

**Agenda Item No:** 5

**Report To:** Selection and Constitutional Review Committee  
Executive



**Date:** 4<sup>th</sup> February 2010

**Report Title:** Local Government and Public Involvement in Health Act  
2007 – New Executive Arrangements for the Council

**Report Author:** Head of Legal and Democratic Services

**Summary:**

The report summarises and outlines the implications of the requirements of the Local Government and Public Involvement in Health Act 2007 in relation to mandatory changes to all Local Authorities' Executive arrangements. My report to the Selection and Constitutional Review Committee on the 5<sup>th</sup> May 2009 which largely dealt with Councillor Call for Action and New Scrutiny Functions also advised that under Part 3 of the 2007 Act all Local Authorities had to review their Executive arrangements and to consider which of the following two Models to adopt:-

- (a) A directly elected Mayor and Cabinet or
- (b) A new style of Leader and Cabinet.

This report sets out a timetable and the steps which need to be taken to enable the Council to make a decision by the 31<sup>st</sup> December 2010.

**Key Decision:** NO – This is not an Executive decision.

**Affected Wards:** All Wards

**Recommendations:** **The Selection and Constitutional Review Committee and the Executive are asked to consider the report and agree the following recommendations to Council:-**

- (i) That the changes to Executive model arrangements and the necessary procedures to change them as provided for in the Local Government and Public Involvement in Health Act 2007 be noted.**
- (ii) Approve the timetable for the process set out in Paragraph 10.**
- (iii) Agree that the consultation with the public be undertaken by way of an article in the Ashford Voice and by a dedicated page on the Council's website; such detailed arrangements to be agreed**

by the Head of Legal and Democratic Services and the Head of Communications and Marketing.

- (iv) Note that a further report would be submitted to the Selection and Constitutional Review Committee and Executive in early Autumn advising of the results of the consultation exercise and proposing a recommendation as to which Executive model to adopt for consideration by the Council on the 7<sup>th</sup> October 2010.

**Policy Overview:** The Council is required by the 2007 Act to consider this issue.

**Financial Implications:** None in relation to this report. There would, however, be costs if the Council decided to hold a Referendum over proposals to adopt a Mayoral and Cabinet Model. Furthermore there would be additional work to deal with the actual election of a Mayor which would need to be undertaken at the same time as the election of Councillors in May 2011.

**Risk Assessment** The new style Leader and Cabinet Executive will automatically be imposed on the Council by the Secretary of State if it does not undertake the formal steps to review Executive arrangements.

**Equalities Impact Assessment** NO

**Other Material Implications:** Not applicable

**Background Papers:** None

**Contacts:** [keith.fearon@ashford.gov.uk](mailto:keith.fearon@ashford.gov.uk) – Tel: (01233 330564)  
[terry.mortimer@ashford.gov.uk](mailto:terry.mortimer@ashford.gov.uk) – Tel: (01233 330210)

## **Report Title: Local Government and Public Involvement in Health Act 2007 – New Executive Arrangements for the Council**

### **Purpose of the Report**

1. To advise Members of the changes to the Executive arrangements arising from the Local Government and Public Involvement in Health Act 2007 and to seek authority to undertake a consultation exercise and report back to the Committees and Council in due course with recommendations as to which revised Model to adopt.

### **Issue to be Decided**

2. Authority is sought to undertake a consultation exercise on the two new Executive Models available under the 2007 Act and to agree a timetable for this exercise to be undertaken. The Government White Paper 'Strong and Prosperous Communities' sets out the principal thinking behind the changes and in particular they refer to the fact that in most authorities leaders face election every year. It is considered that this can make it hard to take and see through essential but difficult but decisions that may in the short term be unpopular. The White Paper also suggested that this brings uncertainty for senior management teams in pursuing and implementing longer term strategies. In view of this the Government consider that there is a need for councils to move towards having more stable and more visible political leadership. Government research shows that leadership is the single most significant driver of change and improvement in local authorities.

### **Background**

#### **Local Government and Public Involvement in Health Act 2007**

3. The Local Government Act 2000 required each Local Authority to implement a new form of Local Governance. This Act provided for three main forms of Executive:
  - An elected Mayor with a Cabinet of Councillors appointed by the Mayor (Mayor and Cabinet).
  - A Leader elected by the Council and a Cabinet of Councillors appointed either by the Council or the Leader (Leader and Cabinet).
  - An elected Mayor with an Officer known as the Council Manager appointed by the Council (Mayor and Council Manager).
4. Following a consultation exercise which involved a letter being sent to all households in the Borough, the Council adopted the Leader and Council Cabinet Model. The new Executive arrangements were introduced in July 2001. The results of the consultation exercise at that time showed 57% support for the Leader and Cabinet Model. For a comparison the directly

elected Mayor with Cabinet Model received 16% of the vote and the directly elected Mayor with Council Manager 13% of the vote. A total of 8069 responses were received to the consultation.

5. As outlined in the summary to this report the 2007 Act changes the forms of Executive which are now limited to:-

- (a) The Mayor and Cabinet Executive or
- (b) A Leader and Cabinet Executive

To continue with the current arrangements is not an option. The Council has to make a final decision on this matter by 31<sup>st</sup> December 2010. The revised model will come into effect following the next full Council elections in May 2011.

6. The new Leader and Cabinet Executive arrangements are similar to the existing Leader and Cabinet (Executive) system this Council adopted in 2001 and the main changes are shown below:-

- The new arrangements require the Leader (the Act refers to the Leader as the 'Executive Leader') to be elected by the Full Council and provide that he or she must appoint two or more Councillors (but no more than nine) to an "Executive". The Executive Leader would be required to appoint one of the members of the Executive to be the Deputy Leader, who would hold office (unless he resigns or ceases to be a member of the authority) until the end of the term of office of the Executive Leader. However the Executive Leader may, if he thinks fit, remove the Deputy Executive Leader from office and appoint another person to that position.
- This arrangement requires the Executive Leader to determine the responsibilities of other Executive Members and gives him the power to delegate the functions of the Executive in any way permitted by law (for example to an individual Executive Member or to a Sub-Committee of the Executive or as with the present system for certain functions to Officers) If for any reason the Executive Leader is unable to act or that office is vacant, the Deputy Leader will act in that persons place. There is however nothing to prevent the Council continuing with its existing procedure of collective decision making which has served the Council well.
- The Act requires the Executive Leader to be appointed by the Council not just for one year but for a term of four years. The Council will be able to include in the Constitution provision which would enable the Executive Leader to be removed within the 4 year period.

7. In terms of a Mayor and Cabinet Executive, it is important to note that this is not a reference to a Civic Mayor currently used by this Council but would be a Mayor directly elected for period of four years and could not be removed by resolution of the Council. The elected Mayor would not represent a Ward but would be the Council's Political Leader with overall responsibility for the effective implementation of Council policy and delivery of services. This latter

option may cause confusion in the minds of the public as there is a current “Civic Mayor”. In this case consideration would need to be given to changing the title of the “Civic Mayor” to “Chairman of the Council”.

### **Procedure**

8. It is important to understand that although the Council is already operating Executive arrangements the new legislation requires public consultation where the Council proposes to move from the current Leader and Cabinet Executive to the new style Executive Leader and Cabinet. To change the form of its Executive the Authority has to:-
  - Consult before drawing up proposals for a change in form of Executive. The Act specifies that this should be for a minimum of a 12 week period.
  - Draw up proposals including, if the proposals are for an Executive Leader and Cabinet Executive, whether the Authority proposes to adopt provisions to allow it to remove the Executive Leader during the Leader’s term of office.
  - Decide whether the change should be subject to approval by a referendum. This Council is not required to hold a referendum on this occasion since its current Executive arrangements were not approved by a referendum.
  - Publicise the proposals including by publishing in one or more newspapers circulating in its area a Notice which:-
    1. States that the Authority has drawn up proposals.
    2. Describes the main features of the proposals.
    3. States that the proposals are available at the Council’s principal office for inspection by members of the public at specified times.
    4. Specifies the address of the principal office.
  - Hold a Referendum if they have decided that there should be one.
  - Resolve to change the form of Executive.
  - Implement the new governance arrangements.
  - Publicise the new arrangements.
9. The Authority would also have to consider the extent to which the proposals would be likely to assist in securing continuous improvement in the way in which its functions are exercised having regard to a combination of economy, efficiency and effectiveness.

### **Consultation**

10. The timetable set out below would allow the Authority to consult the general public and also consider a revised Executive Model for adoption prior to the 31<sup>st</sup> December 2010 with a view to the new Executive arrangements taking effect three days following the elections of the Borough Council to be held on the 5<sup>th</sup> May 2011.

<b>Date</b>	<b>Process</b>
June to August 2010	Consultation via Ashford Voice and the website.
September/October 2010	Selection and Constitutional Review, Executive and Council to consider consultation feedback and approve the formal proposals for new Executive Model.
8 <sup>th</sup> October 2010	Council publishes formal Notices about the proposed changes.
16 <sup>th</sup> December 2010	Council adopts the formal resolution approving the new Executive arrangements.
March 2011	A report to Executive and Selection and Constitutional Review re: any changes required to the Constitution.
April 2011	Council to approve amendments to Constitution.
9 <sup>th</sup> May 2011	The new Executive arrangements take effect following the Elections on the 5 <sup>th</sup> May 2011.

11. It is suggested that the precise form of the consultation exercise be determined by the Head of Legal and Democratic Services and the Head of Communications and Marketing.

### **Handling**

12. As outlined in the timetable in Paragraph 10 above, following the consultation exercise Officers would bring a further report to the Selection and Constitutional Review Committee and Executive with a view to firm recommendations of what Executive model to adopt being made to the Council.

### **Conclusion**

13. The Selection and Constitutional Review Committee and Executive is asked to agree the recommendations set out in this report.

### **Portfolio Holder's Views**

14. The Leader of the Council supports the suggested process as set out within the report.

**Contact:** Mr Keith Fearon – Tel: (01233) 330564

**Email:** [keith.fearon@ashford.gov.uk](mailto:keith.fearon@ashford.gov.uk)