

LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007

Discussion Paper 3 - Executive Arrangements for England

1. Introduction

- 1.1 Part 3 and Schedules 2-4 of the Act introduce new executive models and build on local authority governance arrangements for England which were first introduced by the Local Government Act 2000.
- 1.2 The Local Government Act 2000 put in place a new decision-making framework in which there is a separation of the decision-making and scrutiny roles of local authorities. It required the majority of local authorities to determine, following consultation, executive arrangements involving the creation and operation of one of three different forms of executive. For certain small district councils a further option, not involving a separate executive, was made available.
- 1.3 These clauses offer local authorities a different choice of executive governance models.

2. Executive Arrangements

- 2.1 Clause 39 modifies the provisions in the Local Government Act 2000 in respect of the forms of executive which local authorities may operate. It requires any council in England which operates executive arrangements to operate one of the following models:

- Leader and Cabinet executive (England);
- Mayor and Cabinet executive;
- Elected executive.

- 2.2 The key features of each executive model are as follows:

- Leader and Cabinet executive (England) - a councillor elected as leader for either a 4 year term, in the case of a local authority operating whole council elections, or until his or her term of office as councillor expires, where the local authority instead operates elections by halves or thirds, and two or more councillors of the authority are appointed to the executive by the executive leader;
- Mayor and Cabinet executive - a directly elected mayor who appoints two or more councillors to the executive;
- Elected executive - A leader and cabinet who are all directly elected to the council's executive.

3. Discharge of Functions

- 3.1 Clause 40 amends the provisions of the Local Government Act 2000 to provide for the Leader in a Leader and Cabinet executive (England), and in an elected

executive, to make arrangements for the discharge of functions in the same way as a Mayor and Cabinet executive.

4. Changing Governance Arrangements

- 4.1 There is provision within Clause 41 allowing a local authority to change its executive arrangements, including the replacement of its existing form of executive with a different form of executive as permitted under Section 11 of the Local Government Act 2000, or where alternative arrangements are operating, its replacement of those arrangements with executive arrangements in accordance with this clause.
- 4.2 The clause sets out the way local authorities in England can vary their executive arrangements; move from alternative arrangements to executive arrangements; draw up proposals for changing their governance arrangements; resolve and publicise their decision to vary or change their governance arrangements; and sets out the timetable for implementing new or varied governance arrangements.
- 4.3 Where local authorities are proposing to adopt a new form of executive or are moving to executive arrangements, there is provision regarding what details must be set out in the proposals; the need to hold a further referendum if the current governance arrangements were originally approved in a referendum; and the consultation requirements for proposals which aim to move from a governance model involving direct election to the executive which was originally adopted without the need for a prior referendum.
- 4.4 There is also provision regarding pre-commencement consultation; the procedures that will apply should a council operating alternative arrangements fail to adopt executive arrangements, within the permitted time allowed for by the legislation; the meaning of certain terms used within this clause; and the permitted periods in which local authorities can resolve to change their governance arrangements.

5. Referendum following Petition

- 5.1 The provisions in Section 34 of the Local Government Act 2000 to extend the ability of local people to petition their local authority to hold referendum on a directly elected mayor are to be amended, to enable them to petition for a referendum on a directly elected executive.

6. Elected executives; other elected executive members; meaning of "elected executive member"; Time of elections etc; and Voting at elections of elected executives.

- 6.1 Clauses 44, 45, 46, 47 and 48 make provision with respect to elected executives. Elected executive members are elected by the local government electors for the local authority area. For this model, there will be an election of a single "slate" consisting of a team of between 2-9 candidates to be members of the proposed executive, plus one candidate to be Leader of the proposed executive if the "slate" is elected.
- 6.2 Clause 44 allows members of the elected executive to be treated as councillors for the purposes of some enactments, such as those relating to voting rights, conduct and remuneration of councillors. This mirrors the existing provision for elected mayors in the Local Government Act 2000. It permits a person to stand as both a councillor and on a "slate" as an elected executive member and also makes provision as to what should happen in the event of a councillor of the authority being returned as a member of a directly elected executive. In such a case, a vacancy will arise in

the office of councillor. Where the "slate" of candidates is formed of 9 or 10 existing councillors, a consequence of this could be a large number of by-elections immediately after the election should that "slate" be comprised of existing councillors.

- 6.3 Provision is made through Clause 45 with respect to the term of office of a member of an elected executive who is not an elected mayor or a member of an elected executive; Section 11(5) of the Local Government Act 2000 allows the Secretary of State to prescribe forms of executive which are additional to those set out in Section 11.
- 6.4 Clause 46 provides that "elected executive member" means an individual elected to an authority's executive by the electors of the area.
- 6.5 Clause 47 and 48 and Schedule 2 amend the Local Government Act 2000 by extending the supplementary vote (SV) system used for election of elected mayors to the election of elected executives.
- 6.6 In relation to the election of an elected executive, under the supplementary vote system, the elector has two votes - a first preference vote cast for the elector's preferred "slate", and a second vote cast for the elector's second preference from among the remaining "slates". Schedule 2 specifies the procedure for returning a directly elected executive where there are three or more slates. Ordinarily, the "slate" which receives more than half of the first preference votes cast will be elected. If none of the candidates receive more than half of all of the first preference votes, the election remains in contest. It is at this point that the second preference votes are counted for those candidates that remain in the context. The executive returned is the one with the greatest total number of preference votes (both first and second). Schedule 2 also provides procedures for dealing with an equality of votes at any stage of the process.