

# **Report to the Overview and Scrutiny Committee**



**Date of meeting: 6 March 2008**

**Portfolio: Leader**

**Subject: Local Government and Public and Public Involvement in Health Act 2007 - Local Authority Executives**

**Report of: Constitution and Member Services Standing Scrutiny Panel  
(Chairman: Councillor R Church)**

**Officer contact for further information: Ian Willett (01992 56 4243)**

**Democratic Services Officer: Adrian Hendry (01992 56 4246)**

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## **Recommendations:**

- (1) That a report be submitted to the Council recommending as follows:**
  - (a) that this Council continue to operate a Leader and Cabinet Executive and rejects the option contained in the 2007 Act for an Elected Mayor and Cabinet Executive;**
  - (b) that the existing Executive Constitution be varied in accordance with statutory requirements and reviewed at a later stage once Government regulations have been published so that a public statement regarding changes to the Executive Constitution can be prepared, a timetable set and transitional arrangements agreed;**
  - (c) that the existing provisions of the Executive Constitution regarding the removal of the Leader of the Council by resolution of the Council be continued as part of any variations in the Constitution subject to further consideration of Government regulations once published.**

## **Report**

### **Introduction**

1. We have considered the newly published Local Government and Public Involvement in Health Act 2007 in relation to new requirements for Local Authority Executives.

### **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 ten whilst further provisions in the Act create new arrangements for the carrying out of Executive functions and the period of office of the Leader of Council. Under Section 14 of the Act the Leaders of the Council or the Elected Mayor may decide to discharge any of the Executive functions themselves, or arrange for them to be carried out by the Executive (i.e. the Cabinet) by another member of the Executive, by a Committee of the Executive or by an officer of the authority.

4. Those functions to be carried out by the Executive (Cabinet) may also be delegated to a Committee of the Executive or an officer. However, the previous restrictions on Cabinet decision making remain in place. These restrictions include those matters which are reserved to the Council (eg budget) or not within the powers of the Executive (eg planning) and the role of Overview and Scrutiny (eg call in).

### **Choice of Executive for Epping Forest District Council**

5. As the Committee can see, there are now two choices open to the Council. The Council could opt to move towards an Elected Mayor and Cabinet Executive which would involve a referendum and widespread consultation. The Council would also have to publish a document which demonstrates how a new form of Cabinet would assist with continuous improvement in the Council's performance. Alternatively, the Council could opt to continue with the Leader and Cabinet Executive.

6. We have considered the position and feel that the Council would be best advised to continue with the Leader and Cabinet option. In reaching this conclusion we have taken note of the fact that adjusting the Executive Constitution to the new requirements of the Act will be a less time consuming process than seeking an Elected Mayor. We also have not seen anything which convinces us that an Elected Mayor is more likely to enable continuous improvement than the present executive. We are also not aware of any proposal from the community or elsewhere in favour of the Elected Mayor option and would draw attention to the fact that when the Local Government Act 2000 came into being the Council conducted statutory consultation which provided very little support from the community for this idea.

7. We feel that the Council shall take the opportunity to review the operation of the Cabinet and to make changes where this is considered appropriate. This procedure is called "Variation of Executive Arrangements" and is discussed below.

### **Variation of Executive Arrangements**

8. The Act permits Councils to vary their Executive arrangements provided that these still provide the same form of Executive. The nature of the changes seem to be a matter for the Council but the Act makes certain stipulations as follows:

- (a) that proposals are drawn up including a timetable;
- (b) any transitional arrangements are included; and
- (c) a Council resolution is adopted to make those changes.

9. The various requirements needed to make the change to Elected Mayor and Cabinet do not appear to be necessary if the Council decides merely to vary its existing Leader and Cabinet Executive. The Act requires however that a timetable must be published and followed. There is also no statutory timescale for passing the resolution.

10. Having proposed that the Council should stay with the Leader and Cabinet Executive, we are recommending that once the relevant government regulations are published the Council should embark on a review of its Constitution along the lines specified by the Act. One of the principle elements will be to review the Delegation of Executive Powers to the Leader, the Cabinet, Cabinet Committees, Portfolio Holders and Officers. There is also an opportunity to review other aspects of the operation of the Executive which has not been done since the 2000 Act came into force. This would cover the changes which are necessary as a result of the change in the law.

### **Leader of Council**

11. Section 44 of the Act specifies the requirements for electing a Leader. This appointment will take place 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. 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. The Committee will note that the appointment as a Leader will last up to four years depending on re-election/retirement timescale.

12. The Act allows Councils to make provision in their Constitutions for the removal from office of a Leader by means of a resolution passed by the authority. This seems to be a discretionary provision but we have been advised that the Council has this in the Constitution. We are therefore proposing that this should continue, notwithstanding any other changes that the Council may wish to make to the Executive at a later date.

### **Government Regulations**

13. Although the Act gives a broad outline of the new statutory requirements for Executives, this is not the whole story. We have been advised that the Government intends to issue further regulations and advice on a number of issues including:

- (a) date/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.

14. We are being advised that it is planned by the Government that the Regulations would be in force in May 2009. It is thus difficult to embark on a review of the Executive at this stage until we have all that information. Our purpose in bringing this matter forward now is to deal with the question of choice of Executive which is now available and to alert the Council to the need for a review of the Executive once those Regulations have been published.

## **Reference to Council**

15. We are recommending as set out at the commencement of this report and that those recommendations be submitted to the next Council meeting as the decision on choice of Executive is reserved to that body.