

**Report To:** Full Council

**Date of Meeting:** 19<sup>th</sup> February 2019

**Lead Member / Officer:** Cllr Barry Mellor, Chair Corporate Governance Committee/Gary Williams, Head of Legal, HR and Democratic Services

**Report Author:** Gary Williams, Head of Legal, HR and Democratic Services

**Title:** Political Balance in Cabinet

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**1. What is the report about?**

This report is about the application of political balance to the composition of the Cabinet.

**2. What is the reason for making this report?**

- 2.1** Council passed a Motion on 23<sup>rd</sup> October 2018 requesting that the Corporate Governance Committee consider options and present a report to the Full Council on 19<sup>th</sup> February, 2019 which outlines how the Constitution could be changed to remove the requirement for political balance in the Cabinet.

**3. What are the Recommendations?**

- 3.1** That Members consider the recommendation of the Corporate Governance Committee that the requirement for Cabinet to be politically balanced be removed from the Council's Constitution and replaced with provision for the Cabinet to be appointed by the Leader of the Council.

**4. Report details**

- 4.1** The Council is required by law to operate executive arrangements in accordance with Part II Local Government Act 2000 (the 2000 Act). Under these arrangements, the Council must have an "Executive". The Executive can take one of two forms.
- 4.2** One option is to have a directly elected Mayor who may appoint between two and nine more councillors to form the Executive with the Mayor. Before a Council can have a directly elected Mayor, it must hold a referendum on whether or not to operate this model of executive.
- 4.3** The second option is to have an Executive consisting of a councillor elected by the Council as Leader, together with between two and nine councillors who may be appointed either by the Leader, or by the Council. In Denbighshire this model of Executive is operated and is called Cabinet. The appointment of councillors to the Cabinet is by the Leader.
- 4.3** The 2000 Act specifically exempts Cabinet from being subject to the duty contained in s15 Local Government and Housing Act 1989 (the 1989 Act) to apply the rules of

political balance to its membership. This means that the Cabinet is not required by law to be politically balanced in its composition. The Council may, however, choose to apply some form of political balance if it wishes.

- 4.4 The current arrangements for the composition of the Cabinet are contained in Section 5 of the Council's Constitution as set out in Appendix 1 to this report. These provisions seek to apply some element of political balance to the Cabinet but do not reflect the absolute duty set out in the 1989 Act.
- 4.5 The starting point in the Constitution is that the Cabinet should be politically balanced. The intention behind this provision was that there be a Cabinet that reflected the political make-up of the Council and thereby the decision of the electorate. This was intended to provide for political stability.
- 4.6 The principles of political balance are only to be applied to political groups consisting of five or more members. By law, a political group may exist when a minimum of two members provide written notification that they are a political group and identify one of their number as group leader. The intention behind this provision was to provide for stability and discourage the splintering of groups by individual members in order to obtain seats on Cabinet and other bodies.
- 4.7 The model adopted by the Council provides that the Leader may appoint councillors to Cabinet subject to the principles of political balance set out above following consultation with Group Leaders. If any political group declines to take their seats on Cabinet the Leader may fill those vacancies without regard to the principles of political balance following further consultations with the other Group Leaders.
- 4.8 If at any time, a political group that has previously declined seats on Cabinet decides to take up those seats, the Leader must make such changes to the membership of the Cabinet as to ensure that the principles of political balance set out above are complied with.
- 4.9 If Council wishes to dispense with the requirement for the Cabinet to be politically balanced, then there are two possible models that are available to it. The first is that the Leader, once elected by Council, is free to appoint councillors to Cabinet without any formal restriction as to political balance. This is known as the "strong leader" model. The Leader could appoint councillors to Cabinet in a politically balanced way if he/she saw fit but would not be required to do so.
- 4.10 The second option is that the Council could elect a Leader and then elect members of the Cabinet. It would then be for the Leader to assign portfolios to those members. This election may be for the term of the Council or until each Annual Meeting. This is known as the "weak leader" model.
- 4.11 A brief check on the published constitutions of the unitary authorities in Wales reveals that of the twenty two councils, sixteen (including Denbighshire) have adopted the "strong leader" model. Six Councils have adopted the "weak leader" model. A table setting out which Councils have which form of Cabinet is attached as Appendix 2

- 4.12 Denbighshire is the only Council that has any formal requirement for the principles of political balance to apply.
- 4.13 The Corporate Governance Committee considered this matter at its meeting on 23<sup>rd</sup> January 2019. Following a detailed debate, the Committee voted by a majority that it would recommend to Council that the requirement for the Cabinet to be politically balanced should be removed.
- 4.14 The Committee considered further the merits of the “strong leader” and “weak leader” models as described in paragraphs 4.9 and 4.10 above. The Committee unanimously recommended that the “strong leader” model should be adopted, i.e. that the Leader should be able to appoint and remove Cabinet members.
- 4.15 A draft Section 5 to the Constitution is attached as Appendix 3 which reflects the position should the Council agree with the recommendation of the Corporate Governance Committee. The amendments to the existing section 5 are shown in red.

## **5. How does the decision contribute to the Corporate Priorities?**

A fit for purpose modern constitution providing assurances on governance and decision making, ethical behaviour, and allowing the public and third parties to see who is the responsible decision maker on issues affecting them supports the Council in achieving its corporate priorities.

## **6. What will it cost and how will it affect other services?**

There are no direct costs associated with this report.

## **7. What are the main conclusions of the Well-being Impact Assessment?**

There is no requirement for an assessment for this report.

## **8. What consultations have been carried out with Scrutiny and others?**

The Corporate Governance Committee considered the options regarding the composition of Cabinet on 23<sup>rd</sup> January 2019. The Committee recommended that the requirement for political balance in the Cabinet be removed and that the “strong leader” model be adopted allowing the Leader to appoint and remove members of the Cabinet.

## **9. Chief Finance Officer Statement**

There are no direct financial implications arising from the recommendation made in the report

## **10. What risks are there and is there anything we can do to reduce them?**

There are no significant risks associated with this report

## **11. Power to make the Decision**

Part II Local Government Act 2000

