



Leicester  
City Council

**WARDS AFFECTED**  
All Wards

**SCRUTINY  
CABINET  
COUNCIL**

**17 MARCH 2011  
21 MARCH 2011  
24 MARCH 2011**

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## **REVIEW OF THE CONSTITUTION**

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### **REPORT OF THE DIRECTOR OF CORPORATE GOVERNANCE**

#### **1. PURPOSE OF REPORT**

To enable Council to consider and approve proposed changes to the Constitution.

#### **2. RECOMMENDATIONS (OR OPTIONS)**

Council is recommended:

1. That the first elected Mayor be entitled "City Mayor";
2. That the Authority retain the positions and titles of "Lord Mayor", "Deputy Lord Mayor" and "High Baliff" to continue to perform the historic, ceremonial functions attributed to these roles;
3. That the City Mayor be required to appoint a Deputy City Mayor;
4. Consider and approve the draft proposed amendments to the Constitution as detailed in the attached Schedule and in the draft proposed Constitution to commence at the start of the 2011/12 Municipal Year;
5. Agree that for the period between the cessation of the current executive arrangements and the introduction of the Elected Mayor and Executive Model, the Chief Executive be given delegated authority to exercise all the Council's executive functions, on the understanding that executive key decisions will be taken only in cases of genuine urgency and after consultation with the City Mayor elect.;
6. That authorisation to amend the Constitution in situations of urgency between the date of the local elections and the Annual Council meeting be delegated to the Director of Corporate Governance to ensure the effective operation of Council business. Any such amendments must be made following consultation with the Leader of the Council or City Mayor and Group Leaders with any amendments brought back to Council at the next scheduled meeting for approval;

7. That the City Mayor, once in office, be requested to come forward with any further revisions to the Constitution, as required for operational or legal reasons and;
8. Note that Council will continue to appoint Scrutiny Chairs, Vice Chairs and Task Group Leaders as appropriate.

### **3. REPORT**

Changes to the Constitution must be approved by full Council (Article 15.02). It is good practice to keep the Constitution under regular review so as to meet current organisational needs.

The Local Government Act 2000 introduced the requirement for local authorities to adopt a prescribed model for executive arrangements. Following this, Leicester City Council adopted the Leader and Cabinet Executive model. The Local Government and Public Involvement in Health Act 2007 further required the Authority to consider whether to adopt a revised Strong Leader and Cabinet Executive model or elected Mayor and Cabinet Executive model. Following a public consultation on 22<sup>nd</sup> December 2010 Council formally adopted the elected Mayor and Cabinet Executive model. As such on May 5<sup>th</sup>, 2011 in addition to the City Council elections, elections will take place for the City's first elected Mayor. Consequently the Council's Constitution needs to be amended to reflect this change.

#### **3.1 Arrangements relating to the Elected Mayor**

##### **3.1.1 Role Titles / Civic & Ceremonial Duties**

The Local Government Act 2000 requires the title of Mayor to be used in relation to an elected Mayor. However Leicester has a long tradition of Civic Mayoralty with the title of Lord Mayor granted to the City by Royal Charter in 1928. Following the clearly expressed wish of Cabinet and Council to retain the title Lord Mayor officers have researched the legal background. The Constitution identifies and describes the key civic and executive roles in the Articles.

Government guidance to the Local Government Act 2000 'New Councillor Constitutions: Local Government Act 2000 Guidance to English Local Authorities' states that :“4.31 In a very few cases the title of “Mayor” or “Lord Mayor” is derived in some other way; for example through ancient local custom and practice or Royal Charter. In these circumstances this title would continue whichever form of executive is chosen. It is for local choice within the terms of any Charter to decide who holds this ancient title.” However the Guidance goes onto state that “4.32 However, if it is decided that the elected Mayor is not to hold the Charter title, then Local Authorities should ensure that the two Mayor role titles are distinguished from each other in some way.

For the purposes of this report and the changes to the Constitution the two roles have been referred to 'City Mayor' and 'Lord Mayor' to emphasise the difference between the roles. Similarly the Constitution uses the descriptions

Deputy Lord Mayor and Deputy City Mayor. However Members may wish to consider alternate titles that comply with the legislative requirements.

It is envisaged that the title and role of High Bailiff will remain unchanged.

In terms of civic and ceremonial duties some Mayoral authorities have defined in their Constitutions that it is Council which has the power to decide whether or not the Elected Mayor shall assume the functions of the Lord Mayor / Civic Offices. In order to ensure clarity of roles this approach has been followed in the suggested amendments to this Council's Constitution.

### 3.1.2 Detailed Changes

The decision of Council to adopt a Mayor and Executive system of Executive Arrangements requires a number of changes to be made to the Constitution.

The majority of the proposed changes are technical and relate to the titles of Lord and City Mayors and their respective roles in the new Elected Mayor and Cabinet Executive arrangements and are detailed in the attached Schedule A. However in a number of cases the adoption of an Elected Mayor requires a different approach, or experience at other Local Authorities suggests that a specific way forward maybe helpful and these suggestions are also highlighted in Schedule A.

Where specific issues have been identified these are explored further below with the suggested approach included in Schedule A and in the proposed amended Constitution.

A copy of the proposed amended Constitution is attached with the papers for this meeting at [www.leicester.cabinet.gov.uk](http://www.leicester.cabinet.gov.uk). A paper copy of the proposed amended Constitution has not been provided due to the size / costs involved. However a copy is available on request from Democratic Support 0116 229 8818.

### 3.1.3 Introduction of Mayoral Arrangements following the Local Elections

Under legislation the current Leader and Cabinet Executive model will cease three days after the May elections and that from taking office 1 day later all executive functions of the Council will vest in the City Mayor (except any executive functions reserved to Full Council). This means there is potential for a gap of one day between the two models of executive management. In order to avoid this other authorities have provided for the Chief Executive to be given delegated power in this period to exercise all the Council's executive functions but would only take executive key decisions in cases of genuine urgency and after consultation with the City Mayor elect. This delegation would cease once the City Mayor takes office. It is therefore suggested that the City Council make a similar delegation.

### 3.1.4 Dispute Resolution

In a Mayoral form of executive where the Council wishes to amend or reject the Executive's proposals for the Authority's Budget or for a plan or strategy that is included in the Policy Framework a two-thirds majority vote is required to amend or reject the item rather than a simple majority. This is a requirement of statute. However, for purposes of clarity a number of existing mayoral authorities have adopted specific constitutional provisions setting out

a dispute resolution process in the event of a potential impasse between the Council and the City Mayor in a particular case. It is suggested that Leicester adopt a similar process as follows:

- Where the Council wishes to amend the City Mayor's proposals it may, by a majority vote, send the budget, plan or strategy back to the City Mayor and Executive,
- The City Mayor and Executive must consider whether or not to make any amendments before re-submitting the item to the Council.
- When the item is re-submitted, if the Council still wishes to amend the proposals, it can do so providing there are at least two-thirds of the Councillors present and voting at the meeting in favour of the amendment(s).
- Where a two-thirds majority in favour of the Council's amendment(s) is not achieved, then the City Mayor's proposals stand agreed and shall be deemed to be adopted by the Authority.

This proposal would enhance the current mandatory standing order which is reflected in the Budget and Policy Framework rules in the Constitution.

### 3.1.5 The full Council Meeting

In law an elected Mayor is not a Councillor (unless specified as such under certain specific legislative provisions). However it is anticipated that the City Mayor will play an important role in the Council meeting, which is a key opportunity for Members to be informed about the City Mayor's activities and to hold him/her to account. Most existing mayoral authorities therefore accord an elected Mayor the same rights as Councillors to move motions or amendments, present petitions, be appointed to committees etc. In addition they also allow Members' and public questions to the elected Mayor at the Council meeting, and invite the elected Mayor to make a report to the meeting if they wish. Consequently this approach has been included in the suggested amendments to the Constitution.

In terms of allowing the City Mayor and Cabinet to report on key emerging issues to the Council it is suggested that the current 'Position Statement' provisions be amended to allow use by the City Mayor and Cabinet.

### 3.1.6 Cabinet Portfolios

The Local Government Act 2000 requires local authorities to operate 'Executive Arrangements', under which there is a split between the authority's 'Executive' and 'Council' (or 'non-executive') functions. The Executive is responsible for all functions except those that are reserved to the full Council or another part of the authority by law or the Council's constitution.

In practice this means that the Executive is responsible for most operational decisions about Council services, except the regulatory functions (planning, licensing, appeals) and some other matters including staffing, elections, standards, audit, accounts etc. The Executive must exercise its powers within the Budget and Policy Framework agreed by Council, and also has a key role in formulating the plans and strategies that comprise that framework.

The City Mayor will thus take control of all Executive functions that are currently the responsibility of the Leader and Cabinet. The City Mayor

however must still appoint a Cabinet. The size and portfolios of the Cabinet is a matter for the City Mayor but must include at least two Councillors in addition to the City Mayor, and may not exceed nine Councillors and the City Mayor in total. The City Mayor must appoint a Deputy City Mayor from among the Cabinet Members. The Deputy City Mayor would serve for the duration of the City Mayor's term of office unless removed by the City Mayor. The Deputy City Mayor has authority to exercise the Mayor's powers only if the Mayor is unable to act. The Deputy City Mayor and all Cabinet Members other than the Elected Mayor must be drawn from the Councillors of the authority. It is suggested that the City Mayor be requested to submit the name of the Deputy City Mayor to the Monitoring Officer and to Annual Council following the Mayoral election and any subsequent changes be submitted in writing to the Monitoring Officer and subsequently reported to Council.

In line with a number of other Mayor Authorities it is recommended that the City Mayor be requested to submit the names and portfolios of his / her Cabinet to the Monitoring Officer and to Annual Council following the Mayoral election and that all subsequent changes be submitted in writing to the Monitoring Officer and subsequently reported to Council. In the proposed amended Constitution the current Cabinet portfolios are retained, though can be amended by the City Mayor once he or she takes office. In order to clarify and ensure effective decision making during this period and subsequently it is recommended that the current individual Cabinet member decision making process be amended to apply to the City Mayor as well as Cabinet members.

### **3.2 Scrutiny**

The statutory requirements for, and powers of, Overview and Scrutiny are unchanged under a Mayoral Executive. As such it remains the duty of Council to appoint Members to, and set up scrutiny processes which:

- hold the executive (leader and cabinet) to account
- undertake policy development and review
- monitor and improve performance
- investigate issues of public concern and
- carry out scrutiny of other public bodies providing services to local people including specific duties around health and justice.

Consequently no changes are suggested to scrutiny processes in the proposed revised Constitution. However Council may wish to review the processes in place following the election of the City Mayor, particularly in light of the forthcoming responsibilities which the Council is taking on in relation to healthcare.

### **3.3 Members Allowances**

This is the subject of a separate report on the agenda for Council.

### **3.4 Finance Procedure Rules**

The Finance Procedure Rules have been updated to reflect changes and the introduction of RMS.

#### **4. FINANCIAL, LEGAL AND OTHER IMPLICATIONS**

##### **4.1 Financial Implications**

There are no direct implications arising from the recommendations in the report. The overall cost of adopting an elected mayor and Cabinet Executive model will be dependent on the structure of the Executive function, however this will have to be contained within the 2011/12 budget as set by Council.

##### **4.2 Legal Implications**

The Director of Legal Services has been fully involved in the production of this report.

Peter Nicholls, Head of Legal Services

##### **4.3. Climate Change**

This report does not contain any significant climate change implications and therefore should not have a detrimental effect on the Council's climate change targets.

Helen Lansdown, Senior Environmental Consultant - Sustainable Procurement

#### **5. OTHER IMPLICATIONS**

OTHER IMPLICATIONS	YES/NO	Paragraph References Within the Report
Equal Opportunities	<b>N</b>	
Policy	<b>N</b>	
Sustainable and Environmental	<b>N</b>	
Crime and Disorder	<b>N</b>	
Human Rights Act	<b>N</b>	
Elderly/People on Low Income	<b>N</b>	
Corporate Parenting	<b>N</b>	
Health Inequalities Impact	<b>N</b>	

#### **6. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972**

None

#### **7. CONSULTATIONS**

Peter Nicholls – Head of Legal Services

#### **8. REPORT AUTHOR**

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