

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 18th November 2010
Report of: Democratic Services Manager
Subject/Title: New Executive Arrangements

1.0 Report Summary

- 1.1 The Local Government and Public Involvement in Health Act 2007 requires all local authorities to agree and implement a new leadership model.

2.0 Recommendations

- 2.1 That

- (1) The Committee consider the outcome of the public consultation exercise undertaken between 1st October and 12th November 2010, on the options for future executive arrangements for Cheshire East Council; and
- (2) The Committee make a recommendation to Council on 16th December 2010 on a new leadership model.
- (3) That the Borough Solicitor be given authority to amend the Constitution as he considers necessary to give effect to the decision of Council.

3.0 Reasons for Recommendations

- 3.1 To comply with Government requirements to consult on two options for future executive arrangements for Cheshire East Council.

4.0 Wards Affected

- 4.1 All wards will be affected by the proposed change.

5.0 Local Ward Members

- 5.1 All local ward members will be affected by the proposed change.

6.0 Policy Implications including

- 6.1 There are no direct policy implications although changes to the Council's executive arrangements will need to be embodied in the Constitution.

7.0 Financial Implications

- 7.1 None at this stage. If the Council is minded to move to an Elected Mayor model of executive arrangements a further report setting out the detailed process and potential financial implications will be required.

8.0 Legal Implications

- 8.1 The actions outlined in this report are required in order for the Council to comply with the provisions of the Local Government and Public Involvement in Health Act 2007.

9.0 Risk Management

- 9.1 No risks have been identified.

10.0 Background and Options

- 10.1 The Local Government Act 2000 put in place a new decision-making framework, which introduced a separation of the decision-making and scrutiny roles of local authorities. Cheshire East Council, in common with the majority of local authorities, adopted a Leader with Cabinet style of executive. Cheshire East Council chose the 'strong leader' model in which Council elects the Leader, and the Leader appoints Cabinet Members. and determines their responsibilities.
- 10.2 The Local Government and Public Involvement in Health Act 2007 requires local authorities to choose one of two new models of executive leadership: either a directly-Elected Mayor with Cabinet, or a strong Leader and Cabinet style of governance. The requirement to hold a referendum before proceeding with the option of a directly-Elected Mayor has now been removed.
- 10.3 The 2007 Act does not change the existing requirement for the Council to have arrangements to review and scrutinise executive decisions and any actions taken as a result of them. Other 'non-executive' functions (e.g. planning and regulatory functions and standards) also remain unaffected.
- 10.4 However, this change in executive arrangements, to Leader or Elected Mayor with a 4 year term of office, must come into effect from May 2011. The Council must pass a resolution giving effect to the change by 31 December 2010.

New Leadership Model

- 10.5 Once in office, there is little difference between what a new strong Leader and an Elected Mayor can do. The Elected Mayor or Leader will continue in office for a full four year term and will have the Council's executive powers formally vested in him/her. (The term of office of the Leader is from the date of election as Leader to the first annual meeting after their normal

day of retirement as a councillor i.e. up to 4 years.) The main differences between the two models are the methods of selection and removal.

- 10.6 The Leader can be removed by a vote of no confidence requiring a simple majority of the Council. In this event, the motion must be set out in the agenda for the meeting. An Elected Mayor is elected separately by the electorate for a set term of office, in addition to the 81 Councillors. Therefore an Elected Mayor might not be a Councillor.
- 10.7 Either an Elected Mayor or a Council-appointed Leader will initially hold all the Council's executive functions under their personal control. It will then be for him/her to choose whether to exercise some or all of these functions personally or to make arrangements for their discharge by an executive, by an individual member of the executive, or by officers.
- 10.8 As now, executive members must be appointed from amongst elected councillors, and it will be for the Council Leader or Elected Mayor to choose how many members to appoint to the Cabinet (between two and nine) as well as themselves (as per the existing arrangements). He/she will also decide what (if any) executive functions are delegated to executive portfolio holders. The Mayor or Leader must appoint at least one deputy who, unless they resign or cease to be a councillor, will hold office until the end of the Mayor/Leader's term. A deputy can also be removed and replaced at any time by the Leader or Mayor as can other members of the executive. The Act specifies that the deputy will take up the role of the Leader/Mayor if the latter is unable to act or the office becomes vacant.
- 10.9 Those functions which are the remit of the full Council remain unchanged by the 2007 Act. Therefore, setting the budget and major policies remain a decision for all Council Members.
- 10.10 The Council will continue to elect a traditional Civic ceremonial Mayor and Deputy Mayor of the Borough on an annual basis and their roles will not be altered by either of the new forms of executive. The Civic Mayor will continue to preside over meetings of the Council and carry out the ceremonial and civic duties attached to the office.
- 10.11 The new legislation requires that the Council make a formal resolution on its new executive arrangements before the end of December 2010. A table summarising the main differences between Cheshire East Council's current executive model and the two options available under the Local Government and Public Involvement in Health Act 2007 is set out in Appendix 1.
- 10.12 Although the Council already has a strong Leader model, if it wishes to opt for the new strong leader model (as opposed to the Elected Mayor model) it will still be required to confirm this formally by passing a resolution to do so before 31st December 2010 for implementation at the Annual meeting in May 2011. If the Council wishes to retain the Leader and Cabinet model,

the Constitution will not need major amendment as its arrangements are largely compliant with the new requirements.

Consultation

- 10.13 The legislation requires that the Council consult with electors and other interested persons within the Borough. At its last meeting, the Committee authorised officers to undertake a consultation between 1st October and 12th November 2010. Guidance was recently issued in the form of a letter from the Minister for Housing and Local Government (Appendix 2). It could be seen that whilst the statutory requirement to follow the consultation process must be adhered to, Councils were encouraged not to incur any significant expenditure in doing so. The Council used press releases and its website to undertake the consultation.
- 10.14 The legislation is likely to be repealed through the Localism Bill, but not before the Council is required to make an appropriate resolution. Communities Minister Andrew Stunell announced that under the Localism Bill the Government will let councils decide, in consultation with local people, what system is best for their community, whether that be a Mayor or Leader and Cabinet or a Committee system.
- 10.14 The results of the Consultation are given in Appendix 3. There is no clear outcome in favour of either option with responses weighted against a directly Elected Mayor.

Matters to Consider

- 10.15 The Council must draw up proposals to make a change in its executive arrangements and in so doing must consider the extent to which the proposals would be likely to help in securing continuous improvement in the way the Council's functions are exercised, having regard to economy, efficiency and effectiveness. These proposals will be approved at a meeting of Council on 16th December 2010. After the Council has drawn up its proposals it must make copies available for public inspection and publish them in local newspapers.
- 10.16 The Committee must now make recommendations to Council upon one of two options:
- a) Leader with a 4 year term or
 - b) Elected Mayor with a 4 year term
- 10.17 If the Council wishes to retain the Leader and Cabinet model, the Constitution will not need major amendment as its arrangements are largely compliant with the new requirements.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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