

A submission to Lewisham Council's Democracy Review

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Author Note

This is written in a personal capacity and does not necessarily represent the views of any organisations mentioned in this submission.

Abstract

Lewisham Council have asked its citizens to respond to what they call a Democracy Review¹, this paper represents the submission of Dave Levy and calls for the reversion to a committee led council. In the expectation that this will be rejected, other reforms to improve the accountability and transparency have been made including a recall mechanism, term limits and much improved monitoring of personnel, decisions and programmes.

Keywords: Lewisham Council, local authority, London borough, governance, reform, recall, compliance, executive mayors

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On reading Lewisham's Constitutionⁱⁱ, which is over 450 pages long, despite my engagement in the political process, I was shocked to learn of the legal decision-making rules and processes with respect to the Mayor and Council's powers. At the moment, with the exception of planning and licensing, the Mayor is the sole decision maker; the Council through its Scrutiny process can only delay decisions and the Cabinet is only responsible for execution. The Mayor delegates their decision-making powers through a "schedule of delegation". I am told that that the Mayor's decisions are now delegated to Cabinet, but I have not found this in writing. The Mayor certainly does delegate their powers to the mandatory and non-mandatory Executive Directors, the means by which the ED's are held to account is unclear.

I propose that the Mayor should be abolished. In the expectation that this will be rejected I make proposals on Recall, Term limits, Smaller wards, Sharing decision making, an ombudsman and compliance committee, that the cabinet is appointed by the council, that the web site is thrown away and started again, that the council commission an independent academic study on UK (or English) local authority governance, that the Democracy Review team interview specific officers/councillors to see what tools and powers they feel are needed, and should these initiatives require changes in the law, that Lewisham Council sponsor them through the Localism Act.

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Abolition of the Mayor

The Council should take a view as to whether such a concentration of power with so little means of accountability (checks and balances) is appropriate. I do not. Scrutiny structures can only delay, and the Ethics committee is only empowered to deal with Councilors. There is no recall and no term limits, both measures that many private sector organisations put in place. The Council should consider running a referendum on the Mayor's abolition and replacement with a committee run council. This is not just a first-amongst-equals "Leader" with a different mandate, it's an alien form of government, lifted from the US & France and designed to reduce the accountability of the decisions from the people and their political parties.

The four initiatives that have successfully abolished mayors that have all been startedⁱⁱⁱ by back bench Councillors.

Recall

If the Mayoral system is to be retained, a recall system should be created. This might be like the US system, where a Council committee acting in a quasi-judicial role determine if there are grounds for recall and the full council then votes on if there should be such a recall.

Often when considering this issue incumbent Councillors oppose such measures as they feel they can be misused for political purposes but the cost of not having such a mechanism is a danger of corruption.

Term Limits

If the Mayoral system is to be retained, there should be a term limit introduced. This is just a basic anti-corruption measure and similar control are in place in 1000's of organisations across the country, if only through the requirement to take annual leave as a block.

The Council should consider term limits for Councillors also for similar reasons and the need that all organisations have for new people to drive innovation.

Smaller Wards

When the GLA was established, it was made considerably smaller than its predecessor organization as it was seen to exist in the role of a control commission/committee as are many US Councils. Why have a lot of Councillors when decisions are taken by one person?

Since I think the Mayoral model is wrong and would wish to return to a committee led council I would not reduce the size of the Council. It is also a fact that the UK has less elected politicians per capita (<http://bit.ly/2RLDrTs> (Baston & Wilks-Heeg, 2010)) than any country in the OECD and this is made worse by the limited power that lower levels of local government hold.

Councillors are also the primary means by which residents and service consumers hold the Council and seek to hold the Mayor to account; this is illustrated primarily through their case work load.

Maybe the wards should be split up so that each ward consists of two polling districts and elects one councilor, this means the votes to win will be much lower which maybe not so good, but it will lead to a position where councillors are capable of really knowing their ward and its residents and voters, and more importantly, vice versa. If its so fabulous that voters identify ne person as the leader and decision maker, maybe a similar relationship should be held by the councilors.

Sharing decision making

Some decisions are taken and reserved for the full council. This includes the seven mandatory plans although I am unclear if these plans require a majority or merely a $\frac{1}{3}$ affirming vote. If the plans need to be agreed by only $\frac{1}{3}$ then this should be changed to over 50%.

The constitution states that all executive functions are delegated to the Executive/Cabinet collectively, but it would seem the Mayor can revoke these delegations, and I am unclear as to whether the constraining of these delegations to “executive functions” is significant. What are the executive functions? It should be noted that the Cabinet is also appointed by the Mayor and thus such appointments can be revoked. This is not an effective check on the power of the Mayor.

On looking at the “Schedule of Delegation”, it becomes clear that the Executive Directors who are Council full time staff and appointed under the power of the Mayor, some of whom are mandatory have significant powers; most decisions under half million pounds would seem to be taken by these officers, or even their delegates.

The Executive Directors are on the whole more powerful than the scrutiny committees and their chairs set to monitor their work and probably more powerful than the Cabinet members meant to be holding them accountable.

The reporting on these officers and the monitoring of their department’s work needs a massive increase in transparency, though better funded Scrutiny and Cabinet oversight.

In particular the relationship and reporting structures between the Officers and those committees that supervise them should be more open, in particular, recommendations to deliberative bodies such as the licensing and planning committees should illustrate the

opportunity cost of the preferred solution and at least the 2nd choice option as argued in “Distortions and Deceptions in Strategic Planning” (Lovallo & Sibony, 2006)

The processing of the seven mandatory plans should be subject to a consultation phase similar to central government’s green paper/white paper process.

Ombudsman & Compliance Committee

I am led to believe that the Ethics Committee only has a remit to deal with Councillors and that it meets infrequently. The Monitoring Officer^{iv}, is a legally required officer appointed by the Mayor, who has the job of blowing the whistle if they believe the law has been broken. This structure is weak in terms of dealing with citizen complaints and in proving independence and confidence in clean processes.

There is a need for a Compliance Committee and a Council Ombudsman^v

The personnel should include people nominated by the heads of professional associations and the committee should include opposition councillors, the Chair of Scrutiny and the other scrutiny chairs; consideration should be given to appointing an opposition councillor as chair of the compliance committee as is the case for Parliament’s Public Accounts Committee.

Alternatively, the Chair & the Ombudsman could be appointed by one of the professional associations. Its remit should include compliance overview of all Council activities, inc. the Monitoring Officer, Councillors and the Executive Directors. The Council should establish a whistle-blowing policy including a no revenge commitment and the Chair of Compliance, the independent Monitoring Officer or the Ombudsman should be the point of referral for whistle blowing complaints.

Given the power of the Executive Directors, the monitoring for conflict of interest should be as comprehensive as for elected councilors.

Modern good governance separates Legal departments from Compliance as legal advises on what can be done as paid agents of their client, and compliance lawyers have a first duty to the law.

Cabinet appointed by the Council

The power of patronage by the power of appointment to the Cabinet should be limited. Cabinet members should be appointed by full Council.

Citizen Communication

The primary vehicle for rapid citizen communication is the web site which is dreadful. It is focused on service delivery, and has an ancient look and feel, at least for the desktop interface. It is not designed to tell citizens what is happening and what will happen, nor to allow the Mayor to keep people up to date with their progress against plans.

One example is the Constitution itself, which is a master of opacity but I must congratulate its authors on its completeness, at least I didn't have to go looking for all the supplementary documents. Another example is the reference to 3rd party WEEE waste collectors some of which are still dead sites; this is an issue I have been pursuing for many months.

It should be thrown away and a new start made based on commonly agreed good practice, it should include customer services & case work monitoring and a planning/housing portal showing council goals in an easy to understand manner.

Another example is the Democracy Review consultation page itself, which guides it's users down dismal tributaries of irrelevance.

No academic literature

Interestingly there would seem to be little academic literature on the pros & cons of Executive Mayors vs. committee led councils (or even Leader & Cabinet councils). The council should investigate commissioning possible jointly with another local authority an academic study into the efficacy and democracy of these alternatives.

Further Fact finding

While significant time has been allowed for this consultation, many of us in the Labour Party have been busy up to the end of November. I am grateful for the additional month but even this has proved insufficient for me, although I wish I had been able to consult more councillors.

I strongly recommend that the Democracy Review team interview the Chair of the Audit committee, the Chair of the Ethics Committee and the Chair of scrutiny to ask them

Do you have the tools and powers to ensure that all decisions and programmes conform to the council approved plans?

Do you have the tools and powers to ensure that all decisions and programmes are in compliance with the law?

Do you have the tools and powers to measure programme effectiveness?

Do you have the tools and powers to measure conflicts of interest and lobbying impact upon the Council, its Committees, the Mayor & Cabinet members and the Executive Directors?

Localism Act

Some of the proposals made may be difficult to implement under the current legislative regime. The council could propose variations under the localism act.

About Me

I am a resident in Deptford and thus a council tax payer. I am a Labour Party member and currently Secretary of the Lewisham Local Campaign Forum. I consider myself exceptionally well informed in local politics but have found the base material with which to write this hard to find and opaque.

I have corresponded with the council over the last two years on council tax, WEEE waste disposal, planning and other waste disposal issues.

References

Baston, L., & Wilks-Heeg, S. (2010). How strong is the case for fewer MPs?

<http://consoc.org.uk>.

Lovallo, D. P., & Sibony, O. (2006). Distortions and deceptions in strategic decisions. *McKinsey Quarterly*.

Footnotes

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- ⁱ <https://consultation.lewisham.gov.uk/corporate-policy-and-governance/local-democracy-review/>
ⁱⁱ <https://www.lewisham.gov.uk/mayorandcouncil/aboutthecouncil/how-council-is-run/Documents/Constitution.pdf>
ⁱⁱⁱ Arguably Stoke's referendum was mandated by a change in law.
^{iv} <https://www.lawgazette.co.uk/legal-updates/local-government-monitoring-officers/5044915.article>
^v I am unsure if this is a word that should be gender neutralized, it probably should but I am not sure how common such a practice is.