

Agenda Item No: 4

Report To: Executive
Selection & Constitutional Review Committee



Date: 9 September 2010
14 October 2010

Report Title: Local Government and Public Involvement in Health
Act 2007 – New Executive Arrangements for the Council –
Results of Consultation and Next Steps

Report Author: Head of Legal and Democratic Services

Summary: As reported to the Selection and Constitutional Review Committee and Executive on 4 February 2010, due to changes in legislation all Local Authorities which presently operate a Leader and Cabinet form of Executive must change their form of Executive to either a new style Leader and Cabinet Executive or an elected Mayor and Cabinet Executive. The Council meeting on 18 February 2010 endorsed the recommendations of both the Executive and Selection and Constitutional Review Committee to undertake a consultation with the public on the basis that, subject to the outcome of the consultation, the Council's preferred option was the revised style of Leader and Cabinet Model. This report advises of the results of the consultation exercise and sets out the next steps to be taken to enable the Council to adopt the new style Leader and Cabinet Model by the statutory deadline of 31 December 2010, to come into effect following the Council elections in May 2011.

Key Decision: No – this is not an Executive decision.

Affected Wards: All Wards

Recommendations: **The Executive and Selection and Constitutional Review Committee recommend to Council:-**

- (i) that the outcome of the consultation exercise be noted;**
- (ii) that proposals to amend the Council's Executive arrangements to reflect the new style Leader and Cabinet Model as outlined within paragraph 10 of the report be approved and published in accordance with the Local Government Public Involvement in Health Act 2007;**
- (iii) an Extraordinary meeting of the Council be held at the rising of the scheduled meeting of the Council on 16 December 2010 to agree the formal adoption**

of the new Executive arrangements;

- (iv) the Head of Legal and Democratic Services be given delegated authority to amend the Constitution to incorporate the proposals as set out within the report.**

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

Financial Implications: None in relation to this report.

Risk Assessment The new style Leader and Cabinet Executive will automatically be imposed on the Council by the Secretary of State if the statutory procedure is not adhered to.

Equalities Impact Assessment No

Other Material Implications: Not applicable

Background Papers: Email dated 15 June 2010 from Mr E W Cheeseman
Letter dated 7 July 2010 from the Rt Hon Grant Shapps MP
Minister for Housing and Local Government

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Report Title: Local Government and Public Involvement in Health Act 2007 – New Executive Arrangements for the Council – Results of Consultation and Next Steps

Purpose of the Report

1. To advise Members of the outcome of the public consultation exercise carried out in accordance with the Local Government and Public Involvement in Health Act 2007 and to set out detailed proposals to enable the Council to move to a new style of Leader and Cabinet Model with effect from the Annual Meeting after the May 2011 local elections.

Issue to be Decided

2. To consider the proposals set out within Paragraph 10 of this report as they relate to the operation of the revised Executive arrangements to enable them to be published in accordance with the Local Government and Public Involvement in Health Act 2007 and adopted.

Background

3. The previous report to Members advised that the 2007 Act changed the forms of Executive which were now limited to:-
 - (a) The Mayor and Cabinet Executive, or
 - (b) A Leader and Cabinet Executive
4. To continue with the current arrangements is not an option and the Council has to make a final decision on this matter by 31 December 2010. The previous report also set out in detail the main differences between the current Model operated by the Council and the changes as detailed in the 2007 Act. The report also briefly outlined the major issues associated with the Mayor and Cabinet Executive Model.
5. The timetable agreed by the Council in February envisages the Council meeting on 21 October 2010 approving the formal proposals for the new Executive Model which would then be formally published. The formal resolution to approve the new Executive arrangements has to be taken at an Extraordinary Meeting of the Council and it is suggested that this should be held at the rising of the scheduled Council meeting on 16 December 2010.

Consultation

6. By virtue of Minute No.408/2/10 the Council agreed that the consultation with the public be undertaken by way of an article in Ashford Voice and a dedicated page on the Council's website and on the basis that, subject to the outcome of the consultation, the Council's preferred option was the

revised style of Leader and Cabinet Model. An article appeared in the Ashford Voice which was delivered to homes at the end of May 2010 with a deadline for responses set at 31 August 2010. The Council's Democracy web pages also had a dedicated page which provided further information on the nature of the consultation exercise. The response to the consultation has been very poor with little public interest shown in the issue. One formal comment was received during the 12 week period which stemmed from the article within the Ashford Voice. The comment expressed a clear preference for the revised Leader and Cabinet Model.

7. Responses to consultations undertaken elsewhere in the Country have also been low. For example, Durham City Council received five responses, London Borough of Harrow received one response and Birmingham City Council received no responses at all. In view of the response to the consultation it is recommended that Council takes steps to adopt the revised new style Leader and Cabinet Model.

Coalition Government Position

8. In a letter dated 7 July 2010 to the Leader of the Council from the Rt Hon Grant Shapps MP, it was stated that Councils need not incur any significant expenditure on the requirements of the Local Government and Public Involvement in Health Act 2007 and their expectation was that all Councils would pursue this at minimal cost. The letter also advised that the requirements within the 2007 Act would remain in force until repealed by fresh primary legislation which Government intend to promote in due course. However, it was confirmed that the Council still needed to formally resolve by 31 December 2010 to move to either the new Leader and Cabinet Model or Mayor and Cabinet Model. The letter also referred to the Government's commitment to allow Councils to legislate to return to the Committee system, should they wish to. The letter goes on to say that this may mean that any new governance Model the Council adopts in May 2011 may be further changed within a year or so but this is unavoidable.

Proposed Executive Arrangements

9. The suggested arrangements set out below are based on the statutory provisions and an analysis of how several other Councils have approached the matter, including KCC who had to introduce the new arrangements last year.
10. With effect from the third day after the May 2011 Elections the Council will adopt the Leader and Cabinet Executive (England) Model, as set out in the provisions of the Local Government Act 2000 (as amended by the 2007 Act). The key elements of the arrangements will be as follows:-

(a) Election and Removal of the Leader

The Leader will be a Councillor elected to the position of Leader by the Council. The term of office for the Leader will start on the day of his/her election as Leader and end on the day of the next post Local Election Annual Meeting which follows his/her election as Leader. The Leader will hold office unless he/she:-

- (i) resigns from the office;
- (ii) is suspended from being a Member under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of the suspension);
- (iii) is no longer a Councillor (otherwise than by expiration of office);
- (iv) is removed from office by resolution of the Council on the basis of a motion signed by five Members of the Council and included on the agenda for a Council Meeting. Such motion must be given in writing to the Proper Officer at least 14 days prior to the relevant meeting and shall indicate the reasons for the motion. The motion shall take precedence over any other item of business.

(b) **Appointment of the Cabinet (Executive) and Scheme of Delegation**

The Leader will determine the size of the Executive and appoint between two and nine Members of the Council to the Executive. The Leader will allocate areas of responsibility ie Portfolios to them and be able to remove them from the Cabinet at any time. The Leader will determine the scheme of delegation for the discharge of the Executive functions of the Council and report to the Council all appointments and changes to the Cabinet (Executive).

(c) **Deputy Leader**

The Leader will appoint one of the Members of the Cabinet (Executive) to be his/her Deputy, to hold office until the end of the term of office of the Leader (unless the person resigns as Deputy Leader, ceases to be a Councillor or is disqualified or removed from office by the Leader). The Leader may if he/she thinks fit, remove the Deputy Leader from office, but must then appoint another person in his/her place.

(d) **Absent Leader**

If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in his/her place. If the Deputy Leader is unable to act or the office is vacant, the Cabinet (Executive) must act in the Leader's place or arrange for a Member of the Cabinet (Executive) to do so.

(e) **Removal of Leader**

As referred to in paragraph 10 (a) above and authorised by, Section 44 (C) of the Local Government Act 2000 (as amended) provision is made for removal of the Leader by resolution. The Act further specifies that if the Council passes a resolution to remove the Leader, a new Leader is to be elected:-

- (a) at the meeting at which the Leader is removed from office, or

- (b) at a subsequent meeting.

Transitional Arrangements

11. The Council will continue to operate the old style Leader and Executive Model until the end of the transitional period under the 2007 Act i.e. the third day after the elections in 2011. From the third day after the local elections to the date on which the new executive leader is elected any matter of urgency arising will be dealt with by the Chief Executive under his existing delegated power to act in relation to such matters, which may relate to any functions of the Council, subject to the use of this power being reported to councillors.

Continuous Improvement

12. In drawing up the proposals, the Council must consider the extent to which the proposals, if implemented, would be likely to assist in securing continuous improvement in the way in which the Local Authority's functions are exercised, having regard to the combination of economy, efficiency and effectiveness.
13. The new Leader and Cabinet Executive (England) Model is the one which most closely reflects the Council's current Executive arrangements, which have worked well in Ashford since 2001 and the public have not shown any interest in wanting change.

Next Steps

14. Following approval of the draft proposals set out within this report by the Council on 21 October 2010, a Notice setting out brief details of the proposals will be advertised in the Kentish Express and on the Council's website. Arrangements will also be made for an Extraordinary Meeting of the Council to be held at the rising of the scheduled meeting on 16 December 2010 to formally agree the adoption of the new Executive arrangements as detailed in this report.

Conclusion

15. The Executive and the Selection and Constitutional Review Committee are requested to agree the recommendations set out within this report.

Portfolio Holder's Views

16. The Leader of the Council supports the proposals set out within the report.

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