

EAST HERTS COUNCIL

EXECUTIVE 12 OCTOBER 2010

REPORT BY THE LEADER OF THE COUNCIL

EXECUTIVE ARRANGEMENTS

WARD(S) AFFECTED: All

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 provides the results of public engagement exercise and requests Members to consider which models of the executive arrangements that are prescribed in the 2007 Act they wish to adopt.

<u>RECOMMENDATION FOR EXTRAORDINARY COUNCIL</u>	
(8 December 2010): That Council:	
(A)	notes the results of the consultation exercise in respect of the two models;
(B)	determine to either adopt preferred option of elected Leader and Executive or Directly Elected Mayor and Executive and implement the change 3 days after the next local elections (i.e. May 2011); and
(C)	determines, should the Council adopt a Leader and Executive model, whether that model allows for the removal Leader during his or her term.

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 4th 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 or 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 or 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 Responses to Public Consultation

3.1 A public consultation exercise was carried out which included notice in the MIB, news item on the Council’s website, Facebook and Twitter updates and an RSS feed.

There was a Link magazine article and a further news item on the website followed by an e-bulletin article and a news item on the website together with a press release.

A consultation exercise was carried out using Zoomerang. The survey was launched on July 1 2010. It was originally

scheduled to close at the end of August. However after a request from a resident's association representative it was agreed to extend it until September 17 2010.

There have been 46 responses in total. This represents 0.33% of the population.

Option 1 - a 'new style' Leader and Cabinet of Councillors: 18 responses (39%)

Option 2 - a directly elected Mayor and Cabinet of Councillors: 22 responses (48%)

No Preference: 3 responses (6.5%)

Don't know: 3 (6.5%).

The free text comments are contained in **Essential Reference Paper "B"**.

4.0 Implementation

4.1 A local referendum is only required if the Council were proposing to move to or from a Mayor model.

4.2 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.

5.0 What changes will be required to the Constitution?

5.1 Introduction and Summary

5.1.1 Minor changes to describe the new structure

5.2 Article 12 – The Executive

5.2.1 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

5.3 Part 3 – Responsibility for Functions

5.3.1 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.

5.4 Part 4 – Procedure Rules

5.4.1 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

6.0 Implications/Consultations

6.1 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
Consultation results.

Contact Member: Councillor A P Jackson, Leader of the Council

Contact Officer/

Report Author: Simon Drinkwater, Director of Neighbourhood
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ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives:	<p>Fit for purpose, services fit for you <i>Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.</i></p> <p>Leading the way, working together <i>Deliver responsible community leadership that engages with our partners and the public.</i></p>
Consultation:	Corporate Management Team
Legal:	
Financial:	N/A
Human Resource:	No comments.
Risk Management:	Section 72 provides that if an authority fails to implement these provisions, the Secretary of State can intervene in the period before May 2011 and by order prescribe the application of the Leader and Cabinet Executive (England) model as from May 2011.

ESSENTIAL REFERENCE PAPER 'B'

1	Enhanced committee system needed as current system i.e. Leader/cabinet and directly elected mayor are both essentially undemocratic
2	We currently elect district councillors but don't have any direct say over who will be leading East Herts. Moving to a directly elected mayor provides this missing link between local people and district governance.
3	The way this is worded appears biased towards Option 1.
4	The old system isn't working so lets try something else
5	You should not run surveys like this in the summer.
6	The current paid chief executive should be removed as not necessary under either option 1 or 2
7	Would prefer to see the more transparent committee system previously operated
8	I look forward to the return of the more efficient and more democratic "Committee" system in due course
9	What about a return to the committee system as an option?
10	This is the agreed position of the Executive Committee of Buntingford Civic Society. Members are encouraged to make their own choice and inform EHC.
11	A committee system should be used.
12	If the option were available we would prefer reversion to governance by committees to either of the above.
13	I understand that the new Government is likely to give Councils the option of reverting to a committee style of

	<p>government. Why not include this option in the consultation? If you need to decide between option 1 and 2 above, you could add this as an extra question in case the new Government does not enact the required legislation in time.</p>
14	<p>As the current government could change the governance requirements again in the near future then in my view the best option at present would be to maintain the status quo, and stick with the Leader/Cabinet arrangement. Personally I don't like this system, and I think that to revert to a streamlined committee system would give much greater democracy to the decision making process. However, after observing councillors in action over many years, I am also of the opinion that there are too many councillors and the same decisions would be arrived at with fewer members and lesser expense.</p>
15	<p>Option 2 gives far too much power to one individual. British democracy is built on the principle of cabinet government and local government should continue to reflect this.</p>
16	<p>The previous model was not sufficiently transparent decision were taken without any reference to the Councillor</p>
17	<p>But would really prefer Committee system</p>
18	<p>I would prefer a committee structure to the options provided, enabling all councillors to play a full part in the decision-making process, thus giving residents much more equal representation via the councillors they elect. I hope that East Herts Council will give full consideration to re-instating committees if the Government go ahead with their plans to make this an option for councils such as East Herts.</p>