

Report to Constitution and Members' Services Standing Scrutiny Panel

Date of meeting: 3 November 2008

Portfolio Holder: Leader

Report of: Assistant to the Chief Executive

Subject: Local Government and Public Involvement in Health Act 2007 - Executive Constitution

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

Democratic Services Officer: I Willett (01992 564243)



Recommendations:

(1) To consider proposed amendments to the following parts of the Constitution:

Article 3 (Citizens and the Council)	(Appendix 1)
Article 4 (The Full Council)	(Appendix 2)
Article 7 (The Executive)	(Appendix 3)
Council Procedure Rules	(Appendix 4)
Executive Procedure Rules	(Appendix 5)
Scheme of Delegation	(Appendix 6)

(2) To review the following schedules:

Delegation to Officers

Appendix 7 - Leader Approval

Appendix 8 - Council Approval

Outside Bodies

Appendix 9 - Leader Approval

Appendix 10 - Council Approval

(3) To consider the Council's public statement regarding this review of the Council's executive arrangements;

(4) That a report be submitted to the Council recommending the adoption of the statement under (3) and the proposed changes to the Constitution and seeking authority for other minor and consequential amendments to be made by the Assistant to the Chief Executive; and

(5) That, prior to submission to the Council, the report of this Panel be submitted to the Cabinet for consultation purposes as well as the Overview and Scrutiny Committee.

Report:

1. The 2007 Act makes a number of changes to the operation of local authority executives and in particular the powers of the Leader of the Council.

2. Previously the Council had a choice between three types of executive but the new Act has reduced this by one to the following options:
 - (a) Elected Mayor and Cabinet; or
 - (b) Leader and Cabinet.
3. This Council has been operating (b) since 2000 but on a different basis from the one which the 2007 Act provides. The Council's Leader and Cabinet Executive is the optional "Weak Leader" model with appointments of the Leader, Deputy and portfolio holders etc made by the Council. Likewise, the number and duties of portfolios, delegation to officers and appointments to outside organisations are not dealt with by the Leader but by the Council.
4. The 2007 Act ends the "Weak Leader" executive and requires the Council to move to the "Strong Leader" model. This means that the various functions summarised in Paragraph 3 are now the sole responsibility of the Leader of the Council. However the Council retains responsibility for non-executive functions and the governance arrangements, which apply to them.
5. Main Changes Summarised
 - (a) the Leader of Council is appointed by the Council at its Annual meeting;
 - (b) if not appointed at the Annual meeting, the Council must make the appointment at its next available meeting;
 - (c) a Leader's term of office starts on the date of election into that role and ceases at the conclusion of his/her term of office as a Councillor unless:
 - (i) the Leader resigns.
 - (ii) the Leader becomes disqualified.
 - (iii) the Leader is removed from office by a majority vote in the Council.
 - (iv) the Leader becomes incapacitated.
 - (d) the Leader may only be removed from office on the grounds mentioned in (c) above or by reason of regulations which have yet to be made by Parliament;
 - (e) the Leader's term of office runs until his/her term of office as a Councillor ends but the 2007 Act extends this by a few weeks to the next Annual Council meeting and for that reason, his/her term of office as a Councillor is extended by the same period.
 - (f) Section 63 of the 2007 Act makes the Leader of the Council responsible for discharge of all executive functions.

Previous Council Discussions

6. At the Council meeting on 22 April 2008 (Minute 121(b)), the Council resolved:
 - (a) to continue with the Leader and Cabinet executive;
 - (b) to reject the option of a Mayor and Cabinet executive;
 - (c) to vary the Constitution in accordance with statutory requirements;

- (d) to consider a public statement regarding the Council's decision, set a timetable for implementation and describe any interim arrangements;
- (e) to retain the provision for the Leader to be removed from office by a majority vote in the Council.

Next Steps

- 7. The Council now needs to amend its Constitution to accord with the 2007 Act. The following documents are therefore submitted for review:
 - ... (a) Article 3 (Citizens and the Council) - Appendix 1.
 - ... (b) Article 4 (The Full Council) - Appendix 2.
 - ... (c) Article 7 (The Executive) - Appendix 3.
 - ... (d) Council Procedure Rules - Appendix 4.
 - ... (e) Executive Procedure Rules - Appendix 5.
 - ... (f) Scheme of Delegation - Appendix 6.
- 8. These documents show the existing wording and proposed changes to comply with the 2007 Act.

Delegation to Officers

- ... 9. In addition, there are two Appendices (7 and 8) relating to the Schedule of Delegation to Officers. Appendix 7 indicates those delegations which are to be approved by the Leader because they relate to executive services. Appendix 8 shows the remaining delegations which are to be approved by the Council.
- 10. These appendices represent a subdivision of the existing schedule. The criterion for the executive list is that the delegations relate to services. For the Council/Regulatory list those delegations which relate to corporate governance and non Cabinet services have been included.

Outside Organisations

- ... 11. Two further Appendices (9 and 10) are submitted in respect of appointments to outside bodies. Appendix 9 are bodies where appointed by the Leader and are the same as those listed in the category "Executive" in the existing schedule. Appendix 10 shows those which are proposed to remain with the Council.
- 12. Later this year, the Panel will be conducting the normal review of the list.

Notes on Delegation to Officers and Outside Organisations

- 13. It is worth bearing in mind that all the Panel is being asked to do is to recommend how the two lists are to be configured, not actual appointments.
- 14. Outside Organisations are subject to a pro rata division between political groups, although the executive local and ex-officio categories are not included.

Action which the Council must take

15. Although some government regulations have yet to be published, the changes needed to the Constitution are clear. The Act requires the Council to publish a statement indicating:
 - (a) the Council's decision on the form of executive and the reasons for this decision;
 - (b) the changes to the Leader and Cabinet Executive which are now proposed;
 - (c) the timescale for introducing the changes;
 - (d) any interim arrangements which will operate.
- ... 16. A draft statement is set out in Appendix 12 for consideration by the Panel. Once approved by the Council, it is suggested that this be published:
 - (a) on the website;
 - (b) in The Forester;
 - (c) by means of press releases.