

Body: Full Council

Date: 15 September 2010

Subject: Executive arrangements – new governance proposals

Report of: Local Democracy Manager

Purpose: To pass a resolution to adopt new governance proposals for the discharge of the Council's executive functions and responsibilities.

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Summary:

This report continues the process for the Council to adopt revised "executive arrangements" in line with recently introduced legal obligations. This process began with an introductory report to full Council on 24 February 2010 and continued when Council agreed (following a public consultation) proposals for the adoption of the new "strong leader and cabinet" form of executive at their meeting on 21 July 2010.

A 3-stage decision making process has to be followed. This, the third stage, is about passing a formal adoption resolution. Legislation requires that this be done by no later than 31 December 2010. The changes will be effective immediately after the May 2011 Borough Council elections.

Recommendation:

That the Council formally adopt the new governance proposals for its executive arrangements as set out in the document appended to this report as required under the Local Government and Public Involvement in Health Act 2007 and otherwise in accordance with provisions in the Local Government Act 2000 and regulations made under these Acts.

1.0 Introduction

1.1 Full details of this matter were given in earlier reports to full Council on 24 February 2010 and Cabinet on 14 July 2010 to which reference may be

made. In brief, all local authorities are required to review their executive arrangements. The timescale depends on the type of local authority. As a "non-metropolitan district" the Borough Council is required to review its own arrangements by 31 December 2010. Any changes must be implemented 3 days after the date of the May 2011 local elections.

- 1.3 Council, on 21 July 2010, approved the recommendations of the Cabinet as to the proposed adoption of the "strong leader and cabinet" form of executive. This followed a public consultation and consideration by the Council's Scrutiny Committee on 5 July 2010.

2.0 Notice and publication of proposals for change

- 2.1 Council on 21 July 2010 authorised the Local Democracy Manager in liaison with the Leader of the Cabinet to draw up a document describing the Council's "proposals for change" as required under the legislation based on the chosen option and detailing the timetable for implementation and transitional arrangements and publish notice of the proposals and make a copy of the document available for public inspection.

- 2.2 Public notice was given on 1 September 2010 and the proposals document made available for inspection on the Council's website and also at the Town Hall reception.

- 2.3 The proposals document is reproduced at **appendix 1** to this report. The document describes the new arrangements, including the timetable for implementation and transitional arrangements as well as giving the Council's reasons for the choice of option.

- 2.4 Following passing of the adoption resolution, public notice must again be given setting out the main features of the new arrangements and the date they will be implemented.

3.0 Consultations undertaken

- 3.1 Full details of the consultations undertaken and the results of the consultation were given in the report to Cabinet on 14 July 2010.

4.0 Legal implications/risk assessment

- 4.1 These were detailed in the report to Council on 24 February 2010. At this stage it is worth reminding members of the comments previously made regarding the need to revise certain sections of the Council's constitution and in particular those sections relating to the exercise of delegated powers should the leader choose to give individual cabinet members decision making powers. This will be the subject of a future report to Council.

5.0 Policy and performance implications

- 5.1 These were detailed in the report to Council on 24 February 2010.

6.0 Financial and resourcing implications

- 6.1 These were detailed in the report to Council on 24 February 2010. By agreeing the strong leader model the Council has avoided the additional expenditure that would arise if it had chosen to conduct a referendum on adopting the directly elected mayor model and potential additional costs of operating such a model with the need to hold a mayoral election in addition to the election of councillors at 4 yearly intervals.
- 6.2 Costs of the public consultation exercise were minimal as this was chiefly conducted via the Council's website. The cost of the 2 public notices placed in the local newspaper (one giving notice of the proposals and one advising that the adoption resolution has been passed) are estimated at £500 in total.

David Robinson
Local Democracy Manager

Background papers:

1. Local Government and Public Involvement in Health Act 2007
http://www.opsi.gov.uk/acts/acts2007/pdf/ukpga_20070028_en.pdf
2. Local Government Act 2000
http://www.opsi.gov.uk/Acts/acts2000/ukpga_20000022_en_1
3. Report to Council on 24 February 2010
<http://www.eastbourne.gov.uk/council/meetings/council/?assetdet=84571&category=8219>
4. Report to Cabinet 14 July 2010
<http://www.eastbourne.gov.uk/council/meetings/cabinet/?assetdet=92588&category=8305&p=2>
5. Report to Council 21 July 2010
<http://www.eastbourne.gov.uk/council/meetings/council/?category=8318>

(dr/P:exec arrs/council/10.09.15)

Executive Arrangements New Governance Proposals

Proposals have been drawn up in accordance with the provisions of the Local Government and Public Involvement in Health Act 2007 for a change in the authority's executive arrangements.

As required by the legislation, public notice has been given that these proposals are available for public inspection.

This document describes the proposals.

1. Background

1.1 The Act inserted new provisions in the Local Government Act 2000 and also amended other local government legislation and requires all local authorities to review their executive arrangements. The timescale depends on the type of local authority. As a "non-metropolitan district" the borough council is required to review its own arrangements by 31 December 2010. Any changes must be implemented 3 days after the date of the May 2011 local elections.

1.2 The council is required to adopt one of two executive arrangements:

- New style leader and cabinet executive
- Mayor and cabinet executive.

Continuing with the status quo is not an option.

1.3 The council's current political management arrangements date from May 2002 when the provisions of the Local Government Act 2000 were formally adopted. The council adopted what is now referred to as the "old style Leader and cabinet executive" under the old provisions of S. 11(3) of the Local Government Act 2000. Prior to this (since October 1999) the council had operated leader and cabinet arrangements on a pilot basis.

1.4 Section 33E (6) of the Local Government Act 2000 says that "*Before drawing up its proposals, the local authority must take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area.*"

1.5 The council agreed a 12 week consultation commencing Monday 15 March and closing on Monday 7 June. Information provided on the council's website (with a link from the front page titled "Have your say – how do you want Eastbourne Council to be run?" with an opportunity being given for comments to be made. The launch of the consultation was announced via a press release which resulted in articles in the Eastbourne Herald (newspaper and website) and the Argus. The website information was available in printed leaflet form at council reception points and on request (with large print, audio and interpretation options available if requested). The question

asked of residents and other interested persons was if they believed the council should continue to operate with a leader and cabinet or move to a directly elected mayor and cabinet. Background information was provided explaining the differences between the 2 options.

1.6 Responses to the website consultation and other articles and comments in local media were set out in reports to the council's Scrutiny Committee and the Cabinet at their respective meetings on 5 and 14 July 2010. A copy of the Cabinet's recommendation and the Council's resolution at their meeting on 21 July 2010 is appended.

1.7 Further background information is available on the council's website at <http://www.eastbourne.gov.uk/council/executive>
This includes all the documents made available at the time of the consultation, together with the report referred to at paragraph 1.6 above and the cabinet's subsequent recommendations to the council.

2. Features of the proposed new executive arrangements

1. A leader to be elected by the full council for a 4-year term commencing at the annual meeting (the first to be held following the local elections due to take place on 5 May 2011).
2. Provide for a cabinet comprising the leader and between 2 and 9 councillors appointed by the leader.
3. Require the leader to appoint one of the cabinet as deputy leader and for the deputy leader's term of office to match that of the leader, save that the leader can end the appointment at any time and appoint a new deputy leader.
4. Provide for the deputy leader to exercise all the powers of the leader in the absence of the leader.
5. Allow for full council to remove the leader from office on a vote of no confidence and appoint a new leader.
6. Provide for the leader to discharge all of the authority's executive functions or make arrangements for their discharge by the cabinet, a member of the cabinet, a committee of the cabinet or by an officer of the council.
7. Maintain the current allocation of "local choice" functions between the executive and the council.
8. Transitional arrangements whereby the council's current arrangements remain in force until the 8 May 2011 and provide for appropriate arrangements to be made for the exercise of executive functions and responsibilities between 8 May and the day of the annual meeting (see section 3 below).

3. Timetable and transitional arrangements

3.1 The council is due to formally adopt the new arrangements at their meeting on 15 September 2010. The new style leader and cabinet arrangements must be implemented by the 3rd day after the local elections due to be held on 5 May 2011 (i.e. on 8 May 2011 at the latest). The council are proposing that in the interim (from 15 September 2010 to 7 May 2011 inclusive, the existing arrangements continue to operate.

3.2 Because the council's annual meeting, at which the first election of the new style leader will take place, is not scheduled to be held until 25 May 2011, the leader in office on 8 May will take on the powers and responsibilities of the new style leader. This will be irrespective of whether or not the leader has been re-elected to the council. The leader shall appoint a deputy and may also appoint members to a cabinet.

3.3 In the event that the leader at this time no longer commands the support of a majority of the members of the council having regard to the known party affiliations of the newly elected council, the leader (or the deputy leader if acting in the absence of the leader) and cabinet (if appointed) shall only exercise their powers with the agreement of the council's chief executive who will consult with the leader of the majority group (or the other group leaders if no one group has a majority) to ensure that no decision is taken that in his judgement does not command the support of the leaders representing a majority of the members of the council. The exercise of delegated powers by officers of the council will be subject to a similar limitation in this period. Where a delegated power requires consultation with the leader or cabinet portfolio holder, the requirement will be extended to include the leader or leaders of other groups (or their respective spokespersons if identified).

4. Reasons for the council's choice

4.1 The council believes that adopting the strong leader and cabinet option will best secure the continuous improvement in the way in which the council's functions are exercised, having regard to a combination of economy, efficiency and effectiveness. In reaching this view the following factors were identified:

- The need for continuity at a time when the council was part-way through a process of significant change in its management and ways of working and also facing considerable financial pressures.
- Concern at the potential additional costs of the mayor option; especially as it would be likely that the mayor would become full time and expect remuneration that reflected such additional commitment.
- The absence of evidence pointing to any clear advantage in adopting the directly elected mayor model.
- The greater potential for conflict where a mayor did not have majority support from the council as a whole.
- The apparent misunderstanding on the part of some of those advocating a mayor in believing the office was more likely to be held by a non-party political person when evidence from elsewhere suggested otherwise.

- That a leader would still need to maintain the confidence of the council as a whole throughout his/her term of office unlike a mayor who would not be subject to any recall/vote of confidence procedure.
- Recognition, that having regard to the new government's statement concerning further legislation on councils' choice of political management arrangements and restoring the option of a committee system, expending time and resources on a major change would be inappropriate at this time.

5. Contact details

5.1 For further information please contact:

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This proposals document is published by Councillor David Tutt, Leader of the Council and David Robinson, Local Democracy Manager in accordance with the Council's resolution of 21 July 2010 on this matter.

23 August 2010

Appendix

Extracts from the minutes of the meeting of the Cabinet and the Council held on 14 and 21 July 2010 respectively:

Note: These have not been re-printed but can be viewed in the full version of the proposals document at

<http://www.eastbourne.gov.uk/council/executive>