

Mayoral Referendum

REPORT TO FULL COUNCIL



DATE	21/12/2016
PORTFOLIO	None
REPORT AUTHOR	Eric Dickinson/Imelda Grady
TEL NO	01282 477256/58
EMAIL	edickinson@burnley.gov.uk / igrady@burnley.gov.uk

PURPOSE

1. The Council has received a valid petition seeking a Referendum on whether the Council should be run in a different way by a Mayor who is elected by voters for the area that the Council serves. This report sets out the procedures that the Council needs to follow in order to hold the Referendum in accordance with the relevant regulations.

RECOMMENDATION

Full Council is recommended to:

2. Note the position concerning the receipt of a valid petition referred to in paragraph 10 of this report and the requirement to hold a Referendum.
3. Approve the extent to which the (local choice) functions specified under Section 9D (3) (b) of the Local Government Act 2000 are to be the responsibility of the Executive if the Directly Elected Mayor and Cabinet form of governance is approved following the Referendum as set out in **Appendix 1** to this report.
4. Approve the proposals set out in **Appendix 2** to this report for the operation of Executive arrangements based on a Directly Elected Mayor and Cabinet form of governance should this model be implemented as a consequence of the outcome of the Referendum.
5. Note the draft notice required to be published by the Proper Officer, as set out in **Appendix 3** to this report.
6. That, in the event of a vote in favour of a change to the Directly Elected Mayor and Cabinet form of governance in the Referendum, the Council's Independent Remuneration Panel be asked to make recommendations on the arrangements for remuneration that should apply to a Directly Elected Mayor Model and that the Panel's report and recommendations be submitted to the Council for determination before a Mayoral election in October 2017.¹

¹ (Under Regulation 2 (b) of the Local Authorities (Elected Mayor and Mayors' Assistant) (England) Regulations 2002 provides that an elected Mayor of a local authority is to be treated as a councillor of the local authority for the purposes of Section 18 (1) (3) (4) and (5) of the Local Government and Housing Act 1989.)

REASONS FOR RECOMMENDATION

7. To comply with the requirements of Regulation 17 of The Local Authorities (Referendums) (Petitions) (England) Regulations 2011 and Regulation 4 of The Local Authorities (Conduct of Referendums) (England) Regulations 2012

SUMMARY OF KEY POINTS

8. Background

The purpose of this report is to inform Full Council of the position following the receipt of a valid petition requesting a Referendum on a move to a Directly Elected Mayor and Cabinet Executive form of governance, as required by Regulation 17(1) and (2) of The Local Authorities (Referendums) (Petitions) (England) Regulations 2011 (“the 2011 Regulations”) and Regulation 4(1) of The Local Authorities (Conduct of Referendums) (England) Regulations 2012 (“the 2012 Regulations”).

The report also sets out the arrangements for following the process required by legislation including the drawing up of proposals for the operation of the form of governance that is the constitutional change proposed in the petition, namely a Directly Elected Mayor and Cabinet Executive model.

A Directly Elected Mayor is an individual elected by the local government electors for the area for a four-year term of office. The elected Mayor is not a councillor of the authority, but is governed by the same rules on conduct, qualification and payment of allowances, although these are generally referred to as ‘salaries’ in respect of elected Mayors.

Moving to a Directly Elected Mayor and Cabinet form of governance, following a decision by voters at a Referendum would represent a significant change to the way in which the Council operates. Details of the key differences between the Directly Elected Mayor and Cabinet and the current Leader and Executive model are set out in paragraph 19 below.

Currently, 16 local authorities in England have elected Mayors, of which three are non-metropolitan district councils like Burnley, namely Copeland Borough Council (Cumbria), Mansfield District Council (Nottinghamshire) and Watford Borough Council (Hertfordshire). This figure does not include the Mayor of London or the so-called “metro-Mayors”, which are covered by separate legislation and have quite different powers to local authority Mayors.

9. Strategic Priorities

In common with a Leader of the Council, a Directly Elected Mayor would play a pivotal role in shaping and delivering the Council’s strategic framework.

10. Submission of petition

The Council received a petition on 7th November 2016 seeking a Referendum on whether the Council should be run in a different way by a Mayor who is elected by voters for the area, which the Council serves. Sufficient valid signatures to force a Referendum supported this petition.

11. Validation of Petition

In assessing and verifying the petition, the Council followed the strict guidance set out in the 2011 Regulations. Regulation 9 requires the Council to check each petition entry individually against the current register of local government electors (as at 01/09/16).

As a result of this detailed checking against a total of 4,076 signatures on the petition, the Council established that there were 3,379 valid signatures and 677 invalid signatures. The total number of valid signatures required to validate the petition and trigger a Referendum was 3,163

Therefore, on 22 November 2016, the Proper Officer (Lukman Patel) was satisfied that the petition was valid and, in accordance with Regulation 13, informed the petition organiser of that conclusion and that a Referendum would be held.

On 23 November 2016, the Proper Officer also published a notice on the Council's website followed by statutory notices in the Burnley Express and Lancashire Telegraph confirming (1) the receipt of a valid petition (2) the constitutional change sought by the petition (3) the date of the petition (4) that the petition is available for public inspection at Burnley Town Hall and (5) that a Referendum would be held on 4th May 2017.

12. Requirement for a Referendum

Under Regulation 16 in the 2011 Regulations, the Council must hold the Referendum no later than the end of the next "ordinary day of election" after the Petition Date if it is more than four months before the ordinary day of election.

The proper officer has set the date for the Referendum for **Thursday 4th May 2017** (polling hours: 7am to 10pm).

In accordance with the provisions of Regulation 9 in the 2012 Regulations, the conduct of the Referendum is the responsibility of the Counting Officer, who is the returning officer at elections of councillors for the area in which the Referendum is to be held. The returning Officer is Mick Cartledge.

13. Decisions for Council to take before Referendum

Regulation 17 in the 2011 Regulations requires the Council to take the following action before the Referendum:

(1) To decide the extent to which local choice functions² are to be the responsibility of the executive under a Directly Elected Mayor and cabinet form of governance should that be approved at the Referendum; and

(2) To draw up proposals for the operation of a Directly Elected Mayor and cabinet form of governance should that be approved at the Referendum.

It is suggested that no change be made to the allocation of responsibility for local choice functions as set out in **Appendix 1** to this report. Draft proposals for the operation of a

² Under a Directly Elected Mayor system, local choice functions are those statutory functions of the Council which can be exercised by either the Council (or a committee or officer) or by the Executive or Mayor, Details of responsibility for local choice functions currently are set out in Part 3 of the Council's Constitution

Directly Elected Mayor and cabinet form of governance are set out in **Appendix 2** to this report. These draft proposals are, of necessity, high level at this stage. If the voters at the Referendum opt for a change to a Directly Elected Mayor, the details of the various constitutional changes required would be considered separately by the Council.

Under Regulation 4 (1) of the 2012 Regulations, the Proper Officer is required to publish, not fewer than 56 working days before the date of the Referendum, a notice which contains, among other things, a statement that proposals for the operation of a Directly Elected Mayor and cabinet form of governance have been drawn up and a description of the main features of such proposals.

A draft copy of the Proper Officer's notice referred to above is attached as **Appendix 3**.

14. Implications for publicity during the 28-day period leading up to Referendum

As with any election or Referendum, there are restrictions on the publication by or on behalf of the Council of promotional material during the 28-day period ending with the date of the Referendum. However, the Council is permitted to:

- (a) Make available material to persons in response to specific requests for information or to persons specifically seeking access to it;
- (b) Publish information relating to the holding of the poll at the Referendum; or
- (c) Publish press notices containing factual information where the sole purpose of the publication is to refute or correct any inaccuracy in material published by a person other than the local authority

The Council may also provide any other factual information relating to the proposals or the Referendum provided such information is "presented fairly".

15. The Referendum Question

The question to be asked in the Referendum is prescribed by the 2012 Regulations, and the Council does not have a choice in this regard. The form of the ballot paper that will be used in this Referendum, as specified in paragraph 1 of Schedule 1 to the 2012 Regulations, is set out below

Referendum on how Burnley Borough Council is run
Vote only once by marking a cross (X) in the box next to your choice
How would you like Burnley Borough Council to be run?
By a Leader who is an elected councillor chosen by a vote of the other elected councillors. This is how the council is run now
By a Mayor who is elected by voters. This would be a change from how the council is run now.

16. Moratorium period during which no further petitions seeking a governance change may be validated

The 2011 Regulations also provide that a petition seeking a Referendum on a change in governance cannot be valid (even if it contains the required number of valid signatures) if it is presented to the Council during the moratorium period. The moratorium period is defined as the period of nine years from the date on which a Referendum was last held.

If the Directly Elected Mayor model is introduced following a Referendum, the Council is effectively locked into that model for ten years from the date of the Referendum and may only change it at a subsequent Referendum.

If the result of the forthcoming Referendum is to reject the proposal for a Directly Elected Mayor, the Council can make its own constitutional change without a Referendum by a resolution of Full Council (unless the Council wishes to hold a Referendum of its own volition). However, the Council can only make such resolutions once every five years unless it first holds a Referendum (which can only be held once every ten years).

17. Differences between a Directly Elected Mayor and Leader & Executive form of governance model.

The key differences are set out in the table below:

Elected Mayor	Council Leader
The Elected Mayor holds office for four years and cannot be voted out of office by the councillors.	The Council Leader is elected by the council for a period of up to four years, but can be voted out of office if they no longer have the support of the majority of the other 45 councillors.
The Elected Mayor would be directly elected by the local government electorate of the borough.	The Council Leader is elected by the full council of 45 locally elected councillors.
The Elected Mayor will be in addition to the 45 elected councillors (and will not be a councillor themselves).	The Council Leader is one of the 45 elected councillors.
Each year the elected Mayor will present a budget and major policies to the council. Those plans could be approved by a majority. However, any changes proposed by the council would need to have the support of at least two-thirds of the council.	Each year the Council Leader presents a budget and major policies to the council. They can be approved by a majority and, in the same way, any changes proposed by the council require a majority.
The elected Mayor will be scrutinised through full council and at least one overview and scrutiny committee, as well as through direct elections across the borough, every four years.	The Council Leader is held to account through full council and at least one overview and scrutiny committee. He or she also has to stand for election as a local councillor every four years in one of Burnley's 15 electoral wards

Neither a Directly Elected Mayor nor a Council Leader can be removed from their post by the voters during their term of office. However, the Leader can be removed by a vote at Council.

As stated in paragraph 2.9 of Appendix 2, the elected Mayor would choose his or her cabinet from among the serving councillors, subject to a minimum of two and maximum of nine plus the Mayor him/ herself.

For illustrative purposes, the respective Mayors of the three non-metropolitan district councils similar to Burnley in terms of functions and responsibilities referred to in paragraph 1.5 above, have appointed the following number of cabinet members:

Copeland: **Three**. Mansfield: **Seven**. Watford: **FIVE**.

18. First election of Mayor subject to outcome of Referendum

In the event of a vote in the Referendum for changed arrangements, the first election for a Directly Elected Mayor in Burnley would be on Thursday 19th October 2017.

The first Directly Elected Mayor would hold office until May 2020 and terms of office thereafter would be four years, coinciding with election of councillors i.e. not before 23 months after election but no later than 67 months (see legislation Regulation4 (1) (2) (3) below)

http://www.legislation.gov.uk/ukxi/2012/336/pdfs/ukxi_20120336_en.pdf

Where there are three or more candidates, the electoral system used for Mayoral elections in England is the supplementary vote system³, the same system used for Police and Crime Commissioner elections.

19.. Distinction between a Directly Elected Mayor of a single authority and a combined authority

A number of new Directly Elected Mayors are due to be established in May 2017, under 'devolution deals' agreed between the Government and selected local areas. These new Directly Elected Mayors will be introduced via orders under the Cities and Local Government Devolution Act 2016.

Directly Elected Mayors are distinct in law from Mayors of local authorities. They will form part of, and chair, the 'combined authority' in each of the areas in question. Therefore, these Mayors will cover more than one local authority area. In some council areas (e.g. Liverpool, Salford, Doncaster), in future both a local authority Mayor and a combined authority Mayor will co-exist.

Directly Elected Mayors do not automatically have more powers than are available to Council leaders. However, part 1 chapter 4 of the Localism Act 2011 provides for the transfer and delegation of "local public functions" to "permitted authorities" – i.e. local authorities in England or combined authorities. This would enable additional functions to

³ For an explanation of how the supplementary voting system works see <http://www.electoral-reform.org.uk/supplementary-vote/>

⁵ Section 245(4A) of the Local Government Act 1972

be transferred to specific authorities which had elected Mayors if the Government so chose. To date such powers have not been used.

20.. The name and role of the civic Mayor and Deputy Mayor

One of the key issues for the Council to determine if voters opt for a change of governance at the Referendum is how to avoid any confusion between the Directly Elected Mayor and the existing civic Mayor.

The law provides that in a district council operating a Directly Elected Mayor model of Executive, whose Chairman and Vice Chairman have previously used the style “Mayor” and “Deputy Mayor”, that style can no longer be used upon the Directly Elected Mayor taking office. The current Mayor and Deputy Mayor of Burnley would therefore become the Chairman and Vice Chairman of the Council. Copeland, Mansfield and Watford councils all refer to their civic Mayors as “Chairman of the Council”.

There may well be new expenditure associated with a move to Directly Elected Mayor, which may not yet have been identified, and may arise once the elected Mayor has taken office, this would likely be additional to office and support costs.

21. The Referendum Timetable

The timetable for the Referendum is prescribed in the 2012 Regulations and The Local Government Act Referendum Rules:

Event/ Action	Timeline Date
1. Notification Date: Proper Officer to publish notice containing: (a) Statement that proposals have been drawn up (b) Description of main features of the proposals (c) Statement that Referendum will be held and details of date of Referendum, question to be asked etc.	Not fewer than 56 working days before the Referendum date (04/05/17)
2. Proper Officer to advise, by notice, the Proper Officers of the County and District Councils in that he intends to publish the notice referred to above	At least 14 days before the publication of the notice referred to above
3. Publish Notice of Referendum	By no later than the 25th working day before the Referendum day: By Monday 27 th March 2017
4. Publish Notice of Poll	By no later than the 6th working day before the Referendum day: By Wednesday 25 th April 2017
5. Polling Day	Between 7am and 10pm on Thursday 4 th May 2017

22. Guidance for Campaigners

The Council will publish a Guidance Pack for Campaigners, which will include helpful information including the Referendum timetable, the statutory restriction on Referendum expenses that campaigners may incur, campaign material, and how to apply for appointment of postal vote observers, polling agents and counting observers.

There is no requirement to register as a campaigner or a campaign group in such referenda. However, campaigners will need to apply to the Counting Officer to observe certain aspects of the poll; and there are strict rules, which control Referendum expenses.

Referendum expenses cover things such as advertising, unsolicited material, rallies and events etc. They also include circumstances where certain property, services or facilities are made available free of charge or at a discount; a formula is used to calculate an amount which must be included within Referendum expenses.

The Referendum expenses limit in respect of this Referendum is approximately £6,215.76; and Referendum expenses incurred by or on behalf of any individual or body during the Referendum period (from 5th April 2017 to the date of the Referendum) cannot exceed this limit.

As the legislation refers to “on behalf of” an individual or body, any Referendum expenses incurred, for example, by individual A, but funded by individual B, is likely to be regarded as Referendum expenses incurred on behalf of individual B. The combined Referendum expenses of individuals A and B could not then exceed the limit of £6,215.76

As with similar material in other polls, imprints with details of the printer and promoter are required by the Counting Officer to be added to campaign material to show who is responsible for its production. It is also recommended that something similar is added to electronic material such as websites and email.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

23. Financial implications

The financial implications of holding the Referendum and, subject to the outcome of that Referendum, the first Mayoral election on 19th October 2017, are set out below. The detail also provides details of other matters that will have cost implications for the Council in the event of a change, but are not yet fully quantifiable. The requisite budgetary effects for 2017/2018 will be set at Budget Council in February 2017.

For indicative purposes the following additional one off costs will need to be budgeted for in 2017/2018:

a) Cost of Referendum	80,000
b) First Mayoral election costs (if approved)	110,000

The following potential recurring annual costs will also need to be budget for (that will need to be pro-rata'd for 2017/2018 as it is a part year) should the referendum provide for an elected Mayor:

The elected Mayor will be entitled to an annual salary. Without the IRP's recommendations it is difficult to provide accurate figures. For indicative purposes Copeland BC provides its elected Mayor with a salary of £50,000, Deputy Mayor's Special Allowance of £15,000, political advisor salary of £30,000-34,896 and a personal assistant (transfer of former Leader's p.a.) on scale 7.

These figures would be offset by the fact that there will be no Leader's allowance which is currently £10,500 and no Deputy Leader's allowance which is currently £3,000.

Should the referendum provide for an elected Mayor, additional costs of four yearly Mayoral Elections will also need to be budgeted for (Approximately £70,000).

The total additional revenue implications of an elected Mayor model would be in the region of £100,000 per annum plus a cost of £70,000 every four years.

POLICY IMPLICATIONS

24. Legal implications

These are set out in the body of this report.

25. Human Resource Implications

The holding of the Referendum and, subject to the outcome, the possible combination of the election of a Mayor in October 2017 will be a significant challenge for the Governance Unit and officers of the Council who would be expected to assist in the preparations for and running of the respective polls.

However, it is anticipated that these can be managed from within existing staffing resources, subject to the possible need for temporary support within the Governance Unit during the periods leading up to the Referendum and, if necessary, a Mayoral election.

DETAILS OF CONSULTATION

Member Structures Officer and Working Group

BACKGROUND PAPERS

Petition seeking Referendum for constitutional change

FURTHER INFORMATION

PLEASE CONTACT:

**Lukman Patel/ Chris Gay/ Eric Dickinson/
Imelda Grady**

ALSO:

Appendices

Appendix 1: Draft schedule showing the extent to which the (local choice) functions specified in regulations under Section 9D (3) (b) of the Local Government Act 2000 are to be the responsibility of the executive if the Directly Elected Mayor and Cabinet form of governance is approved following the Referendum

Appendix 2: Draft proposals under Regulation 17 of the 2011 Regulations for Executive arrangements based on a Directly Elected Mayor and Cabinet form of governance

Appendix 3: Draft notice under Regulation 4 (1) of the 2012 Regulations

RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS Appendix 1

“Local choice functions” are those statutory functions of the Borough Council which can be exercised by either the Council (or a committee or officer of the Council) or by the Executive.

RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

Function	Decision-Making Body	Delegation of Functions
Any function under a local act (other than that specified in Regulation 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations (as amended) or Schedule 1 thereto.	Executive	Authority to undertake some of these functions may be delegated to officers in accordance with the Council’s scheme of delegation set out in Part 3 of the Council’s Constitution.
The determination of any appeal against any decision made by or on behalf of the Council (other than staffing or licensing matters).	Executive	
The appointment of review boards under regulations under Section 34(4) (determination of claims and reviews) of the Social Security Act 1998.	Executive	
Any function relating to contaminated land. The discharge of any function relating to the control of pollution or the management of air quality.	Executive	
The service of an abatement notice in respect of a statutory nuisance.	Executive	
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Borough.	Executive	
The inspection of the Borough to detect any statutory nuisance.	Executive	
The investigation of any complaint as to the existence of a statutory nuisance.	Executive	
	Executive	

RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.	Executive	Authority to undertake some of these functions may be delegated to officers in accordance with the Council's scheme of delegation set out in Part 3 of the Council's Constitution
The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Executive	
The making of agreements for the execution of highways works.	Executive	
The appointment of any individual:- (a) to any office other than an office in which he is employed by the authority;	Council	
(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,		
(unless the appointment to an outside body is an executive function or has been delegated by the Council)		
and the revocation of any such appointment	Executive	
The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities		

Appendix 2

DRAFT

BURNLEY BOROUGH COUNCIL

Proposals under Regulation 17 (2) of The Local Authorities (Referendums) (Petitions) (England) Regulations 2011 (“the 2011 Regulations”) for executive arrangements based on a

Directly Elected Mayor and Cabinet form of governance

1. Introduction

1.1 A petition requesting a Referendum on the introduction of an Elected Mayor for the Borough of Burnley was received by the Council on 7th November 2016 (the ‘petition date’). The petition sought a Referendum on a constitutional change. The petition states: *“We, the undersigned, being local government electors for the area of Burnley Borough Council to whom this petition is addressed, seek a Referendum on whether the council should be run in a different way by a Mayor who is elected by voters for the area which the council serves”*

1.2 Within the notice period stipulated by the 2011 Regulations, each of the 4076 entries on the petition were verified to ensure that all signatories are local government electors in the borough and have provided all necessary information required by those Regulations. The proper officer has satisfied himself that the petition is valid in accordance with the 2011 Regulations. It was established that the petition contains 3,377 valid signatures. A valid petition is required to contain not fewer than 3163 signatures of local government electors in the borough, which is the published ‘Verification Number’ for Burnley for the period including the petition date. The verification number represents 5% of the registered local government electors of the borough for the year in question.

1.3 The petition is therefore valid and, in accordance with the 2011 Regulations, the Council is required to hold a Referendum within six months of the petition date. Under Regulation 13 of the 2011 regulations, the petition organiser, Geoffrey Berg, has been informed that a valid petition was received and a Referendum will be held, and a notice published.

1.4 The Council currently operates the Leader and Cabinet (England) model of executive arrangements.

1.5 The Referendum triggered by the receipt of the valid petition will be held on Thursday 4th May 2017.

2. Proposals for Directly Elected Mayor and Cabinet form of governance

2.1 In accordance with the 2011 Regulations, the Council has drawn up these proposals for the operation of a Directly Elected Mayor and Cabinet form of governance.

2.2 In the event of a majority vote at the Referendum in favour of the change to a Directly Elected Mayor and Cabinet form of governance, the Council will move from the Leader and Cabinet (England) form of governance and will start to operate a Directly Elected Mayor and Cabinet form of governance with effect from four days after the date on

which the first Mayoral election in Burnley would be held (Thursday 19 October 2017), coinciding with the commencement date of the elected Mayor's term of office.

2.3 The term of office of the current Leader of the Council, together with the Deputy Leader and Lead Councillors on the Executive will end on the date the elected Mayor's term of office begins.

2.4 If the result of the Referendum is to reject the proposals, the Council will continue to operate the Leader and Cabinet (England) model of executive arrangements.

Eligibility to stand for election as Mayor

2.5 Any person can stand for election as elected Mayor, provided he/she satisfies the eligibility and qualification requirements for standing as a councillor (which also apply to an elected Mayor). It is possible for an existing councillor to stand for election as elected Mayor, but if elected this would create a casual vacancy in the Council on taking office. This is because an elected Mayor is not a councillor.

2.6 The Mayor elected at the October 2017 Mayoral election shall serve until the next Mayoral election in May 2020, and any subsequent Mayor shall serve for a term of four years unless the Mayor dies, resigns or is otherwise disqualified from office. The date of each subsequent Mayoral election shall coincide with the date of ordinary elections of councillors. Unlike the Leader of the Council, a Directly Elected Mayor cannot be removed from office or required to resign as a result of any vote or resolution of the Council, during their term of office.

The Executive

2.7 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.

2.8 The form of the Council's Executive Arrangements will be a 'Mayor and Cabinet' model. The Executive will comprise:

- A Mayor, directly elected by local government electors of the borough; and
- Between two and nine other councillors appointed by the Mayor as Executive members

2.9 The elected Mayor will decide how many Executive members there shall be (subject to the statutory minimum of two and maximum of nine plus the Mayor him/herself) and shall appoint those Executive members from among the serving councillors and may allocate to each Executive member a portfolio of responsibilities.

2.10 The Mayor will have power to replace or remove Executive members and to vary or delete their portfolio responsibilities at any time, but shall report any such changes to the next available Council meeting.

2.11 The Mayor shall appoint a Deputy Mayor from among the Executive 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, or the office of Mayor is vacant.

2.12 All executive functions of the Council shall be vested in the elected Mayor. The Mayor may exercise those functions him/herself, or may delegate specified executive functions to be exercised by the Executive collectively, a committee of the Executive, an individual Executive member or an officer. The Mayor may revoke any such delegations at any time.

2.13 Where the scheme of delegation to officers in the Council's Constitution currently provides for the exercise of executive functions by officers, in consultation with lead councillors, such consultations shall be deemed to be with the elected Mayor until such time as the Mayor shall amend those delegations once he/she has commenced their term of office.

2.14 Similarly, where the Council's Constitution currently provides for the exercise of executive functions by lead councillors, such delegations shall terminate immediately upon the elected Mayor taking office. Any future delegation of executive function(s) to be exercised by an Executive 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.

2.15 In the event that the Mayor from October 2017 wishes to delegate decision-making powers to an individual Executive 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)

2.16 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, planning 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.

2.17 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.

Budget and Policy Framework

2.18 Within legislation, Council must approve the budget and certain plans and strategies ('the Policy Framework') and their approval cannot be delegated to the Executive. The Executive proposes the budget and plans and strategies to Council for approval and if the budget and plans/strategies are approved, must make decisions in accordance with the approved budget and plans and strategies. The following documents make up the Policy Framework of Burnley Borough Council, being the plans and strategies

required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) made under Section 32 of the Local Government Act 2000:

- Sustainable Community Strategy;
- Crime and Disorder Reduction Strategy;
- Local Transport Plan;
- Plans and strategies which together comprise the Development Plan;
- Council's Strategic Plan;
- Food Law Enforcement Service Plan
- The Housing Strategy;
- Economic Vision Strategy
- Corporate Community Engagement Strategy
- Equal Opportunities Policy, Single Equality Scheme and Equality Action Plan
- Statement of Licensing Policy regarding the Licensing Act 2003
- Statement of Principles regarding the Gambling Act 2005
- Matters related to local government pensions
- Data Protection and Freedom of Information Policy
- Pay Policy Statement - Localism Act 2011

The elected Mayor will present a budget each year and, periodically, major plans and strategies to the Council. The budget and major plans and strategies could be approved by a majority of councillors. However, any changes proposed by councillors would need to have the support of at least two-thirds of them.

Local Choice Functions

2.19 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' and they are set out in (*Appendix 1 to this report*) Annex 1 of these proposals. The Council has determined that no changes shall be made to the current division of local choice functions between the Executive and Council.

Overview and Scrutiny Arrangements

2.20 Subject to the Council's wishes, the current arrangements for overview and scrutiny in Burnley shall continue unchanged under the new executive arrangements.

The 'Ceremonial Mayor'

2.21 The law provides that in a district council operating a Directly Elected Mayor model of Executive, whose Chairman and Vice Chairman have previously used the style "Mayor" and "Deputy Mayor", that style can no longer be used upon the Directly Elected Mayor taking office. The current Mayor and Deputy Mayor of Burnley would therefore become the Chairman and Vice Chairman of the Council. Responsibility for discharging civic and

ceremonial duties would be determined by the elected Mayor and the Council would need to redefine the respective roles of chairman and vice-chairman of the Council.

Mayor's salary

2.22 The elected Mayor would be entitled to receive a salary, the amount of which would be approved by the Council on the recommendation of its Independent Remuneration Panel.

Staffing arrangements

2.23 It is not envisaged that a change to any new model of governance would have a significant impact on Council staffing arrangements. However, an elected Mayor may appoint one political assistant/adviser and a p.a., the cost of which would be met by the Council. The requirement to have certain statutory officers in place (Head of Paid Service, Monitoring Officer and Chief Finance Officer) would remain unchanged.

Appendix 3

DRAFT

In the matter of Burnley Borough Council and a petition to change the Council's constitutional arrangements In the matter of The Local Authorities (Conduct of Referendums) (England) Regulations 2012 Notice under Regulation 4(1)

Notice is hereby given that, following receipt of a valid petition seeking a Referendum on whether the Council should be run in a different way by a Mayor who is elected by voters for the area which the Council serves, Borough Council has drawn up proposals under Regulation 17 (2) of the Local Authorities (Referendums) (Petitions) (England) Regulations 2011 for the operation of the form of governance that is the constitutional change proposed in the petition.

The main features of these proposals are as follows:

- The Mayor would be directly-elected by the local government electors of the borough of Burnley
- Any person can stand for election as elected Mayor, provided he/she satisfies the eligibility and qualification requirements for standing as a councillor (which also apply to an elected Mayor). It is possible for an existing councillor to stand for election as elected Mayor, but if elected this would create a casual vacancy in the Council on taking office.
- The Directly Elected Mayor would take office on the fourth day following their election and would hold office until their successor comes into office unless they resign or die, or become disqualified from office under legislation governing the qualifications and disqualification to hold office of councillor (which also applies to elected Mayors).
- Unlike the Leader of the Council, a Directly Elected Mayor cannot be removed from office or required to resign as a result of any vote or resolution of the Council, during their term of office.
- Like the Leader of the Council, the elected Mayor would be required to appoint an Executive of at least two and not more than nine councillors, one of whom must be designated "Deputy Mayor". The Directly Elected Mayor would be responsible for all executive decisions of the authority and would be able to delegate Executive functions to the Executive collectively, to individual members of the Executive, to committees of the Executive, or to officers as they see fit.
- The elected Mayor will present a budget each year and, periodically, major plans and strategies to the Council. The budget and major plans and strategies could be approved by a majority of councillors. However, any changes proposed by councillors would need to have the support of at least two-thirds of them.
- The Council would continue to be required to have at least one overview and scrutiny committee and the current arrangements for the discharge of non-Executive functions by committees and officers would continue.
- The elected Mayor would be entitled to receive a salary, the amount of which would be approved by the Council on the recommendation of its Independent Remuneration Panel.
- The law provides that in a district council operating a Directly Elected Mayor model of Executive, whose Chairman and Vice Chairman have previously used the style "Mayor" and "Deputy Mayor", that style can no longer be used upon the Directly

Elected Mayor taking office. The current Mayor and Deputy Mayor of Burnley would therefore become the Chairman and Vice Chairman of the Council. Responsibility for discharging civic and ceremonial duties would be determined by the elected Mayor and the Council would need to redefine the respective roles of chairman and vice-chairman of the Council.

- It is not envisaged that a change to any new model of governance would have a significant impact on Council staffing arrangements. However, an elected Mayor may appoint one political assistant/adviser and a p.a., the cost of which would be met by the Council. The requirement to have certain statutory officers in place (Head of Paid Service, Monitoring Officer and Chief Finance Officer) would remain unchanged.

The Council also gives notice that a Referendum will be held on **Thursday 4th May 2017**, and will be conducted in accordance with procedures similar to those used at local government elections.

The question to be asked in the Referendum is as follows:

“How would you like Burnley Borough Council to be run?

By a leader who is an elected councillor chosen by a vote of the other elected councillors.

This is how the council is run now

or

By a Mayor who is elected by voters. This would be a change from how the council is run now.”

The following Referendum expenses limit (as defined in Regulation 6 (1) of the 2012 Regulations) will apply in respect of this Referendum:

The aggregate of and the amount found by multiplying by 5.9 pence the number of entries in the register of local government electors that has effect on the day on which the Referendum period begins (22 July 2016) - i.e. the register published on . Applying this formula, the Referendum expenses limit for this Referendum will be **£6215.76** .

It is a criminal offence for any individual or body by whom, or on whose behalf, Referendum expenses are incurred in connection with a Referendum campaign, to exceed this Referendum expenses limit.

A copy of the proposals may be viewed on the Council’s website: between 8.30 am and 5pm Mondays to Thursdays and 8.30 am to 4.30pm on Fridays.

A copy of the proposals may be obtained on request from the Democratic Services Manager at the above-mentioned address and during the hours and on the days stated.

Lukman Patel
Proper Officer
Burnley Borough Council

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