

Proposals for Elected Mayor/Cabinet Style of Governance for Darlington

**Draft
Submission to the Secretary of State for
Local Government**

19th July 2007

DARLINGTON BOROUGH COUNCIL

PROPOSALS FOR ELECTED MAYOR/CABINET FORM OF GOVERNANCE

LOCAL GOVERNMENT ACT 2000

1. INTRODUCTION

- 1.1 A petition was presented to the Council on 26th February 2007 calling for a referendum to determine whether there was support to have a directly elected Mayor. The petition states:

“We the undersigned, being electors for the area of Darlington seek a referendum on whether the electors for the area should elect a Mayor who, (with a Cabinet) (with a Council Manager), will be in charge of our local services and lead Darlington Borough Council.”

- 1.2 The petition was declared invalid as the number of valid signatures (3808) did not exceed the verification number (3,887) published by the Council in February 2006. Therefore, there was an insufficient number of valid entries to satisfy the statutory requirements and to automatically trigger a referendum.
- 1.3 Although technically the petition fell short of the legal requirements, the Council, at its meeting held on 21 March 2007 decided to hold a Mayoral referendum to be conducted on 27th September 2007. This decision has necessitated the preparation of the Council’s proposals for a Mayoral form of governance.

2. SUMMARY OF PROPOSALS

- 2.1 By virtue of Section 25 of the Local Government Act 2000, the Council is required to prepare a statement setting out:
- (i) Details of its executive arrangements:
 - (a) the form of executive that is proposed;
 - (b) a description of the roles of the executive, including which functions are to be the responsibility of the executive;
 - (c) a description of the roles of the Full Council, including which plans and strategies that will be subject to approval by Full Council;
 - (ii) The timetable with respect to the implementation of the proposals;
 - (iii) The extent to which the proposals are likely to assist in securing continuous improvement in the way the Council’s functions are exercised;
 - (iv) The steps which the Council has taken to consult local government electors and other interested parties in Darlington; and

- (v) The outcome of the consultation and the extent to which that outcome is reflected in the proposals

2.2 The Council's existing governance arrangements, based on the Leader/Cabinet model, were finally adopted in 2002. These have evolved over time following reviews of the Constitution undertaken by the Council. The current arrangements constitute the Council's "fall-back" proposals (produced separately in the form of the Constitution).

2.3 The Council's "main" proposals for a mayoral form of governance, are similar to the current arrangements operated by the Authority. Indeed, the Council has no plans to approach the referendum with materially different "main" and "fall-back" proposals.

3. EXECUTIVE

3.1 The Executive is at the heart of the day-to-day decision-making process and has a key role in proposing the budget and the policy framework to Council. The Executive leads the implementation of Council policy within the budget and policy framework and will carry out all of the local authority's functions which are not the responsibility of any part of the authority, whether by law or under the Constitution.

3.2 The Executive will comprise the elected Mayor and between two and nine elected Members of the Local Authority appointed by the elected Mayor.

3.3 The elected Mayor will carry out the following roles:

- lead the Executive;
- assign responsibilities to Executive Members;
- provide community leadership
- exercise executive functions within the specified areas for which he or she has a defined responsibility; and
- in the name of the Executive, propose the budget and policy framework to the Council.

4. DETERMINATION OF EXECUTIVE AND NON EXECUTIVE FUNCTIONS

4.1 The Council will follow the statutory guidance in dividing its functions between the Council and the Executive:

- The Local Government Act 2000 (Section 13) and the various Functions and Responsibilities Orders make the Full Council responsible for a prescribed list of functions. These may be discharged by the Full Council or delegated to committees, sub-committees or to officers.
- A number of functions are defined in law as local choice functions and the Council may decide to discharge them through the executive or through Full Council, a committee, sub-committee or an officer. The allocation of these functions will be as set out in Appendix 1; and

- All other functions are to be the responsibility of the Executive.

5. COUNCIL

5.1 The Council is composed of the elected Mayor and 53 Councillors, representing 24 Wards.

5.2 The person presiding at the meeting will have the following responsibilities:-

- to uphold and promote the purposes of the Constitution;
- to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- to ensure that the Council meeting is a forum for debate of matters of concern to the local community and the place at which members who are not on the Executive are able to hold the Executive to account; and
- to promote public involvement in the Council's activities.

5.3 The person presiding at the meetings of the Council cannot be the elected mayor.

5.4 Decisions reserved to Full Council include:-

- Adopting the constitution and any subsequent changes to it;
- Agreeing the Council's policy framework;
- Approving the budget (capital and revenue) and any plan or strategy for the control of borrowing or expenditure;
- Taking decisions on functions that are the responsibility of the executive but are outside the agreed policy framework or budget;
- Appointment of the person to preside at Council meetings;
- Appointing Committees and setting their terms of reference;
- Making or confirming the appointment of the Chief Executive;
- Making byelaws;
- Conferring the title of Honorary Freeman/Alderman;
- Local Choice Functions which the Council decides should be undertaken by itself rather than the executive; and

- Determining the Members' Allowances Scheme and amounts of Members' allowances and the elected Mayor's allowances.

5.5 The Policy Framework will comprise the following plans/strategies:

- Annual Library Plan (Library Position Statement);
- Council's Corporate Plan and Best Value Performance Plan;
- Children's and Young People's Plan;
- Community Strategy;
- Crime and Disorder Reduction Strategy;
- Development Plan documents;
- Licensing Authority Policy Statement;
- Local Transport Plan;
- Youth Justice Plan;
- Food Law Enforcement Service Plan;
- Housing Investment Programme;
- Adult Learning Plan;
- Local Agenda 21 Strategy;
- Quality Protects Management Action Plan;
- Treasury Management Strategy;
- Licensing Policy

5.6 The definition of key decision will be as follows:

An Executive decision which is likely to:

- (a) result in the Borough Council incurring expenditure which is, or the making of savings which are, significant having regard to the budget for the service or function to which the decision relates; or
- (b) be significant in terms of its effects on communities living or working in an area comprising one or more wards in the Borough.

A key decision may only be made in accordance with the requirements of the Executive Procedure Rules.

6. OVERVIEW AND SCRUTINY

6.1 The Council will appoint five Scrutiny Committees whose role will be to develop and review policies and to hold the Executive to account.

The five Scrutiny Committees and their remits are as follows:

Resources Scrutiny Committee

Human Resource Management, Financial Management (including Corporate Budgeting issues) and land and property management.

Neighbourhood Services

Public Protection, Local Agenda 21, Community Safety and Home Office Services, Emergency Planning, Litter, Licensing, Waste Management and Recycling and Community Partnerships, especially in relation to those Partnerships put in place by this Council.

Health & Well-being

Social Services, Housing and Social Exclusion,

Scrutiny of Health (in line with the Health and Social Care Act 2001) in considering the provision of health services that affect the local area, and in responding to consultations of NHS Bodies on proposed service variations.

Children & Young People

Educational issues including libraries.

Economy & Environment

Planning (except where specifically dealt with elsewhere), transport, highways, economic development, tourism, leisure and the Town Centre.

6.2 The Scrutiny Committees will have the following powers:

General Role

Scrutiny Committees may:

- (a) review and/or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of Cabinet;
- (b) make reports or recommendations to the Council, or Cabinet, with respect to the discharge of any functions which are the responsibility of Cabinet;
- (c) review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Cabinet; and
- (d) make reports or recommendations to the Council, or Cabinet, with respect to the discharge of any functions which are not the responsibility of Cabinet on matters which affect the Authority's area or the inhabitants of that area.

Policy Development

Scrutiny Committees may :-

- (e) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;

- (f) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (g) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (h) question Members of the Cabinet and/or Committees and Chief Officers about their views on issues and proposals affecting the area; and
- (i) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

Review

Scrutiny Committees may :-

- (j) review and scrutinise the decisions made by and the performance of the Cabinet, Committees and Council Officers, both in relation to individual decisions, and over time;
- (k) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (l) question Members of the Cabinet, Committees and Chief Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (m) question and gather evidence from any other person (with their consent);
- (n) make recommendations to the Cabinet, appropriate Committees or Council arising from the outcome of the scrutiny process; and
- (o) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance.

6.3 The Council will appoint a Monitoring and Co-ordination Group which consists of the Chairs of the Scrutiny Committees who will have responsibility for proposing an annual overview and scrutiny work programme, based on proposals from each Scrutiny Committee, to ensure that there is efficient use of the Committee's time, and that the potential for duplication of effort is minimised;

- (a) ensure that each Committee works to a guideline of not more than two reviews per year and that the balance of reviews overall is manageable within the resources of the Council and potential call on external organisations and agencies;
- (b) where matters fall within the remit of more than one Scrutiny Committee, determine which of them will assume responsibility for any particular issue, and to resolve any issues of dispute between Scrutiny Committees;

- (c) to receive requests from Cabinet and/or Full Council for reports from Scrutiny Committees and to allocate them, if appropriate, to one or more Scrutiny Committees;
- (d) to put in place and maintain a system to ensure that referrals from Scrutiny Committees to Cabinet, either by way of report or for reconsideration, are managed efficiently and do not exceed the limits as set out in this Constitution;
- (e) at the request of Cabinet, make decisions about the priority of referrals made if the volume of such reports creates difficulty for the management of the Cabinet business or jeopardises the efficient running of Council business;
- (f) recommend resource allocation to Scrutiny Committees to the Director of Corporate Services; and
- (g) receive quarterly reports from each of the Scrutiny Committees on their reviews and workings in the previous quarter.
- (h) Overall responsibility for allocation of the Scrutiny of Social Inclusion.

7. REGULATORY COMMITTEES

7.1 The following Regulatory Committees will be established by the Council:

- ❑ **Planning Committee.** The Committee will have 12 Members and have the overall responsibility for planning and development control matters;
- ❑ **General Licensing Committee.** The Committee will have 13 Members and have the responsibility for carrying out the licensing functions of the Council.
- ❑ **General Act 2003 Licensing Committee.** The Committee will have 13 Members and will exercise Licensing functions (operating under the Licensing Act 2003). The Committee will appoint a sub-committee of 3 Members to deal with contested hearings.

8. OTHER COMMITTEES

8.1 The following committees will be established by the Council:

- ❑ **Appeals Committee (School Transport, Student Awards, Discretionary Housing Payments and Licensing).** An Appeals Panel comprising of 12 Members will be appointed from which any Member from the Panel can be drawn to serve on the Appeals Committee (comprising five Members). The Committee will determine appeals in respect of school transport, student awards, discretionary housing payments and licensing.
- ❑ **Human Resources Committee.** A Committee will be appointed comprising 15 Members to undertake the interview and appoint process for the Chief Executive (Head of Paid Service) and to make recommendation to Council.
- ❑ **Standards Committee.** A Standards Committee will be appointed comprising 2 Members of the Council and 3 independent members and 2 parish members. It will have an important role in strengthening and maintaining high standards of conduct required of Councillors and officers.
- ❑ **Audit Committee.** The Committee will have 3 Members and will have responsibility for overseeing the financial governance of the Council.
- ❑ **Rights of Way Panel** A panel of 3 Members to carry out the powers and duties of the Council in relation to Definitive Map Modifications Orders
- ❑ **LEA Governors Appointments Panel** Five members to appoint and dismiss Governors.
- ❑ **The Council also has five forums which liaise with relevant groups and advise in relation to the following areas:**
 - ❑ Town Centre Forum
 - ❑ Darlington Transport Forum
 - ❑ Public Protection Forum

- Darlington Environmental Forum
- Darlington Planning Forum

9. IMPLEMENTATION

9.1 The Council has determined that a referendum for an elected Mayor will take place. The Council will adhere to the following timetable:

- The Council to consider, at its meeting on 19th July 2007, its submission to the Secretary of State based on the elected Mayor/Cabinet model of governance;
- In determining the referendum period, the Council has, in accordance with guidance, considered how the timing and form of referendum can maximise turnout. The referendum question prescribed by law is:

“Are you in favour of the proposal for Darlington Borough Council to be run in a new way, which includes a Mayor, who will be elected by the voters of the borough, to be in charge of the Council services and to lead Darlington Borough Council and the community which it serves?”

- The inaugural Mayoral election will be held in May 2008 in the event of a “yes” vote in the referendum. The initial term of office of the elected Mayor will be four years.

10. SECURING CONTINUOUS IMPROVEMENT

10.1 The Council, in reaching its decision on the elected Mayor form of governance, also had regard to the extent the proposals would be likely to assist in securing continuous improvement in the way in which the Council’s functions are exercised, having regard to a combination of economy, efficiency and effectiveness, as required by Section 25(4) of the Act.

10.2 The key elements of the proposals which will reflect that consideration are as follows:-

- The Council will set the broad policy framework reflecting public consultation and engagement with key agencies
- The Mayor and Cabinet will provide strategic direction and will maintain close links with the five Scrutiny Committees;
- The balance of delegation will enable decisions to be made quickly through officers, the Mayor or Cabinet
- The Scrutiny Committees will have a strong role in reviewing services and in proposing new policies;
- Community involvement and consultation will be a significant feature in the arrangements.

11. CONSULTATION WITH LOCAL ELECTORS AND OTHER INTERESTED PARTIES

- 11.1 Prior to drawing up the executive arrangements set out above, the Council undertook a programme of consultation with local electors and other interested parties as required by section 25(2) of the Act on the form of executive arrangements.
- 11.2 The Council had regard to both the wording and the spirit of the guidance issued by the Secretary of State on the form of consultation.
- 11.3 The details of the Consultation exercise and the results are set out in Appendix 2

Appendices

- Appendix 1 Local Choice Functions
- Appendix 2 Results of Consultation exercise

LOCAL CHOICE FUNCTIONS

Functions contained in Schedule 2, Regulation 3(1) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, which, depending on the circumstances, may be appropriate for Cabinet, Full Council or a Committee of the Council (or an Officer) to undertake.

Function	Delegation
1. Any function under a local Act other than a function specified or referred to in regulation 2 or schedule 1.	The Chief Executive shall decide which is the most appropriate body as and when the need arises.
2. The determination of an appeal against any decision made by or behalf of the Authority	Human Resource Panel in relation to employee matters. Cabinet in respect of all other matters.
3. The appointment of Review Boards under regulations under sub-section (4) of Section 34 (determination of claims and reviews) of the Social Security Act 1998(a).	Council.
4. The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools.	The Borough Solicitor.
5. The making of arrangements pursuant to sections 94(1), (1A) and (4) of the Schools Standard and Framework Act 1998 (admission appeals).	The Borough Solicitor.
6. The making of arrangements pursuant to section 95(2) of the Schools Standard and Framework Act 1998 (Children to whom section 87 applies: appeals by governing bodies).	The Borough Solicitor.
7. The making of arrangements Section 20 (questions on police matters at Council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a police authority.	The Director of Corporate Services.
8. The making of appointments under paragraph 2 to 4 (appointment of members by relevant councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996.	Council.
9. The conducting of Best Value reviews in accordance with the provisions of	Cabinet.

Function	Delegation
any order for the time being having effect under Section 5 (Best Value Reviews) of the Local Government Act 1999.	
10. Any function relating to contaminated land.	Cabinet or the Director of Development and Environment in accordance with the Officers Scheme of Delegation.
11. The discharge of any function relating to the control of pollution or the management of air quality.	Cabinet or the Director of Development and Environment in accordance with the Officers Scheme of Delegation.
12. The service of an abatement notice in respect of a statutory notice.	Director of Development and Environment in accordance with the Officers Scheme of Delegation.
13. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area.	Cabinet.
14. The inspection of the authority's area to detect any statutory nuisance.	Director of Development and Environment in accordance with the Officers Scheme of Delegation.
15. The investigation of any complaint as to the existence of a statutory nuisance.	Director of Development and Environment in accordance with the Officers Scheme of Delegation.
16. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Director of Development and Environment in accordance with the Officers Scheme of Delegation.
17. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Director of Development and Environment in accordance with the Officers Scheme of Delegation.
18. The making of agreements for the execution of highways works.	Director of Development and Environment in accordance with the Officers Scheme of Delegation.
<p>19. The appointment of any individual -</p> <p>(a) To any office other than an office in which he is employed by the authority.</p> <p>(b) To any body other than -</p> <p style="padding-left: 40px;">(i) the authority;</p> <p style="padding-left: 40px;">(ii) a joint committee of two or more authorities; or</p> <p>(c) To any committee or sub-</p>	The Council or Cabinet except insofar as may be determined otherwise as specified in the Scheme relating to outside bodies.

Function	Delegation
committee of such a body and the revocation of any such appointment.	
20. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.	Chief Executive.
21. Any function of a local authority in its capacity as harbour authority (to the extent that the function does not fall within paragraph 1 of this Schedule).	Not applicable.