
Meeting: Council

Date: 25 November 2010

Subject: Executive Arrangements under the Local Government and Public Involvement in Health Act 2007

Summary: To formally adopt, in accordance with the provisions of the Local Government and Public Involvement in Health Act 2007, the arrangements for the Council's Leader and Executive.

Advising Officer: Richard Ellis, Director of Customer and Shared Services

Contact Officer: John Atkinson, Monitoring Officer

Public/Exempt: Public

Wards Affected: All

Function of: Council

CORPORATE IMPLICATIONS

Council Priorities:

Having in place effective leadership and political management arrangements of the Authority is critical to the delivery of the Council's vision and all its strategic priorities.

Financial:

As the proposed arrangements do not depart from the original proposals for the Leader and Executive's arrangements, there is no specific budgetary implication.

Legal:

The Council must comply with the requirements of the Local Government and Public Involvement in Health Act 2007 to pass a resolution by 31 December 2010 to adopt either a "new style" leader and cabinet executive or elected mayor and cabinet arrangements.

Risk Management:

If the Council does not comply with its statutory duty, there is a risk of intervention by the Secretary of State who may, by order, prescribe the application of the Leader and Cabinet Executive (England) model as from May 2011.

Staffing (including Trades Unions):

None

Equalities/Human Rights:

None

Community Safety:

None

Sustainability:

None

RECOMMENDATIONS:**1. that Council notes:-**

- (a) the requirement for the full Council to pass a resolution by 31 December 2010 to adopt either a “new style” leader and cabinet executive or elected mayor and cabinet arrangements;**
- (b) that the Central Bedfordshire bid submission, which was subject to extensive public consultation, was based on the adoption of the “new style” leader and cabinet arrangements; and**
- (c) that the Constitution already contains all the required statutory provisions of the Local Government and Public Involvement in Health Act 2007 relating to the “new style” leader and cabinet executive arrangements, save for the provision relating to the extension of the term of office of the Leader (paragraph 7 below refers).**

2. that, accordingly, the Council is recommended to adopt the “new style” leader and cabinet executive arrangements for implementation on the third day after the elections in May 2011.

Reason for Recommendations: to comply with the requirements of the Local Government and Public Involvement in Health Act 2007 to pass a resolution by 31 December 2010 to adopt new style leader and cabinet executive arrangements.

Executive Summary

The Local Government and Public Involvement in Health Act 2007 requires all authorities to review their executive arrangements and to operate either a “new style” leader and cabinet executive or elected mayor and cabinet arrangements.

The “new style” leader and cabinet arrangements require the Leader to be elected for a 4 year term of office and for the Leader to appoint the cabinet, delegate functions and appoint a deputy leader, and the Council may have the power to remove the Leader.

Authorities are required to draw up proposals for changing their arrangements and take “reasonable steps” to consult electors and stakeholders. A resolution must be passed by 31 December 2010 to adopt the new style Leader and cabinet executive.

The Council has already put in place within its Constitution the majority of the requirements of the “new style” leader and cabinet model. The Executive supported this approach at its meeting on 13 July 2010 and Council further recorded its decision on 16 September 2010 that it was minded, subject to consideration of views received, to resolve at its meeting on 25 November 2010 to adopt the “new style” leader and cabinet executive arrangements for implementation on the third day after the elections in May 2011. This report seeks for that resolution to be formally passed.

Background

1. The Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) requires all local authorities to review their executive arrangements and provide for the discontinuance of “old style leader and cabinet” executive arrangements.
2. The 2007 Act requires principal local authorities in England to operate one of the following models:-
 - A “new style leader and cabinet executive”; or
 - An elected Mayor and Cabinet.
3. The legislation sets out that the Council must resolve to move to the new arrangements by the end of December 2010 with the “new style” leader and cabinet executive arrangements coming into force on the third day after the elections for the Authority in May 2011.
4. The key features of the “new style” leader and cabinet executive are as follows:-
 - A councillor is elected as Leader for a 4-year term following the whole Council elections. The Leader’s term of office is extended beyond the 4th day after the local elections to the day of the first annual meeting after the Leader’s normal retirement as a Councillor;
 - The Council may have the power to remove the Leader during the 4 year term;
 - The Leader not only appoints the Cabinet, which will be between 2 and 10 in number, but will decide how the executive functions will be discharged;
 - The executive arrangements must include provision for the appointment of a Deputy Leader with the power to act in the Leader’s absence; and
 - The Deputy Leader is appointed by and may also be removed by the Leader.

Issues for Consideration

5. Council will be aware that “Closer to Communities...Capacity to Deliver”, the joint submission for Central Bedfordshire to the Secretary of State for Communities and Local Government, set out the proposals for the executive arrangements for the new Central Bedfordshire Council, namely the adoption of a “strong” leader model.

Provision in the Constitution

6. The Constitution Advisory Group was mindful of the requirements of the Local Government and Public Involvement in Health Act 2007 and the current Constitution was drafted on the basis of the new style Leader and cabinet executive as far as could be accommodated within existing statutory provisions. As elections are to be held in 2011, the current Leader was elected for a two year term of office but the current Constitution already provides for:-
 - (a) the Leader to be elected by the Council until the next election of all members of the Council (ie: for a 4 year term from 2011);
 - (b) the Leader may be removed by the Council;
 - (c) the Leader to appoint the Executive, allocate portfolios and delegate executive functions to executive committees, portfolio holders and officers; and
 - (d) the Leader to appoint a Deputy Leader with power to act in the Leader’s absence, and for the Leader to be able to remove the Deputy Leader.
7. The Constitution therefore already contains the statutory provisions required by the Local Government and Public Involvement in Health Act 2007.

Extension of Leader’s Term of Office to the day of the first AGM after the election

8. However, there is one provision which cannot be implemented until the new model is adopted, namely to extend the Leader’s term of office as a Councillor beyond the 4th day after the local elections, to the day of the first annual meeting after the Leader’s normal retirement as a Councillor. The Constitution would need to be amended to reflect this statutory change.

Option of Strengthened Mayor and Cabinet Model

9. The other option available under the Act is, as stated in paragraph 2 above, a strengthened mayor and cabinet model. The bid for unitary status proposed, as set out in paragraph 5 above, that the “strong leader” and cabinet model should be adopted for Central Bedfordshire. Any decision other than to adopt the new style Leader and cabinet model would therefore be contrary to the unitary bid submitted to and endorsed by the Secretary of State.

10. Before drawing up proposals for change, authorities must take “reasonable steps” to consult the local government electors and other interested parties in the area.
11. If this option were to be proposed the Authority would have to draw up proposals, which should be a schedule of proposed changes to the Constitution and an implementation timetable and must have regard to the impact of the revised executive arrangements in terms of economy, efficiency and effectiveness. If the consultation guidance is to be strictly complied with, a period of some 12 weeks should be allowed for public consultation.
12. The Central Bedfordshire bid submission and the Council’s current executive arrangements are already based on the “new style” leader and cabinet executive (indirectly elected Leader with a 4-year term). The bid was subject to wide consultation at that time, both with the public and with key stakeholders.
13. The coalition Government recently issued a statement urging local authorities not to devote unreasonable expenditure on extensive consultations about the model the council will adopt. Further publicity has therefore been restricted to publication of a press release on the Council’s website of its stated intention, expressed at the Council meeting on 16 September 2010, to retain the “strong leader and cabinet executive” model. The press release has been on the Council’s website since 17 September 2010.

Formal Council Resolution

14. Members should be mindful that even if it is determined to retain a Leader and cabinet model, there is still a statutory requirement to pass a formal Council resolution before 31 December 2010 to adopt the “new style” of leader and cabinet arrangements which then come into effect 3 days after the local elections in May 2011.

Amendment of the Constitution

15. Additionally the Constitution would need to be amended to reflect the extension of the Leader’s term of office as referred to in paragraph 7 above. The consequential drafting amendments would be placed before the Constitution Advisory Group for its consideration.

Appendices: None.

Background Papers: None

Location of papers: N/A