

## ***Report to the Cabinet***

***Report reference:***            ***C-072-2008/09***  
***Date of meeting:***           ***15 December 2008***



**Portfolio:**                    **Leader's**

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

**Responsible Officer:**            **Ian Willett                    (01992 564243).**

**Democratic Services Officer:**   **Gary Woodhall               (01992 564470).**

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### **Recommendations/Decisions Required:**

**To consider the report being made to the Overview and Scrutiny Committee at its meeting on 29 January 2009 concerning changes to the Executive Constitution which are required under the 2007 Act and to make any observations on the proposals to the Overview and Scrutiny Committee prior to submission to the Council.**

### **Executive Summary:**

This report deals with changes in the executive constitution required by the Local Government etc Act 2007. A review of those changes has been carried out by the Constitution & Member Services Standing Scrutiny Panel (SSP), which intends to report to the Overview & Scrutiny Committee (OSC) in January 2009 with recommendations for onward transmission to the Council in February 2009. The SSP is consulting the Cabinet on its report so that any views can be forwarded to the OSC in January.

The main changes in the constitution reflect increased powers for the Leader of the Council to decide how executive function are to be carried out. This includes matters such as appointing Cabinet members, deciding on portfolios, establishing Cabinet Committees, determining representatives on some outside bodies and approving delegation of cabinet responsibilities to officers. Some Council functions will continue to be dealt with by the Council rather than the Leader.

The changes are planned to be approved by the Council in February 2009 and to take effect in May 2009.

### **Reasons for Proposed Decision:**

- (1) To allow the Cabinet to comment on the proposals due to be considered in January 2009 by the Overview and Scrutiny Committee.
- (2) To ensure that the Council has amended its Constitution in time for the launching of the new Executive arrangements at the Annual Council meeting in May 2009.

### **Other Options for Action:**

There are no alternative courses of action for the Council other than to defer further consideration of this item but this might mean that the new arrangements would not be brought into effect in May 2009.

**Report:**

1. The Local Government and Public Involvement in Health Act 2007 makes significant changes to the Executive Constitution operated by the Council. Principally, this involves an extension of the powers of the Leader of Council in relation to the carrying out of Cabinet functions.

2. The main changes are set out in the report by the Constitution and Member Services SSP to the Overview and Scrutiny Committee in Paragraph 5. Cabinet members will note that there are 11 separate Appendices to the report, which deal with the many detailed changes that are required by the 2007 Act. These changes are all of a detailed nature and the Council has no real option but to accept these changes so long as it continues to operate a Leader and Cabinet Constitution.

3. The Constitution and Member Services SSP is inviting the Cabinet to consider their report and comment direct to the Overview and Scrutiny Committee with any views they may have. The process then will involve Overview and Scrutiny Committee examining any comments that come forward from the Cabinet and then proceeding to submit a report to the February 2009 Council meeting. Changes to the Constitution are reserved to the full Council.

4. The Cabinet have been sent copies of the 11 Appendices with the report under separate cover and in order to reduce the paperwork to the minimum necessary, only the covering report is included here.

5. The attention of the Cabinet is drawn specifically to two other issues:

(a) Recommendation 1(d) - the SSP noted that the deadline for submission of questions by Councillors and members of the public at Council meetings were not consistent. The Panel is recommending that the timescale should be 7 days for both types of question.

(b) Recommendation 1(e) - this deals with listing of outside organisation appointments which the Council makes each year. In future some of these appointments will be made by the Leader of the Council as they relate to Executive functions whilst the remainder will continue to be dealt with by the Council at its Annual meeting. The SSP has looked at the configuration of the two lists and it will be noted that they are seeking to re-allocate the Local Councils' Liaison Committee from the Leader List to the Council List and wishes the Council to determine what happens to the Victoria County History of Essex and the West Essex Area Forum.

6. Finally, the attention of the Cabinet is drawn to Appendix 11 which is the Statutory Public Statement required under the Act as to why the Council is continuing with the Leader and Cabinet Model Constitution and the changes being effected.

**Resource Implications:**

None.

**Legal and Governance Implications:**

Local Government and Public Involvement in Health Act 2007 and associated regulations.

**Safer, Cleaner and Greener Implications:**

None.

**Consultation Undertaken:**

Informal consultation with Cabinet members. Decisions in principle sought from the Council at its meeting on 22 April 2008 (Minute 121(b)).

**Background Papers:**

Nil.

**Impact Assessments:**

The only risk associated with this item would be a failure to achieve an amended Constitution, which would allow the Council to function in accordance with the 2007 Act from May 2009.