



Meeting of the

TOWER HAMLETS COUNCIL

EXTRAORDINARY MEETING

Wednesday, 3 March 2010 at 7.00 p.m.

A G E N D A

VENUE

**Council Chamber, 1st Floor,
Town Hall, Mulberry Place,
5 Clove Crescent,
London E14 2BG**

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact:

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**TO THE MAYOR AND COUNCILLORS OF THE LONDON BOROUGH OF TOWER
HAMLETS**

You are summoned to attend an Extraordinary Meeting of the Council of the London Borough of Tower Hamlets to be held in **THE COUNCIL CHAMBER, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE CRESCENT, LONDON, E14 2BG** at **7.00 p.m.** on **WEDNESDAY, 3 MARCH 2010**

Dr Kevan Collins
Chief Executive

LONDON BOROUGH OF TOWER HAMLETS

EXTRAORDINARY COUNCIL MEETING

WEDNESDAY, 3 MARCH 2010

7.00 p.m.

1. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

**PAGE
NUMBER
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2. DECLARATIONS OF INTEREST

To note any declarations of interest made by Members, including those restricting Members from voting on the questions detailed in Section 106 of the Local Government Finance Act, 1992. See attached note from the Chief Executive.

**3. TO RECEIVE ANNOUNCEMENTS (IF ANY) FROM THE
MAYOR, LEADER OF THE COUNCIL, MEMBERS OF THE
CABINET OR THE CHIEF EXECUTIVE**

**4. NEW EXECUTIVE ARRANGEMENTS: PROPOSALS AND
CONSTITUTIONAL AMENDMENTS**

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Report of the Chief Executive attached.

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Agenda Item 2

DECLARATIONS OF INTERESTS - NOTE FROM THE CHIEF EXECUTIVE

This note is guidance only. Members should consult the Council's Code of Conduct for further details. Note: Only Members can decide if they have an interest therefore they must make their own decision. If in doubt as to the nature of an interest it is advisable to seek advice **prior** to attending at a meeting.

Declaration of interests for Members

Where Members have a personal interest in any business of the authority as described in paragraph 4 of the Council's Code of Conduct (contained in part 5 of the Council's Constitution) then s/he must disclose this personal interest as in accordance with paragraph 5 of the Code. Members must disclose the existence and nature of the interest at the start of the meeting and certainly no later than the commencement of the item or where the interest becomes apparent.

You have a **personal interest** in any business of your authority where it relates to or is likely to affect:

- (a) An interest that you must **register**
- (b) An interest that is not on the register, but where the well-being or financial position of you, members of your family, or people with whom you have a close association, is likely to be affected by the business of your authority more than it would affect the majority of inhabitants of the ward affected by the decision.

Where a personal interest is declared a Member may stay and take part in the debate and decision on that item.

What constitutes a prejudicial interest? - Please refer to paragraph 6 of the adopted Code of Conduct.

Your personal interest will also be a prejudicial interest in a matter if (a), (b) and either (c) or (d) below apply:-

- (a) A member of the public, who knows the relevant facts, would reasonably think that your personal interests are so significant that it is likely to prejudice your judgment of the public interests; AND
- (b) The matter does not fall within one of the exempt categories of decision listed in paragraph 6.2 of the Code; AND EITHER
- (c) The matter affects your financial position or the financial interest of a body with which you are associated; or
- (d) The matter relates to the determination of a licensing or regulatory application

The key points to remember if you have a prejudicial interest in a matter being discussed at a meeting:-

- i. You must declare that you have a prejudicial interest, and the nature of that interest, as soon as that interest becomes apparent to you; and
- ii. You must leave the room for the duration of consideration and decision on the item and not seek to influence the debate or decision unless (iv) below applies; and

- iii. You must not seek to improperly influence a decision in which you have a prejudicial interest.
- iv. If Members of the public are allowed to speak or make representations at the meeting, give evidence or answer questions about the matter, by statutory right or otherwise (e.g. planning or licensing committees), you can declare your prejudicial interest but make representations. However, you must immediately leave the room once you have finished your representations and answered questions (if any). You cannot remain in the meeting or in the public gallery during the debate or decision on the matter.

Agenda Item 4

Committee	Date	Classification	Report No	Agenda Item No
Extraordinary Council Meeting	3 March 2010	Unrestricted		
Report of: Chief Executive		Title: New executive arrangements: Proposals and constitutional amendments		
Originating Officer(s) John Williams, Service Head, Democratic Services.		Wards Affected: All		

1. SUMMARY

1.1 Council on 2 December 2009 agreed:-

- (i) In accordance with the requirements of the Local Government & Public Involvement in Health Act 2007 to introduce a 'Leader and Cabinet (England)' form of executive with effect from 6 May 2010; and
- (ii) Following receipt of a valid petition under the Local Government Act 2000, to hold a referendum on 6 May 2010 to determine whether the Authority will make a further change, to a Directly Elected Mayor and Cabinet, from 21 October 2010.

1.2 Section 4 and Appendix A to this report set out the detailed constitutional amendments required to implement the new-style Leader and Cabinet model from 6 May as at (i) above.

1.3 Sections 5 and 6 of the report, together with Appendices B and C, set out the results of the statutory consultation undertaken on the possible future Mayoral system and recommend the formal adoption of proposals for the operation of that system should the referendum in May return a majority 'yes' vote.

2. RECOMMENDATIONS

The Council is recommended:-

- 2.1 To agree the amendments to the Council's constitution required to introduce the new-style Leader and Cabinet (England) form of executive, as set out at Appendix A, to take effect from 6 May 2010;
- 2.2 To note the results of consultation on the draft proposals for a Mayoral form of executive as set out at Appendix B;

- 2.3 To adopt the proposals for executive arrangements including a Directly Elected Mayor, to be introduced with effect from 21 October 2010 subject to approval at the referendum on 6 May 2010, as set out at Appendix C;
- 2.4 To formally adopt the outline fallback proposals based on the 'Leader and Cabinet (England)' model that will continue to operate if the Mayoral system is not approved at the referendum on 6 May 2010, as at Appendix D;
- 2.5 To note that the proposed new executive arrangements will 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; and
- 2.6 To agree that the proposals and fallback proposals, together with a statement of the consultation undertaken, be sent to the Secretary of State, made available for inspection and advertised as required by statute.

3. BACKGROUND

- 3.1 The Local Government and Public Involvement in Health Act 2007 ('the 2007 Act') requires all local authorities with a population of more than 85,000 to adopt one of two forms of executive arrangements:-
 - **Either** a new style 'Leader and Cabinet (England)' model, in which the Leader of the Council is elected by the Council for a four year term of office (although the Council may retain the power to remove the Leader from office) and selects other Councillors to form the Cabinet;
 - **Or** a 'Directly Elected Mayor and Cabinet' model, in which an Executive Mayor is elected by the residents of the borough in a separate poll. The Mayor would also serve a four year term and would select the Cabinet members from amongst the elected Councillors. An Elected Mayor cannot be removed from office during his/her term by the Council.
- 3.2 The Council conducted public consultation as required by the 2007 Act and on 2 December 2009 agreed to introduce a Leader and Cabinet (England) form of Executive from 6 May 2010. However, following the close of consultation, the Council had received a valid petition under the Local Government Act 2000, calling for a referendum on the adoption of a Mayoral form of executive. The Council on 2 December therefore also agreed that the referendum will be held on 6 May 2010. If a majority of those voting at the referendum vote 'yes', the Mayoral system will be introduced as from 21 October 2010 and an election will be held on that date for the position of Elected Mayor. If on the other hand the referendum returns a majority 'no' vote, the new-style Leader and Cabinet system will continue and the Leader elected at the Annual Council Meeting in May 2010 will remain in office for a four year term.
- 3.3 Section 4 of this report sets out the constitutional amendments required to implement the new-style Leader and Cabinet model from 6 May 2010. Sections 5 and 6 set out the results of consultation on the possible future Mayoral system and recommend the matters to be included in the formal proposals, which the

Council is now required to adopt, for the operation of that system should the referendum return a majority 'yes' vote.

4. CONSTITUTION AMENDMENTS: FOUR YEAR LEADER AND CABINET

4.1 In order to introduce the Leader and Cabinet (England) model from 6 May 2010 as agreed by the Council, a number of constitutional amendments are required. These are set out at Appendix A and are now presented for adoption.

4.2 The main differences between the new style Leader and Cabinet model and the Council's existing arrangements are:-

- The Leader will be elected by the Council for four years rather than annually (but the Council may retain the power to remove the Leader by majority vote);
- The Leader, rather than the Council, will decide how many Cabinet Members shall be appointed and will make those appointments;
- The Deputy Leader will be appointed by the Leader and will serve for the duration of the Leader's term of office unless removed by the Leader;
- All executive functions of the Council will be vested in the Leader, who will decide which functions shall be delegated to the Cabinet Members and/or officers.

5. CONSULTATION ON MAYORAL PROPOSALS TO BE PUT TO THE REFERENDUM

5.1 The 2000 Act requires that at least two months before the referendum, the Council must draw up, adopt and send to the Secretary of State:-

- a) Proposals for executive arrangements involving an Elected Mayor, including the allocation of 'local choice' functions between the Mayor and the Council, associated constitutional provisions and an implementation timetable, to be introduced if the referendum results in a majority 'Yes' vote; and
- b) 'Fallback' proposals, not involving an Elected Mayor, to apply if the referendum returns a majority 'no' vote. (NB: These will be a continuation of the new-style Leader and Cabinet arrangements that the Council has already agreed to introduce from 6 May 2010);

5.2 Before agreeing the proposals at (a) above the Council must take reasonable steps to consult local electors and other interested persons in the borough on the proposals. The authority must take into account the results of that consultation as well as 'the extent to which the proposed new executive arrangements 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'.

5.3 Consultation has been undertaken as required on draft Mayoral proposals. The 2000 Act does not prescribe the method or duration of consultation but states that the consultation can build on previous relevant work. The Council has only recently conducted a comprehensive consultation exercise on new executive arrangements, which attracted over 2,000 responses prior to the receipt of the

referendum petition. In view of this, and the fact that many of the outstanding issues in relation to the Mayoral proposals are quite technical in nature, the current consultation has been a light-touch and primarily web-based exercise. A full report on the methods used and the results of the consultation is attached at Appendix B.

6. MAYORAL PROPOSALS: ISSUES FOR CONSIDERATION

6.1 The main areas of discretion that the authority must decide at this stage about a possible future Mayoral system are listed below and these formed the main issues for consultation:-

- a) The allocation of functions between the Council and the Mayor, including the Policy Framework and the 'local choice' functions;
- b) Overview and Scrutiny arrangements including 'call-in' and the definition of a Key Decision;
- c) The allocation of civic/ceremonial functions and social precedence; and
- d) The scheme of delegation

6.2 The following paragraphs address these issues in turn and suggest the approach to be taken in the proposals, informed by the consultation responses.

The allocation of functions between the Mayor and the Council

6.3 Under the 2000 Act the local authority's functions are split between the Council and the Executive. Most functions are the responsibility of the Executive, whichever form that takes. The exceptions are in two categories - (i) certain specific functions that must be reserved to the Council or to non-executive committees (e.g. agreeing the Budget and Policy Framework, the Council's Constitution, Development and Licensing functions etc); and (ii) a further list of functions each of which the Council can choose either to reserve to itself or to allocate to the Executive. These latter functions are known as 'local choice' functions.

The Policy Framework

6.4 By law the Council must approve certain plans and strategies and this cannot be delegated to the Executive. The Executive proposes the plans to Council for approval and if the plans are approved the Executive must make decisions within the agreed plan. The following documents currently fall into this category:

- The Children and Young People's Plan
- The Crime and Disorder Reduction Strategy
- The Development Plan Documents
- The Licensing Authority Policy Statement
- The Local Transport Plan
- The Plans and Alterations which together comprise the Development Plan
- The Sustainable Community Strategy
- The Youth Justice Plan

6.5 If Councils wish they may add discretionary plans and strategies to the Policy Framework. However this could have an impact on efficient decision making,

because any changes to these plans could only be approved by Council, and it could also blur Executive accountability. It is therefore suggested that the existing Policy Framework should be included unchanged in the proposals.

This proposal was endorsed by a majority of respondents to the consultation who expressed a view on the matter.

Local Choice Functions

- 6.6 There are a small number of functions which Council can either reserve to itself or allocate responsibility for decision making to the Executive. Examples include the determination of appeals; functions relating to contaminated land, pollution or air quality; investigation of statutory nuisances; and functions relating to Local Area Agreements. Currently at Tower Hamlets some of these functions are allocated to the Council and some to the Executive. A full list of the 'local choice' functions and their current allocation is at Appendix E.
- 6.7 In view of the concerns raised by some respondents to the previous consultation regarding the concentration of powers in a Mayoral model, it is proposed that under such a model in the first instance all 'local choice' functions should be allocated to the Council. It would be open to the Council at any future point to review this allocation in respect of one or more of the functions. It should also be noted that in practice the discharge of most of the functions is delegated to officers on behalf of the Council and it is proposed that this remain the same.

This proposal was endorsed by a majority of respondents to the consultation who expressed a view on the matter.

Overview and Scrutiny Arrangements

- 6.8 The statutory requirements for, and powers of, Overview and Scrutiny are unchanged under a Mayoral executive. As with a Leader and Cabinet arrangement the Council must have at least one Scrutiny Committee. The arrangements for Overview and Scrutiny are well established in Tower Hamlets and are widely regarded as efficient and effective. It is recommended that the current arrangements for Overview and Scrutiny, including the provision for any five councillors to 'call-in' an executive key decision within five working days of the decision being published, should be included unchanged in the proposals.

This proposal was endorsed by a majority of respondents to the consultation who expressed a view on the matter.

Key Decisions

- 6.9 Certain executive decisions – those which are likely to result in the local authority incurring expenditure or making savings which are significant in the context of the budget for the service to which the decision relates; or which are significant in terms of the effect on communities living or working in two or more wards in the borough – are called 'Key Decisions' and are subject to additional legal requirements including advance publication on the Executive's Forward Plan and potential 'call-in' to the Overview and Scrutiny Committee.

6.10 The precise definition of a 'Key Decision' is a matter for each local authority. Some councils have set a specific financial threshold above which any decision is automatically a Key Decision. Tower Hamlets has not done so but instead each decision is judged on its merits taking into account:-

- Whether the decision may incur a significant social, economic or environmental risk;
- The likely extent of the impact of the decision both within and outside of the borough;
- Whether the decision is likely to be a matter of political controversy; and
- The extent to which the decision is likely to result in substantial public interest.

6.11 It is considered that the above definition of a Key Decision promotes effective and efficient decision making, taking into account the context of each individual decision and should therefore be retained under any mayoral system.

This proposal was endorsed by a majority of respondents to the consultation who expressed a view on the matter.

Civic and ceremonial duties

6.12 The Council may decide whether or not the Elected Mayor will discharge the ceremonial duties currently performed by the Civic Mayor (except for chairing the Council Meeting, which may not be undertaken by the Elected Mayor). If a 'Civic' position is retained, it cannot be known as 'Mayor' as that title may only be used by the Elected Mayor. The 'Civic Mayor' currently has social precedence in the borough. This will be passed to the Elected Mayor unless the Council opts to include in the arrangements that the 'Civic Mayor' (under a new title) will have precedence. The issue of social precedence is associated with the status of the ceremonial role.

6.13 Government guidance suggests that it will usually be difficult for a busy Elected Mayor to take on the full range of ceremonial duties as well as his/her executive role. It is therefore proposed that the ceremonial duties, including chairing the Council Meeting, should remain the responsibility of a separate post, who would undertake the same duties and responsibilities as the current 'Civic Mayor' and would have social precedence.

This proposal was endorsed by a majority of respondents to the consultation who expressed a view on the matter.

6.14 The consultation sought views on the most appropriate title for this post. Suggestions included 'Chair of Council', 'Speaker' and 'First Citizen'. It is proposed that 'Chair of Council', a title which summarises clearly one of the key roles of this position and is used by a number of other authorities, should be adopted at Tower Hamlets for the purposes of the mayoral proposals. This proposal was also endorsed by a majority of respondents to the consultation who expressed a view on the matter.

Scheme of Delegation

- 6.15 The Council's Constitution sets out the arrangements for delegation of certain Executive and Non-Executive (Council) functions to committees, other sub-groups of Members and/or Chief Officers. Under a Mayoral system the delegation of Executive functions to the Cabinet, individual Cabinet Members, Cabinet Committees or officers is a matter for the Mayor to decide following his/her election.
- 6.16 The discharge of Non-Executive (Council) functions such as Development, Licensing and the functions currently delegated to the Audit, Human Resources, Pensions, Standards, Appeals and General Purposes Committees are unaffected by any change to a Mayoral executive.
- 6.17 It is therefore proposed that if a mayoral system is introduced at Tower Hamlets, the existing Executive and Non-Executive schemes of delegation should initially be retained unchanged pending any variations to be agreed by the Elected Mayor or Council respectively.

This proposal was endorsed by a majority of respondents to the consultation who expressed a view on the matter.

The proposals

- 6.18 A draft of the Mayoral proposals, reflecting the recommendations above and the results of the consultation, is attached at Appendix C.

7. FALLBACK PROPOSALS

- 7.1 The Council must also formally agree 'fallback' proposals, based on a new-style Leader and Cabinet model, which will apply if the referendum does not approve the Mayoral proposals. It is proposed that these fallback proposals should be a continuation in identical form of the Leader & Cabinet (England) model that the Council has already agreed to introduce from 6 May 2010. A draft of the fallback proposals is attached at Appendix D.

8. SECURING CONTINUOUS IMPROVEMENT

- 8.1 In adopting the proposals the Council must consider 'the extent to which the proposed executive arrangements will assist in securing continuous improvement in the way the Council's functions are exercised, having regard to economy, efficiency and effectiveness'.
- 8.2 Supporters of the Elected Mayoral model state that it can provide for strong leadership, stability and direct personal accountability for decision making. Opponents state that it can concentrate power in a single official and diminish the role of councillors representing the community. The proposals at Appendix C seek to secure the advantages claimed for the model whilst ameliorating any disadvantages by including appropriate checks and balances, with the aim of securing continuous improvement in the exercise of the Council's functions.

9. ACTION NOW REQUIRED/FURTHER INFORMATION PROVISION

- 9.1 Once the Council has adopted the proposals, they must be sent to the Secretary of State, made available for inspection and advertised in a local newspaper.
- 9.2 From the date of submission of the proposals the Council may not promote support for, or opposition to, the referendum proposals. However, the Council will wish to conduct a major programme of information provision with the aim of explaining the differences between the two options, promoting an informed debate and encouraging electors to vote at the referendum, up until the final 28 days before the poll, when further restrictions on publicity apply.

10. CONCURRENT REPORT OF THE CHIEF LEGAL OFFICER

- 10.1 The legal context and implications are incorporated in the main body of the report. If the Council does not adopt the proposals, or fails to hold a referendum in accordance with the regulations, statute provides for the Secretary of State to direct the authority in this regard.

11. COMMENTS OF THE CHIEF FINANCE OFFICER

- 11.1 The costs associated with the referendum and possible subsequent mayoral election have previously been reported to the Council. There are no further direct financial implications of the current report. The cost of advertising the proposals will be met from existing provision in the Chief Executive’s directorate.

12. IMPLICATIONS FOR ONE TOWER HAMLETS

- 12.1 The new executive arrangements are designed to promote effective leadership and accountability, to the benefit of the whole borough and all its communities.

13. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 13.1 The proposals are designed to enable effective decision making and a longer-term view on all matters including measures to enhance the local environment.

14. RISK MANAGEMENT IMPLICATIONS

- 14.1 There are no direct risk management implications arising from this report.

15. APPENDICES ATTACHED

- Appendix A: Constitutional amendments: Leader and Cabinet (England)
- Appendix B: Mayoral Proposals - report on consultation
- Appendix C: Proposals for Executive Arrangements including an Elected Mayor
- Appendix D: Fallback proposals for Executive Arrangements including a Leader and Cabinet
- Appendix E: ‘Local Choice’ functions – current and proposed allocation

LOCAL GOVERNMENT ACT, 1972 SECTION 100D (AS AMENDED)

LIST OF "BACKGROUND PAPERS" USED IN THE PREPARATION OF THIS REPORT

Brief description of background papers:	Name and telephone number of holder and address where open to inspection
<ul style="list-style-type: none">• Local Government Act 2000 (as amended) and Guidance to Authorities on consultation.• LBTH consultation material and responses July – October 2009 and January – February 2010• Petition for a Mayoral Referendum delivered on 23rd October and 16th November 2009.	John Williams x 4204, 1 st floor, Mulberry Place.

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CONSTITUTIONAL AMENDMENTS REQUIRED TO IMPLEMENT THE LEADER AND CABINET (ENGLAND) FORM OF EXECUTIVE FROM 6 MAY 2010

CONSTITUTION PART 1 (SUMMARY AND EXPLANATION)

Section 1.3 (page 6), paragraph 3 – amend to read:-

“All Councillors meet together as the full Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council’s overall policies and set the budget each year. The Council appoints a Leader of the Council for a four year term of office, and annually an Overview and Scrutiny Committee, Regulatory Committees, a Standards Committee, and other statutory, advisory and consultative bodies. The Leader of the Council in turn appoints a Deputy Leader and other Cabinet Members.”

Section 1.4 (page 6), second sentence – amend to read:-

“The Executive is made up of the Leader and between two and nine other Members of the Council (‘the Cabinet’).”

CONSTITUTION PART 2 (ARTICLES)

Article 4.02 (page 16, functions of the full Council), sub-paragraph (d) – amend to read:-

“(d) appointing the Leader of the Council;”

Article 7.02 (page 22, form and composition of the Executive), first sentence – amend to read:-

“The Executive will consist of the Leader and between two and nine other Councillors (Lead Members – one of whom will be appointed by the Leader as Deputy Leader) called ‘the Cabinet’ appointed by the Leader.”

Article 7.03 (page 22, Leader and Deputy Leader) – amend to read:-

“The Leader of the Council

The Leader will be a Councillor appointed to that position.

The Leader will be appointed by the Council at the Annual Council Meeting following the ordinary Council elections or, if a Leader is not appointed at the Annual meeting, at a subsequent Council meeting, and will hold office until:

- a) The Annual Council Meeting following the next ordinary Council elections, save that the Council may by resolution remove the Leader at an earlier date as described at (e) below;
- b) s/he resigns from office;
- c) s/he is suspended from being a Councillor under Part III of the Local Government Act 2000 (although s/he may resume office at the end of the period of suspension);
- d) s/he is no longer a Councillor; or
- e) s/he ceases to be Leader upon the election of a replacement Leader, upon a motion signed by at least 25% of Councillors and delivered to the Chief Executive at least 10 days prior to the meeting at which the motion is to be considered.

The Deputy Leader

The Deputy Leader will be a Councillor appointed to that position by the Leader.

The Leader shall appoint a Deputy Leader from among the Cabinet members.

The Leader may replace the Deputy Leader at any time but otherwise the Deputy Leader shall remain in post for the duration of the Leader's term of office, unless:

- a) s/he resigns from office;
- b) s/he is suspended from being a Councillor under Part III of the Local Government Act 2000 (although s/he may resume office at the end of the period of suspension); or
- c) s/he is no longer a Councillor

The Deputy Leader shall have authority to exercise the Leader's powers only in the event that the Leader is unable to act at any time."

Article 7.04 (page 22, other Executive Members) – amend to read:-

"The Leader shall appoint between two and nine other serving Councillors to be members of the Cabinet (called Lead Members) alongside the Leader him/herself. The Leader may allocate to each Cabinet member a portfolio of responsibility for Council business relating to their role as an Executive Member (see 7.05 below).

One of the Cabinet Members shall be the Deputy Leader.

The Leader may replace or remove a Cabinet member, and/or may vary or delete their portfolio responsibilities at any time.

Executive Members shall hold office until:

- a) They are removed or replaced by the Leader;
- b) They resign from office;

- c) They are suspended from being Councillors under part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- d) They are no longer Councillors.

In the case of a vacancy arising in any post of Cabinet Member the Leader may appoint a Councillor to the vacant post at his/her discretion.”

Article 7.05 (page 23, Cabinet responsibilities) – amend to read:-

“The Executive will have the following Portfolios:

[Information to be inserted as and when the Leader of the Council appointed following the May 2010 Council elections has appointed his/her Cabinet and allocated any portfolios of responsibility to those Cabinet Members].

The above portfolios may be subject to change from time to time at the discretion of the Leader and will be updated by the Monitoring Officer as soon as reasonable practicable when so advised by the Leader.”

Schedule 1 (page 41, description of Executive Arrangements) – insert at beginning:-

“The form of the Council’s Executive Arrangements is a ‘Leader and Cabinet (England)’ model as defined in section 11 of the Local Government Act 2000 (as amended).”

CONSTITUTION PART 3 (RESPONSIBILITY FOR FUNCTIONS)

Section 3.2.4 (page 78, responsibility for executive functions) – amend to read:-

“All executive functions of the Council are vested in the Leader of the Council. The Leader may exercise those functions him/herself, or may delegate specified executive functions to be exercised by the Cabinet meeting, a Cabinet committee, an individual Cabinet or ward member or an officer. The Leader may revoke any such delegations at any time.

The Leader will provide the Monitoring Officer with a list (‘The Executive Scheme of Delegation’) setting out who of the following (not specified in the delegations contained in Section 3.2.2 above) are responsible for particular executive functions:

- the Leader and Cabinet collectively; or
- an individual Cabinet Member; or
- committees of the Cabinet; or
- an officer; or

- a ward councillor in accordance with Section 236 of the Local Government and Public Involvement in Health Act 2007; or
- through joint arrangements.

If the Leader amends this scheme of delegation the Leader must provide the Monitoring Officer with an updated scheme within five working days.

In the event that the Leader wishes to delegate executive decision-making powers to an individual Cabinet Member or Members; or to a ward councillor in accordance with Section 236 of the Local Government and Public Involvement in Health Act 2007, s/he will first take advice from the Monitoring Officer as to the appropriate rules that will need to be in place to govern the exercise of such powers before they are so exercised.”

Section 3.2.5 (page 78) - insert new section:-

“3.2.5 Introduction of Leader and Cabinet (England) form of Executive - transitional arrangements

In relation to the introduction of the Leader and Cabinet (England) form of Executive Arrangements with effect from 6 May 2010, the Council has agreed that the executive delegations in place on 6 May 2010, as set out in sections 3.2 and 3.4 – 3.9 of this Constitution, shall continue to apply until such time as the Leader elected by the Council Meeting after the May 2010 Council elections shall amend those delegations.

The Leader of the Council in office immediately before the May 2010 Council elections shall remain in office until the Annual Meeting of the Council in May 2010 unless, after the elections, the Leader has ceased to be a councillor or ceased to be within the political group having an overall majority of councillors. In that case, the Leader shall not continue in office and the Chief Executive shall have delegated power to exercise all the executive functions of the Council but shall only take executive key decisions in cases of genuine urgency and after consultation with the Leader of the largest political group of councillors (or groups in the event of a parity of councillors). This delegation to the Chief Executive shall cease upon the election of the new Leader.”

Section 3.4.1 (page 95, the Cabinet), Membership - amend to read:-

“The Leader and at least two and not more than nine other Executive Members appointed by the Leader.”

CONSTITUTION PART 4.1 (COUNCIL PROCEDURE RULES)

Council Procedure Rule 1 (page 118, Annual Meeting of the Council), sub-paragraph 1.1.8 - amend to read:-

“1.1.8 note any appointment of Cabinet (Executive) Members made by the Leader of the Council.”

CONSTITUTION PART 4.4 (EXECUTIVE PROCEDURE RULES)

Executive Procedure Rule 1.1 (page 169, who may make executive decisions?), 5th bullet point - amend to read:-

“an area committee; or a ward councillor in accordance with section 236 of the Local Government and Public Involvement in Health Act 2007;”

Executive Procedure Rule 1.2 (page 169, the Executive Scheme of Delegation and executive functions), introductory paragraph and sub-paragraph (a) – amend to read:-

“At the Annual Meeting of the Council, and subsequently within five working days of agreeing any change to the delegation of any executive function, the Leader of the Council will present to the Council a written record of delegations made by the Leader for inclusion in the Council’s Scheme of Delegation. The document presented by the Leader must contain the following information in so far as it relates to executive functions:-

- a) The extent of any authority delegated to any individual Executive Member or ward councillor including details of the limitation on their authority.”

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MAYORAL PROPOSALS – REPORT ON CONSULTATION

1. THE STATUTORY REQUIREMENT

- 1.1 Before adopting the proposals for a mayoral form of executive to be put to the referendum, the Council is required by the Local Government Act 2000 to take reasonable steps to consult local electors and other interested persons in the borough on the proposals, and to take the results of that consultation into account in agreeing the proposals.
- 1.2 Government guidance states that consultation on the mayoral proposals should:-
- Describe and represent in a fair and balanced way the form of executive with an elected mayor and cabinet;
 - Ensure that in responding to the consultation local electors and other interested parties in the authority's area have an opportunity to express their views clearly;
 - Use a combination of qualitative and quantitative methods of consultation;
 - Ensure that all electors and other interested parties have an opportunity to respond to the consultation; and
 - Ensure that the consultation does not include consultation on the Council's existing executive arrangements (i.e. Leader and Cabinet).
- 1.3 The Act does not prescribe the method or duration of consultation but Government guidance states that the consultation can build on previous relevant work. Officers of the Department of Communities and Local Government confirmed that where relevant consultation has very recently been undertaken it may only be necessary for an authority to undertake limited further consultation, focussing on any additional issues arising from the new proposals.
- 1.4 Prior to receipt of the mayoral referendum petition, the Council undertook a comprehensive consultation exercise on the options for new executive arrangements as required by the Local Government and Public Involvement in Health Act 2007. This ran for twelve weeks to 22 October 2009 and attracted 2104 responses, amongst the highest response rate of any London borough. The findings of that consultation have, wherever relevant, also been taken into account in drawing up the mayoral proposals.

2. CONSULTATION UNDERTAKEN

- 2.1 Leaving aside the question of whether or not a mayoral system should be introduced, which will now be decided by the referendum; and issues relating to the operation of the Executive (the size of the Cabinet, delegation to Cabinet members etc), which would be a matter for the Mayor, there are a limited number of outstanding issues for the Council to decide at this stage in relation to the mayoral proposals and many of those are quite detailed and/or technical. In view of this and the significant previous consultation undertaken, the further consultation specifically on the mayoral proposals has been a light-touch and primarily web-based exercise.

2.2 The consultation was carried out by means of a survey posted on the Council's website. An introductory page carried information about the forthcoming referendum, a basic explanation of the mayoral system including the division of powers between the Mayor and the Council, and a link to the full draft proposals. Subsequent pages sought views in turn on each of the key areas of discretion within the draft proposals, focussing on a number of specific questions whilst also giving the opportunity in each case for respondents to submit any general comments. The specific questions covered in turn:

- Items to be included in the Policy Framework (i.e. for which full Council approval is required);
- The allocation of 'local choice' functions;
- Whether the Overview and Scrutiny arrangements should continue unchanged in a mayoral system;
- The definition of a 'Key Decision';
- Whether the civic and ceremonial roles currently undertaken by the Mayor of Tower Hamlets should pass to the Elected Mayor or continue to be discharged separately by a councillor and if the latter, what that post should be called;
- Whether the existing schemes of delegation should continue unchanged pending any changes to be agreed by the Council or Mayor as appropriate.

2.3 The full text of the survey is attached along with the responses received. The consultation ran for a four week period, ending on 19 February 2010.

2.3 The Council's website home page carried a link to the survey for most of the consultation period and a prominent headline link for the first week. The web-based consultation was supplemented by a prominent article in the Council's newspaper, East End Life, summarising the key issues and directing readers to the website as well as providing a Freepost response facility for any written comments. This was reinforced by a public notice in the following week's edition.

3. RESULTS OF THE CONSULTATION

3.1 The consultation attracted a total of 28 responses. In respect of each question put, a majority of those expressing a view endorsed the Council's suggested approach. The draft wording that formed the basis of the consultation has therefore in each case been included in the proposals document.

3.2 In relation to the issue of civic/ceremonial duties, respondents endorsed the proposal that these should continue to be the responsibility of a separate postholder. Regarding what this post should be called, 6 respondents preferred 'Chair of Council', 4 preferred 'Speaker' and 18 respondents did not answer the question.

3.3 The full results of the consultation, including a summary of any general comments submitted, are set out below.

- 3.4 In addition to the current consultation, the proposals take into account where relevant the views expressed by respondents to the previous comprehensive consultation (July to October 2009) on the options for executive arrangements. In particular, a number of respondents to that consultation expressed concerns regarding the concentration of powers in a mayoral model. The Council's proposals therefore provide for the allocation of all 'local choice' functions in the first instance to the Council rather than the Mayor.

4. CONSULTATION TEXT AND RESULTS

4.1 Introduction – A Directly Elected Mayor for Tower Hamlets – What Would It Mean?

“A referendum will take place on 6 May 2010 to ask local electors whether they support a proposal for Tower Hamlets Council to be run in a new way, in which a Mayor, directly elected by voters of the borough, would be in charge of Council services, instead of a Leader elected by the 51 borough councillors as at present.

Before the referendum the Council must draw up detailed proposals for how a Mayoral system will operate in Tower Hamlets if the referendum returns a majority 'Yes' vote.

We want to know the views of local people on the issues below or any other matters relating to the proposals for a Directly Elected Mayor. Please have your say directly via the Council's website at www.towerhamlets.gov.uk/consultation or in writing to: Democratic Operations, FREEPOST LON18560, London E14 2BR.”

An Elected Mayor – how the system would work

“A Directly Elected Mayor will serve a four-year term of office. The Mayor must appoint between two and nine councillors to serve alongside him/her in the Cabinet and one of the Cabinet Members must be appointed as Deputy Mayor.

The Mayor will have full decision-making powers for most of the local authority's functions and will decide which of those powers will be delegated to the Cabinet members or Council officers. The exceptions are in two categories - certain specific functions that must be reserved to the Council and a further list of functions which the Council can choose either to reserve to itself or to allocate to the Mayor/Executive.

The full proposals for the mayoral system can be viewed here [link]. The following pages set out the key issues for decision at this stage

The consultation will close on 19 February 2010.

Anything you tell us during this survey will be kept strictly confidential and retained in accordance with the Data Protection Act 1998.”

4.2 The Budget and Policy Framework

“Items that form part of the ‘Budget and Policy Framework’ must be approved by the full Council and the Mayor must take decisions within the agreed policies. By law this must include the following items:-

- The Council’s Annual Budget and the level of Council Tax
- The Children and Young People’s Plan
- The Crime and Disorder Reduction Strategy
- Documents comprising the Development Plan
- The Licensing Authority Policy Statement
- The Local Transport Plan
- The Sustainable Community Strategy
- The Youth Justice Plan

If they wish, Councils may add further discretionary plans and strategies to the Policy Framework. Tower Hamlets Council does not currently intend to do so because this could adversely affect the efficiency of decision making and blur accountability.”

Question: *Do you agree with the proposal to include in the Council’s Policy Framework (items that require the full Council’s approval) only those items that by law have to be included?*

Yes	No	no answer
18 (64.3%)	6 (21.4%)	4 (14.3%)

Any comments:

Two respondents provided additional comments, in both cases opposing the introduction of an Elected Mayor.

4.3 Local Choice functions

“For a small number of functions, the Council can decide whether the Council itself or the Executive (Mayor) will be responsible for decision making. A full list of these ‘local choice’ functions can be viewed here: [link]. Currently the functions are allocated some to the Council and some to the Executive. In view of the issues raised during previous consultation about concentration of powers, the Council proposes that under a Mayoral system in the first instance all ‘local choice’ functions should be allocated to the Council.”

Question: *Do you agree with the proposal under a mayoral system to allocate responsibility for all ‘local choice’ functions to the Council rather than the Mayor?*

Yes	No	no answer
18 (64.3%)	5 (17.8%)	5 (17.8%)

Any comments:

Two respondents provided additional comments, one stating that local choice functions should be allocated to the Mayor and the other opposing the introduction of an Elected Mayor.

4.4 Overview and Scrutiny arrangements

“Councillors from all the political parties on the Council serve on the Overview and Scrutiny Committee which scrutinises the decisions of the Executive and may make recommendations on any matter affecting the borough. The legal requirements in this regard are unchanged under a Mayoral system. The arrangements for Overview and Scrutiny are well established in Tower Hamlets and are regarded as efficient and effective. The Council therefore proposes that these arrangements, including the provision for any five councillors to ‘call-in’ an Executive Key Decision within five days for further consideration, should continue unchanged under a Mayoral system.”

Question: *Do you agree with the proposal that the Council’s existing Overview and Scrutiny arrangements should continue unchanged under a mayoral system?*

Yes	No	no answer
17 (60.7%)	5 (17.8%)	6 (21.4%)

Any comments:

Two respondents provided additional comments, one stating that opposition councillors should have more seats on O&S and the other opposing the introduction of an Elected Mayor.

4.5 ‘Key Decisions’

“Executive decisions involving significant expenditure or savings, or with a significant effect on communities in two or more wards, are called ‘Key Decisions’. These must be published in advance and after the decision has been made they may be ‘called-in’ for further discussion by the Overview and Scrutiny Committee. Tower Hamlets has not set a specific financial threshold above which any decision is automatically a Key Decision. Rather each decision is judged on its merits taking into account:-

- Any significant social, economic or environmental risk;
- The likely impact of the decision both within and outside of the borough;
- Whether the decision is likely to be a matter of political controversy; and
- The likely extent of public interest in the decision.

Question: Do you agree with the proposal that the Council’s existing definition of a ‘Key Decision’ should continue unchanged under a mayoral system?

Yes	No	no answer
14 (50.0%)	6 (21.4%)	8 (28.6%)

Any comments:

Four respondents provided additional comments: Two of these suggested that a financial threshold should be introduced in addition to the existing criteria for a Key Decision; one stated that if there is a significant effect on a community, it should not have to be significant for two or more wards in order to be a Key Decision; and the other opposed the introduction of an Elected Mayor.

4.6 Ceremonial Duties

“The Council may decide whether or not the Elected Mayor will discharge the ceremonial duties currently performed by the Civic Mayor (except for chairing the Council Meeting, which may not be undertaken by the Elected Mayor). If a ‘Civic’ position is retained, it must not be known as ‘Mayor’ as that title can only be used by the Directly Elected Mayor.

Government guidance suggests that it will usually be difficult for a busy Elected Mayor to take on the full range of ceremonial duties as well as his/her executive role. The Council is therefore proposing that the ceremonial duties – including chairing the Council Meeting – should remain the responsibility of a re-named civic post, the holder of which shall have social precedence in the borough.”

Question: Do you agree with the proposal that the ceremonial duties currently undertaken by the Mayor of Tower Hamlets should continue to be the responsibility of a separate civic post rather than transferring to the Directly Elected Mayor?

Yes	No	no answer
12 (42.8%)	8 (28.6%)	8 (28.6%)

4.7 **Question:** If so, what title should be given to this post?

Chair of Council	Speaker	First Citizen	no answer
6 (21.4%)	4 (14.3%)	0	18 (64.3%)

Other/any comments:

No further suggestions for the title of the post were made. Five respondents provided additional comments to above questions. Three of these suggested that the elected mayor should take on the ceremonial duties (in one case to keep him/her busy and allow the councillors to run the council; in another case questioning whether there was a need for so much ceremonial business to justify a separate post). One respondent suggested that the civic post should go to a long serving/respected councillor. The final comment again opposed the introduction of an Elected Mayor.

4.8 Scheme of Delegation

“Both Executive (Mayoral) and Non-Executive (Council) functions may be delegated to committees, sub-committees and/or Chief Officers. Under a Mayoral system, the delegation of Executive functions to the Cabinet, individual Cabinet Members, Cabinet Committees or officers is a matter for the Mayor to decide following his/her election.

Non-Executive (Council) functions such as Development, Licensing and the functions currently delegated to the Council’s Audit, Human Resources, Pensions, Standards, Appeals and General Purposes Committees will be unaffected by the move to a Mayoral Executive.

Question: *Do you agree with the proposal that if a Mayoral system is introduced, the existing Executive and Non-Executive schemes of delegation should initially be retained unchanged pending any variations to be agreed by the Elected Mayor or Council respectively?*

Yes	No	no answer
16 (57.1%)	3 (10.7%)	9 (32.1%)

Any comments:

Two respondents provided additional comments, one stating that the person delegating the function should remain responsible for the outcome and the other opposing the introduction of an Elected Mayor.

4.9 General Comments

Question: *Please insert below any general comments that you wish to make on the proposals for a Mayoral form of governance in Tower Hamlets:*

Eight respondents provided additional general comments. Four of these opposed the introduction of an Elected Mayor while one supported it.

Two respondents (including one of those who opposed the Mayor) felt that as many checks and balances should be included in the proposals as possible.

One stated that all governance processes should be reviewed and updated if there is to be an Elected Mayor, whilst another sought information about the voting system to be used and favoured an alternative or supplementary vote system to elect the Mayor.

4.10 Monitoring data

Respondents to the survey were asked to provide monitoring information in relation to the six equality strands.

The geographical distribution of respondents to the consultation is summarised in the following table:-

Postal District	No. of respondents
E1	8
E2	2
E3	8
E14	7
Other/out of borough	3

LONDON BOROUGH OF TOWER HAMLETS

**PROPOSALS FOR EXECUTIVE ARRANGEMENTS BASED ON A
DIRECTLY ELECTED MAYOR AND CABINET FORM OF
EXECUTIVE**

LOCAL GOVERNMENT ACT 2000

1. INTRODUCTION

- 1.1 A petition requesting a referendum on the introduction of an Elected Mayor for the London Borough of Tower Hamlets was received by the Council on 16 November 2009 (the 'petition date'). The petition states:

"We, the undersigned, being local government electors for the area of Tower Hamlets Council to whom this petition is addressed, seek a referendum on whether the electors for that area should elect a mayor who, with a cabinet will be in charge of our local services and lead Tower Hamlets Council"

- 1.2 Within the notice period stipulated by regulations made under section 34 of the Local Government Act 2000, each of the 17,189 entries on the petition were verified to ensure that all signatories are electors in the borough and have provided all necessary information. It was established that the petition contains 10,233 valid signatures within the terms of the regulations. A valid petition is required to contain not fewer than 7,794 signatures of local electors in the borough, which is the published 'Verification Number' for Tower Hamlets for the period including the petition date. The verification number represents 5% of the registered electors of the borough for the year in question.
- 1.3 The petition is therefore valid and in accordance with the regulations the Council is required to hold a referendum within six months of the petition date. The Secretary of State and the petition organiser, Councillor Abjol Miah, have been informed that a valid petition was received and a referendum will be held. The petition has been made available for public inspection and a notice published in the local press.
- 1.4 The Council currently operates a 'Leader and Cabinet' form of executive. The Local Government and Public Involvement in Health Act 2007 has introduced changes to the executive arrangements that all local authorities must operate and the Council must change from its current model to a new system involving either a Directly Elected Mayor and Cabinet or a new-style Leader and Cabinet (England) model with a stronger role for the Leader of the Council, no later than 9 May 2010. As required by the 2007 Act the Council undertook an extensive public consultation exercise on this matter over a twelve week period ending on 22 October 2009, and has decided to

implement a Leader and Cabinet (England) style of governance from 6 May 2010.

- 1.5 The Council has also agreed that the referendum triggered by the receipt of the petition will be held on 6 May 2010, the date of the next Council elections. In the event of a majority 'yes' vote at the referendum the Council will move from the Leader and Cabinet (England) form of governance and will start to operate an elected Mayor and Cabinet form of executive with effect from 21 October 2010 and on that date the first mayoral election in Tower Hamlets will be held.
- 1.6 In accordance with the regulations the Council has drawn up proposals for the operation of executive arrangements including a Directly Elected Mayor. These proposals are set out in the following paragraphs and will be implemented with effect from 21 October 2010 in the event that they are approved by the referendum on 6 May 2010.
- 1.7 The Council has also drawn up fallback proposals for executive arrangements to apply with effect from 6 May 2010 in the event that the referendum does not approve the mayoral proposals. The fallback proposals are identical to the Leader and Cabinet (England) form of executive that the Council has already agreed will commence operation on 6 May 2010 (the provisions of the 2007 Act do not allow the Council to continue to operate its current form of executive beyond May 2010)
- 1.8 The statement attached sets out the steps which the authority took to consult the local government electors for, and other interested persons in, Tower Hamlets regarding the adoption of new executive arrangements; the outcome of that consultation and the extent to which that outcome is reflected in the proposals.

2. PROPOSALS FOR EXECUTIVE ARRANGEMENTS: ELECTED MAYOR

- 2.1 In accordance with Regulations issued under Section 34 of the Local Government Act 2000, the London Borough of Tower Hamlets has drawn up the following proposals for changes to the Council's Executive Arrangements with effect from 21 October 2010. These proposals are subject to approval by the electors of the borough in a referendum to be held on 6 May 2010.

THE EXECUTIVE

- 2.2 The Executive is responsible for carrying out all of the authority's functions that are not reserved to the full Council or another part of the Council by law or the Council's constitution. The Executive is at the centre of operational decision-making and has a key role in formulating plans and strategies, including the budget, for approval by the full

Council as part of the policy framework. The Executive is responsible for implementing Council policy expressed within the policy framework.

- 2.3 The form of the Council's Executive Arrangements will be a 'Mayor and Cabinet' model as defined in section 11 of the Local Government Act 2000 (as amended).
- 2.4 The Executive will comprise of:
 - A Mayor, directly elected by electors of the borough in October 2010; and
 - Between two and nine other cabinet members
- 2.5 The Mayor elected at the October 2010 Mayoral election shall serve until the next Mayoral election in May 2014, and any subsequent Mayor shall serve for a term of four years or until the next mayoral election (if sooner), in all cases unless the Mayor dies, resigns or is otherwise disqualified from office.
- 2.6 The Mayor elected at the October 2010 mayoral election will decide, rather than the Council as at present, how many cabinet members there shall be (subject to the statutory minimum of two and maximum of nine plus the Mayor him/herself) and shall appoint those cabinet members from among the serving councillors and may allocate to each cabinet member a portfolio of responsibilities.
- 2.7 The Mayor will have power to replace or remove cabinet members and to vary or delete their portfolio responsibilities at any time.
- 2.8 The Mayor shall appoint a Deputy Mayor from among the cabinet members. The Mayor may replace the Deputy Mayor at any time but otherwise the Deputy Mayor shall remain in post for the duration of the Mayor's term of office. The Deputy Mayor shall have authority to exercise the Mayor's powers only in the event that the Mayor is unable to act at any time.
- 2.9 All executive functions of the Council shall be vested in the Mayor. The Mayor may exercise those functions him/herself, or may delegate specified executive functions to be exercised by the Cabinet meeting, a cabinet committee, an individual cabinet member or an officer. The Mayor may revoke any such delegations at any time.
- 2.10 The executive delegations in place on 21 October 2010 as set out in the Council's constitution at that time shall continue under the new executive arrangements until such time as the Mayor elected in October 2010 shall amend those delegations.
- 2.11 The Council's constitution does not currently provide for the exercise of any executive function by an individual member. Any future delegation of executive function(s) to be exercised by a cabinet member; or by a ward councillor in accordance with section 236 of the

Local Government and Public Involvement in Health Act 2007, will be at the discretion of the Mayor.

- 2.12 In the event that the Mayor from October 2010 wishes to delegate decision-making powers to an individual member or members, he/she will be advised as to the appropriate rules that will need to be in place to govern the exercise of such powers before they are so delegated.

THE ALLOCATION OF FUNCTIONS BETWEEN THE COUNCIL AND THE EXECUTIVE (MAYOR)

- 2.13 Section 13 of the Local Government Act 2000 and associated regulations make provision for a division of the authority's functions between the Council and the Executive. Most functions are the responsibility of the Executive, whichever form that takes. The exceptions are in two categories - (i) certain specific functions that must be reserved to the Council or to non-executive committees (these include agreeing the budget and policy framework, amending the constitution, development and licensing functions etc); and (ii) a further list of functions each of which the Council can choose either to reserve to itself or to allocate to the Executive. These latter functions are known as 'local choice' functions.
- 2.14 The powers and duties of non-executive councillors, including overview and scrutiny and regulatory functions, and the delegation of non executive functions to committees of the Council and to officers will not be affected by the change in executive arrangements.

POLICY FRAMEWORK

- 2.15 Within legislation Council must approve certain plans and strategies ('the Policy Framework') and their approval can not be delegated to the Executive. The Executive proposes the plans to Council for approval and if the plans are approved must make decisions within the agreed plans and strategies. The following documents make up the Policy Framework of Tower Hamlets Council, being the plans and strategies required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 made under Section 32 of the Local Government Act 2000:-

- The Children and Young People's Plan
- The Crime and Disorder Reduction Strategy
- The Development Plan Documents
- The Licensing Authority Policy Statement
- The Local Transport Plan
- The Plans and Alterations which together comprise the Development Plan
- The Sustainable Community Strategy
- The Youth Justice Plan

- 2.16 The Council has determined not to add discretionary plans and strategies to the Policy Framework as this could have an impact on the economy and efficiency of the Council, because any changes to these plans could only be approved by Council, and could also blur Executive accountability.

LOCAL CHOICE FUNCTIONS

- 2.17 Regulations made under Section 13(3)(b) of the Local Government Act 2000 set out a number of functions in respect of which the Council can decide whether the Council or the Executive is responsible for decision making. These are known as 'Local Choice Functions'. Taking into account the issues raised by respondents to the Council's consultation exercise regarding the concentration of powers in a mayoral model, the Council has determined that in the first instance all local choice functions shall be allocated to the Council.
- 2.18 A full list of the local choice functions, showing in each case the existing and proposed allocation and any delegation of the function is attached.

OVERVIEW AND SCRUTINY ARRANGEMENTS

- 2.19 The arrangements for overview and scrutiny are well established in Tower Hamlets and are widely regarded as efficient and effective. The Council has determined that the current arrangements shall continue unchanged under the new executive arrangements as follows:-
- 2.20 The Council will appoint an Overview and Scrutiny Committee to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations made under section 32 of that Act; by sections 119 to 128 of the Local Government and Public Involvement in Health Act 2007; and by the Police and Justice Act 2006 as the Council's Crime and Disorder Committee.
- 2.21 The Committee will appoint a standing Sub-Committee to discharge the Council's functions under the Health and Social Care Act 2001 to be known as the Health Scrutiny Panel; it will also appoint such other Sub-Committees or Scrutiny Panels as the Committee considers appropriate from time to time to carry out individual reviews under the Overview and Scrutiny work programme.
- 2.22 The role and specific functions of the Overview and Scrutiny Committee shall be as set out in Article 6 of the Council's Constitution as at 21 October 2010.
- 2.23 The Overview and Scrutiny Committee will have a strategic and co-ordinating role over the Council's scrutiny function and also consider executive decisions 'called-in' as detailed in Part 4 of the Council's Constitution.

2.24 The Overview and Scrutiny Committee will select from among its Councillor Members six Lead Scrutiny Members, one for each of the following themes:

- A safe and supportive community
- A great place to live
- A prosperous community
- A healthy community
- Excellent public services
- One Tower Hamlets

2.25 The Health Scrutiny Panel shall have responsibility for scrutiny of the local health service, in accordance with the provisions of the Health and Social Care Act 2000. This will be a standing Sub-Committee and will meet at least four times a year. It shall:

- a) review and scrutinise matters relating to the health service within the Council's area and make reports and recommendations in accordance with any regulations made thereunder;
- b) respond to consultation exercises undertaken by an NHS body; and
- c) question appropriate officers of local NHS bodies in relation to the policies adopted and the provision of services.

2.26 The Scrutiny Lead Member for a healthy community shall be appointed as a Member and Chair of the Health Scrutiny Panel.

2.27 Other Scrutiny Panels may be established by the Overview and Scrutiny Committee in line with its work programme and will consider specific reviews, their terms of reference to be set by the Committee.

THE 'CEREMONIAL MAYOR' DUTIES

2.28 It is a matter for local choice whether the Elected Mayor discharges the ceremonial duties previously performed by the Civic Mayor (except for chairing the Council Meeting, which may not be undertaken by the Elected Mayor). In line with Government guidance the Council has determined that the ceremonial duties – including chairing the Council Meeting - shall remain with a separate position, which shall be re-named 'Chair of Council'. The 'Chair of Council' shall undertake the duties currently discharged by the Civic Mayor of Tower Hamlets and shall have social precedence in the borough.

3. TIMETABLE

3.1 The new executive arrangements will be implemented on the day of the first Mayoral Election (i.e. 21 October 2010) and the Council will cease to operate its 'Leader and Cabinet (England)' model on that date.

4. TRANSITIONAL ARRANGEMENTS

- 4.1 The executive delegations in place on 21 October 2010 as set out in the Council's constitution at that time shall continue under the new executive arrangements until such time as the Mayor elected at the mayoral election in October 2010 shall amend those delegations.
- 4.2 The Chief Executive shall have delegated power to exercise all the executive functions of the council but shall only take executive key decisions in cases of genuine urgency and after consultation with the Mayor-elect. This delegation to the Chief Executive shall cease upon the Mayor-elect taking office.

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LONDON BOROUGH OF TOWER HAMLETS

**FALLBACK PROPOSALS FOR EXECUTIVE ARRANGEMENTS BASED ON A
LEADER AND CABINET (ENGLAND) FORM OF EXECUTIVE**

LOCAL GOVERNMENT ACT 2000

1. INTRODUCTION

- 1.1 In accordance with Regulations issued under Section 34 of the Local Government Act 2000, the London Borough of Tower Hamlets has drawn up the following fallback proposals for changes to the Council's Executive Arrangements with effect from 6 May 2010. These fallback proposals are identical to the proposals agreed by the Council on 2 December 2009 for its new Executive Arrangements as required by the Local Government and Public Involvement in Health Act 2007, and will be implemented in the event that the referendum to be held on 6 May 2010 does not approve the proposals for a Mayor and Cabinet form of executive.

2. THE EXECUTIVE

- 2.1 The form of the Council's Executive Arrangements is a 'Leader and Cabinet (England)' model as defined in section 11 of the Local Government Act 2000 (as amended).
- 2.2 The Executive will comprise of:
- A Leader, elected by the Council at the Annual Council Meeting in May 2010 or, if a Leader is not appointed at the Annual Meeting, at a subsequent council meeting; and
 - Between two and nine other cabinet Members
- 2.3 The Leader shall be a sitting councillor of the London Borough of Tower Hamlets and shall be elected by the Council to serve for a term of four years or until the Annual Council Meeting following the next ordinary council elections, rather than annually as at present.
- 2.4 The Council shall have the power to remove the Leader from office before the end of his/her four year term by way of resolution at a full council meeting. Otherwise the Leader shall remain in office until the end of his/her term unless he/she resigns or ceases to be a Councillor.
- 2.5 The Leader elected after the May 2010 elections will decide, rather than the Council as at present, how many cabinet members there shall be (subject to a minimum of two and maximum of nine plus the Leader him/herself) and shall appoint those cabinet members from among the serving councillors and may allocate to each cabinet member a portfolio of responsibilities.
- 2.6 The Leader will have power to replace or remove cabinet members and to vary or delete their portfolio responsibilities at any time.

- 2.7 The Leader shall appoint a Deputy Leader from among the cabinet members. The Leader may replace the Deputy Leader at any time but otherwise the Deputy Leader shall remain in post for the duration of the Leader's term of office. The Deputy Leader shall have authority to exercise the Leader's powers only in the event that the Leader is unable to act at any time.
- 2.8 All executive functions of the Council shall be vested in the Leader. The Leader may exercise those functions him/herself, or may delegate specified executive functions to be exercised by the Cabinet meeting, a cabinet committee, an individual cabinet member or an officer. The Leader may revoke any such delegations at any time.
- 2.9 The executive delegations in place on 6 May 2010 as set out in the Council's constitution at that time shall continue under the new executive arrangements until such time as the Leader elected at the Council meeting after the May 2010 council elections shall amend those delegations.
- 2.10 The Council's constitution does not currently provide for the exercise of any executive function by an individual Member. Any future delegation of executive function(s) to be exercised by a cabinet member; or by a ward councillor in accordance with section 236 of the Local Government and Public Involvement in Health Act 2007, will be at the discretion of the Leader
- 2.11 In the event that the Leader from May 2010 wishes to delegate decision-making powers to an individual member or members, he/she will be advised as to the appropriate rules that will need to be in place to govern the exercise of such powers before they are so delegated.
- 2.12 The powers and duties of non-executive councillors, including overview and scrutiny and regulatory functions, and the delegation of non executive functions to committees of the Council and to officers will not be affected by the change in executive arrangements.

THE ALLOCATION OF FUNCTIONS BETWEEN THE COUNCIL AND THE EXECUTIVE

- 2.13 Section 13 of the Local Government Act 2000 and associated regulations make provision for a division of the authority's functions between the Council and the Executive. Most functions are the responsibility of the Executive, whichever form that takes. The exceptions are in two categories - (i) certain specific functions that must be reserved to the Council or to non-executive committees (these include agreeing the budget and policy framework, amending the constitution, development and licensing functions etc); and (ii) a further list of functions each of which the Council can choose either to reserve to itself or to allocate to the Executive. These latter functions are known as 'local choice' functions.

POLICY FRAMEWORK

2.14 Within legislation Council must approve certain plans and strategies ('the Policy Framework') and their approval can not be delegated to the Executive. The Executive proposes the plans to Council for approval and if the plans are approved must make decisions within the agreed plans and strategies. The following documents make up the Policy Framework of Tower Hamlets Council, being the plans and strategies required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 made under Section 32 of the Local Government Act 2000:-

- The Children and Young People's Plan
- The Crime and Disorder Reduction Strategy
- The Development Plan Documents
- The Licensing Authority Policy Statement
- The Local Transport Plan
- The Plans and Alterations which together comprise the Development Plan
- The Sustainable Community Strategy
- The Youth Justice Plan

2.15 The Council has determined not to add discretionary plans and strategies to the Policy Framework as this could have an impact on the economy and efficiency of the Council, because any changes to these plans could only be approved by Council, and could also blur Executive accountability.

LOCAL CHOICE FUNCTIONS

2.16 Regulations made under Section 13(3)(b) of the Local Government Act 2000 set out a number of functions in respect of which the Council can decide whether the Council or the Executive is responsible for decision making. These are known as 'Local Choice Functions'.

2.17 The changes to the Council's Executive Arrangements do not affect the division of functions between the Council and the Executive. Accordingly:-

- The 'Local Choice' functions allocated to the Council at Parts 3.1.2 and 3.1.3 of the Council's constitution as at 6 May 2010 shall remain Council functions; and
- The 'Local Choice' functions allocated to the Executive at Parts 3.2.1, 3.2.2 and 3.2.3 of the Council's constitution as at 6 May 2010 shall remain Executive functions.

OVERVIEW AND SCRUTINY ARRANGEMENTS

2.18 The arrangements for overview and scrutiny are well established in Tower Hamlets and are widely regarded as efficient and effective. The Council has determined that the current arrangements shall continue unchanged under the new executive arrangements as follows:-

- 2.19 The Council will appoint an Overview and Scrutiny Committee to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations made under section 32 of that Act; by sections 119 to 128 of the Local Government and Public Involvement in Health Act 2007; and by the Police and Justice Act 2006 as the Council's Crime and Disorder Committee.
- 2.20 The Committee will appoint a standing Sub-Committee to discharge the Council's functions under the Health and Social Care Act 2001 to be known as the Health Scrutiny Panel; it will also appoint such other Sub-Committees or Scrutiny Panels as the Committee considers appropriate from time to time to carry out individual reviews under the Overview and Scrutiny work programme.
- 2.21 The role and specific functions of the Overview and Scrutiny Committee shall be as set out in Article 6 of the Council's Constitution as at 6 May 2010.
- 2.22 The Overview and Scrutiny Committee will have a strategic and co-ordinating role over the Council's scrutiny function and also consider executive decisions 'called-in' as detailed in Part 4 of the Council's Constitution.
- 2.23 The Overview and Scrutiny Committee will select from among its Councillor Members six Lead Scrutiny Members, one for each of the following themes:
- A safe and supportive community
 - A great place to live
 - A prosperous community
 - A healthy community
 - Excellent public services
 - One Tower Hamlets
- 2.24 The Health Scrutiny Panel shall have responsibility for scrutiny of the local health service, in accordance with the provisions of the Health and Social Care Act 2000. This will be a standing Sub-Committee and will meet at least four times a year. It shall:
- a) review and scrutinise matters relating to the health service within the Council's area and make reports and recommendations in accordance with any regulations made thereunder;
 - b) respond to consultation exercises undertaken by an NHS body; and
 - c) question appropriate officers of local NHS bodies in relation to the policies adopted and the provision of services.
- 2.25 The Scrutiny Lead Member for a healthy community shall be appointed as a Member and Chair of the Health Scrutiny Panel.
- 2.26 Other Scrutiny Panels may be established by the Overview and Scrutiny Committee in line with its work programme and will consider specific reviews, their terms of reference to be set by the Committee.

3. TIMETABLE

- 3.1 The new executive arrangements will be implemented on the day of the May 2010 council elections (i.e. 6 May 2010) and the Council will cease to operate its current 'Leader and Cabinet' model on that date.

4. TRANSITIONAL ARRANGEMENTS

- 4.1 The Leader of the Council in office immediately before the May 2010 council elections shall remain in office until the Annual Meeting of the Council in May 2010 unless, after the elections, the Leader has ceased to be a councillor or ceased to be within the political group having an overall majority of councillors. In that case, the Leader shall not continue in office and the Chief Executive shall have delegated power to exercise all the executive functions of the council but shall only take executive key decisions in cases of genuine urgency and after consultation with the Leader of the largest political group of councillors (or groups in the event of a parity of councillors). This delegation to the Chief Executive shall cease upon election of the new Leader.

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APPENDIX E

LOCAL CHOICE FUNCTIONS – CURRENT AND PROPOSED ALLOCATION

Function	Act/Statutory Instrument	Current allocation (February 2010)	Proposed allocation under Mayor & Cabinet model	Delegation of function
Any function under a local Act other than a function specified or referred to in regulation 2 or schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended)	Various/Local Acts	Various – as listed at Parts 3.1.2 and 3.2.1 of the Council's Constitution	Council	Officer and Committee delegations as currently listed in the Constitution. Delegations to 'The Executive' amended to read 'The Council'
The determination of an appeal against any decision made by or on behalf of the authority	Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended)	Council	Council	Licensing Committee/Appeals Committee as appropriate
The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools	Subsection (1) of section 67 of, and Schedule 18 to the School Standards and Framework Act 1998	Council	Council	Assistant Chief Executive
The making of arrangements in respect of school admission appeals	Sections 94(1), (1A) and (4) of the School Standards and Framework Act 1998	Council	Council	Assistant Chief Executive
The making of arrangements in respect of appeals by a school governing body of a requirement that they take a pupil excluded from another school	Section 95(2) of the School Standards and Framework Act 1998	Council	Council	Assistant Chief Executive

Function	Act/Statutory Instrument	Current allocation (February 2010)	Proposed allocation under Mayor & Cabinet model	Delegation of function
Any function relating to contaminated land	Environmental Protection Act 1990 – Part IIA	Council	Council	Corporate Director, Communities, Localities and Culture
The discharge of any function relating to the control of pollution or the management of air quality	Pollution Prevention and Control Act 1990; Environmental Act 1995 (Part IV); Environmental Protection Act 1990 (Part I); Clean Air Act 1993	Council	Council	Corporate Director, Communities, Localities and Culture
The service of an abatement notice in respect of a statutory nuisance	Environmental Protection Act 1990 – Section 80(1)	Council	Council	Corporate Director, Communities, Localities and Culture
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	Noise and Statutory Nuisance Act 1993 – Section 8	Executive	Council	Council
The inspection of the authority's area to detect any statutory nuisance	Environmental Protection Act 1990 – Section 79			Corporate Director, Communities, Localities and Culture
The investigation of any complaint as to the existence of a statutory nuisance		Executive	Council	Corporate Director, Communities, Localities and Culture
The obtaining of information as to interests in land.	Section 330 of the Town and Country Planning Act 1990	Executive	Council	Corporate Director, Communities, Localities and Culture
The obtaining of particulars of persons interested in land	Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Executive	Council	Corporate Director, Communities, Localities and Culture

Function	Act/Statutory Instrument	Current allocation (February 2010)	Proposed allocation under Mayor & Cabinet model	Delegation of function
The making of agreements for the execution of highways works	Highways Act 1980 – Section 278 (substituted by the New Roads and Street Works Act 1991 – Section 23)	Executive	Council	Corporate Director, Communities, Localities and Culture
The appointment of any individual- (a) to any office other than an office in which he is employed by the authority (b) to any body other than - (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body, and the revocation of any such appointment	Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended)	Council	Council	General Purposes Committee
The making of agreements with other local authorities for the placing of staff at the disposal of those authorities	Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended)	Council	Council	All Chief Officers
Functions relating to local area agreements	Sections 106, 110, 111 and 113 of the Local Government and Public Involvement in Health Act 2007	Executive	Council	Council

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