

Report to Constitution and Members' Services Standing Scrutiny Panel

Date of meeting: 15 January 2008



Portfolio: Finance, ICT and Corporate Support Services

Subject: Local Government Etc Act 2008 - Executive

Officer contact for further information: I Willett (01992 564243)

Democratic Services Assistant: Z Folley (01992 564532)

Decisions Required:

(1) To consider whether to recommend decisions in principle on the following aspects of the Act relating to Executives:

- (a) form of Executive;**
- (b) carrying out of functions; and**
- (c) removal of the Leader.**

(2) To defer consideration of the required changes to the Constitution, pending further Government regulations.

Introduction

1. The Local Government and Public Involvement in Health Act 2007 has now been passed by Parliament. The requirements for local authority executives have now been clarified.

Forms of Executive

2. The Act provides for two types of Executive:
 - (a) an elected mayor and cabinet of two or more Councillors appointed by the Mayor; and
 - (b) a Councillor elected by the Authority as Leader with two or more Councillors appointed to the Executive by the Leader.
3. The number of members on an Executive remains limited to 10.

Form of Executive – Decisions Required

- (a) Elected Mayor and Cabinet or Leader and Cabinet?**

Executive Functions – Responsibility/Delegation

4. Section 14 of the Act prescribes that the Leader or the Mayor may:
 - (a) discharge any of the Executive functions themselves;

(b) arrange for any of them to be carried out by –

- the Executive (i.e. the Cabinet) *
- another member of the Executive **
- a committee of the Executive (Cabinet Committee) **
- an officer of the Authority

* those functions to be carried out by the Executive may also be delegated to a Committee of the Executive or an officer.

** these functions may be delegated to an officer.

5. The previous restrictions on Cabinet decision-making remain in place.

Responsibility for/Delegation of Executive Functions - Decisions Required:

(a) once a new executive has been appointed delegation of executive functions would need to be determined by the Leader or the Mayor and drawn up in written form; and

(b) further reviews of delegation of executive functions to the Cabinet, Cabinet Committees, Portfolio Holders and officers would follow.

Changes to the Constitution to Reflect Any Change in Executive.

6. The Act specifies requirements for changing to a different form of Executive. For this Council, this would mean opting for an elected Mayor executive. These requirements include:

- (a) drawing up proposals for change;
- (b) a timetable for implementing the change, including any transitional arrangements;
- (c) a referendum if appropriate;
- (d) consultations with electors and other interested persons;
- (e) statement demonstrating how the change would assist continuous improvement in provision of Council services with regard to economy, efficiency and effectiveness;
- (f) public notice of proposals/availability of documents; and
- (g) resolution by the Council.

7. The relevant resolution must be passed by 31 December 2010 (implementation in May 2011) or 4 years later.

Decision Required – Changing the Executive

The Council would need to pass a resolution to change the Executive, having complied with the various requirements of the Act, including the statement under 7(e) above.

This only applies if the Council wishes to adopt the Elected Mayor model.

Variation of Executive Arrangements

7. The Act permits Councils to vary their executive arrangements provided that these still provide the same form of executive. The nature of the changes seems to be a matter for the Council but the Act requires that:
 - (a) proposals are drawn up including a timetable;
 - (b) any transitional arrangements are included; and
 - (c) a Council resolution is adopted.
8. The various requirements for public consultation, public notice, an assessment of how the proposal contributes to continuous improvement appear not to be necessary as Epping Forest District Council would be varying its existing Leader and Cabinet executive.
9. The Act requires however, that the timetable set out in the timetable (see 7(a) above) must be followed. There is no statutory timescale for passing this resolution.

Decisions Required – Variation in Executive Arrangements

- (a) proposal to vary the existing executive to be drawn up;**
- (b) timetable for introducing the change to be drawn up;**
- (c) transitional arrangements to be agreed; and**
- (d) to determine the changes which are to be made, which must be in addition to the changes made under the Act.**

The Leader

10. Section 44 of the Act specifies the requirements for electing a Leader. This will be carried out at the Annual Council meeting following whole Council elections (every four years) or at the relevant Annual Council if a system of election by thirds is in operation.
11. The term of office of the Leader under whole Council elections begins when appointed as Leader and ends on the day of the post-election Annual Council meeting. Under election by thirds, the Leader's appointment begins when elected by the Council and ends on the day of the Annual Council meeting after his or her retirement/re-election.
12. If the Council changes to whole Council elections, the Leader's term of office ends on the day of the first annual meeting after whole Council election take place.
13. A Council constitution may make provision for the Leader of Council to be removed from office by means of a resolution passed by the Authority. This seems to be a discretionary provision but this Council already has already included this in its constitution. Section 44 and the various provisions outlined above are subject to further Government regulations on:
 - (a) dates/years in which Leaders and Cabinets are to be elected;
 - (b) intervals between elections of Leaders and Cabinets;

- (c) term of office for Leaders and Cabinets; and
- (d) filling of vacancies in the office of Leader.

15. The latest information is that these regulations will be in force in May 2009.

Decisions Required:

Most aspects of this section of the Act may need to await the Government regulations and any decision by the Council on changing to a system of whole Council elections.