

## EAST HERTS COUNCIL

EXECUTIVE – 11 MAY 2010

ANNUAL COUNCIL - 12 MAY 2010

## REPORT BY THE LEADER OF THE COUNCIL

### EXECUTIVE ARRANGEMENTS

WARD(S) AFFECTED: All

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### **Purpose/Summary of Report**

- The Local Government and Public Involvement in Health Act 2007 requires every Council operating a Leader and Executive model to change its executive arrangements in accordance with a statutory timetable.
- This report asks Council to approve the commencement of public engagement and consultation on the two models of executive arrangements that are prescribed in the 2007 Act

<b><u>RECOMMENDATION FOR :</u></b>	
<b>(A)</b>	That the Executive recommend to Council to: (1) note the requirements of the Local Government and Public Involvement in Health Act 2007 to alter the executive arrangements for local government; (2) authorise a public consultation exercise to ascertain the preferred option of elected Leader or Directly elected Mayor; and (3) authorise a further report to be produced for the Executive meeting on 12 October 2010 for a special meeting of Council on 8 December 2010 giving the results of that consultation and recommendations for the governance arrangements for the Council to begin in May 2011.

## 1.0 Background

1.1 The Local Government Act 2000 required the Council to adopt executive arrangements in one the following forms:

- Mayor and Executive
- Leader and Executive
- Mayor and Council Manager.

1.2 The Council adopted the Leader and Executive model. Within the Leader and Executive model there was a degree of local choice ranging from a situation where the Council appointed the Leader and the Executive without any delegation to individuals to a case where the Council appointed the Leader who then appointed the Executive with the option for delegation to individuals.

1.3 The 2007 Act creates a new Leader and Executive model which is a different style from the old style of Leader and Executive model. Accordingly, even though the Council is currently operating the old style Leader and Executive model, it still has to go through the extended process set out in the Act even though the changes will be very limited.

## 2.0 Report

2.1 The 2007 Act changes the basis on which the Authority's Executive is appointed. It should be noted that it does not make amendments to any other elements of the constitutional governance framework introduced in the Local Government Act 2000 Act. The 2007 Act introduces two models of Executive, which the public will be consulted on for their views. These are:

- Directly elected Mayor and Executive.
- Elected Leader and Executive.

2.2 The new Leader and Executive Model is similar to the old model but it differs in three ways which cannot be achieved under the old legislation.

2.3 In the new model as in an old-style Leader and Executive model, the Council elects the Leader and the Leader is then responsible for –

- determining the size of the Executive
- appointing the members of the Executive
- allocating portfolios or areas of responsibility to the various Executive Members
- allocating decision-making powers to the Executive and to individual Executive Members, and
- removing and replacing Executive Members.

2.4 In the new model, the Leader must be elected for a 4-year term of office. This was possible under the old model, but it was normal for the Leader to be elected for a 1-year term of office.

2.5 However, the three key differences which are required in the new Leader and Executive model but cannot be achieved under the old model are as follows:

- The Leader's term of office is extended beyond the 4<sup>th</sup> day after the local elections to run up to the day of the first annual meeting after the Leader's normal day of retirement as a Councillor,
- During his/her term of office, the Leader will automatically cease to be Leader upon death or disqualification, but may only be removed from office by a resolution of Council. Currently, the Council's Constitution may specify other means of removing a Leader such as notification that he/she has ceased to be the Leader of the relevant political group, but now the Council has a discretion to provide that the Leader may be removed by resolution of the authority (though it is hard to conceive how an authority would not make such provision). The Leader may not be removed from office except by such resolution (or as may be provided by regulations, but no such regulations have yet been made), and
- There is a requirement for the Leader to nominate a Deputy Leader, and provision that the Deputy Leader, or in his/her absence the remaining Executive Members,

may act if the Leader is unable to act or the post of Leader is vacant. Whilst an old-style Leader may appoint a Deputy, currently the only powers which can be exercised by a Deputy Leader are the “portfolio responsibilities” of the Leader, as opposed to the statutory functions which are conferred by statute solely on the Leader, such as appointing or removing other Executive Members or objecting to senior officer appointments and dismissals.

2.6 In the alternative model an elected Mayor would have all the powers described in the previous paragraph. The main differences between a strong Leader and an elected Mayor are that:

- The Mayor would be directly elected in a District wide election and would not have his/her own ward
- Under the Leader and Executive model, the Executive recommends the budget and key strategies (such as the corporate plan) to the Council and the Council approves or amends them; under the Mayor and Executive model, the executive submits the budget and key strategies to the Council but the Council can only amend or overturn them by a two-thirds majority.

3.0 Timetable for the change

3.1 The 2007 Act sets out a timetable for making the change to the new executive arrangements. This timetable is different for different types of local authority. Districts Councils have to pass the relevant resolution by 31<sup>st</sup> December 2010, and implement the change 3 days after the next local elections (i.e. May 2011).

3.2 The Council can only make the change to Leader and Executive model in accordance with this timetable. So the Council can amend its existing Leader and Executive model to strengthen the Leader, but cannot make the key changes set out above or formally move to the new Leader and Executive model except in accordance with this statutory timetable. Even if it goes as far as possible towards a Strong Leader model now, the Council will still need to

resolve and make the change to the new form in accordance with the statutory timetable.

#### 4.0 The Process for Change

4.1 The legislation is far from clear, but taken literally, it sets out a 3-stage process –

4.2.1 Before drawing up proposals for change, the Authority must “take reasonable steps to consult the local government electors and other interested persons in the area”.

4.2.2 At this stage there is, of course, a choice of moving either to a Leader and Executive (England) model or to a Mayor and Executive model. It is suggested that the Executive recommends to Council the Authority’s preferred option. The consultation would be based on the model that the Authority would prefer, subject to the outcome of the consultation.

4.2.3 The extent of consultation is not prescribed. However, it is proposed that there should be a statement of what the changes would mean, and of the perceived advantages and disadvantages of Leader and Mayor structures, and that the Authority should formally seek the views of partner Authorities and organisations, and place an advertisement in the local newspapers and on the Council’s website.

4.3 The Council must then draw up proposals, which would be a schedule of the proposed changes to the Constitution, the implementation timetable and any transitional arrangements. In drawing up these proposals, the Authority must have regard to the impact on the 3 Es (economy, efficiency and effectiveness). Once the proposals have been drawn up, the Council must make them available to the public and advertise that they are available (although there is no provision for anyone to comment on them or for the Council to have regard to any such comments). The period for such publicity is also not prescribed.

4.4 The Council must resolve to implement the proposals.

- 4.5 Following this report, the Council will publish and consult and go back to the Executive and Council in December.
- 5.0 Implementation
- 5.1 A local referendum is only required if the Council were proposing to move to or from a Mayor model.
- 5.2 Assuming there is no petition, the new structure then comes into effect 3 days after the next local elections. The Council would elect a new-style Leader at the Annual Meeting in May 2011 for a 4-year term.
- 6.0 Timetable
- 6.1 Consultation July – September 2010.
- 6.2 Special meeting of full Council to pass resolution to adopt preferred option for Executive arrangements – December 2010.
- 6.3 Implementation of the new Executive Arrangements – on the third day after Council elections 2011.
- 7.0 What changes will be required to the Constitution?
- 7.1 Introduction and Summary
  - 7.1.1 Minor changes to describe the new structure
- 7.2 Article 12 – The Executive
  - 7.2.1 This Article sets out the role and powers of the Leader, who determines the size of the Executive, who appoints and dismisses members of the Executive and who can delegate functions to individual Executive Members. This Article will now have to include provision for the Deputy Leader. To ensure accountability the Article should provide that such decisions should be effective only upon notification in writing to the Proper Officer
- 7.3 Part 3 – Responsibility for Functions

7.3.1 The Scheme will now make it clear that it is the Leader who allocates Executive Portfolios and determines the powers of individual Executive Members, and approves the scheme of delegation of executive powers to officers.

#### 7.4 Part 4 – Procedure Rules

7.4.1 Council Procedure Rules should be amended to provide for the Leader to report to Council on appointment and changes to the Executive. The standard procedure for Annual Council should now omit election of Leader (except in the year in which the current Leader's term of office expires) and the election of other Executive Members

#### 8.0 Implications/Consultations

8.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

#### Background Papers:

The Local Government and Public Involvement in Health Act 2007

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