IMPLEMENTATION**

- 9.1 If changes to the Constitution are approved then appointments to the new Overview and Scrutiny Committee can be made at the Annual Meeting on 20 May 2010.

**Report Author: Michael Graham, Head of Corporate Governance, 01784 446227**

### **Background Papers:**

There are none