

MAIDSTONE BOROUGH COUNCIL

CABINET

11 AUGUST 2010

REPORT OF THE HEAD OF DEMOCRATIC SERVICES

Report prepared by Neil Harris

1. EXECUTIVE ARRANGEMENTS

1.1 Issue for Decision

1.1.1 To consider a requirement under the Local Government and Public Involvement in Health Act 2007 ('the Act') that each authority should consider its executive arrangements in light of the changes to the Leader and Cabinet Executive model set out within 'the Act'.

1.2 Recommendation of the Head of Democratic Services

1.2.1 That Council be recommended that the new Leader and Cabinet Executive model as set out in 'the Act' and detailed below be adopted as the Council's preference when undertaking the consultation of local government electors and other interested persons in their area.

1.2.2 That the consultation with local government electors and other interested persons in the area be undertaken by a press release on the Council's website.

1.3 Reasons for Recommendation

1.3.1 The Local Government and Public Involvement in Health Act 2007 requires every authority which operates a Leader and Cabinet model of Executive to change its executive arrangements in accordance with a statutory timetable. This change is popularly known as transition to a 'Strong Leader' model, but in fact it differs critically from a 'strong leader' as permitted by the Local Government Act 2000.

1.3.2 The Local Government Act 2000 required all principal local authorities to adopt "executive arrangements" in one of three forms, namely:-

- Mayor and Cabinet Executive
- Leader and Cabinet Executive
- Mayor and Council Manager (this was abolished by 'the Act').

- 1.3.3 Within the Leader and Cabinet Executive model there was a considerable degree of local choice as to the relative strengths of Council and of the Leader. There was the 'weak Leader' option in which Council appointed both the Leader and the members of the Cabinet, with no delegations to individual Cabinet members so that the Cabinet was the sole member-level executive decision-maker. The 'strong Leader' option was where the Council elected the Leader and then the Leader appointed the Cabinet, and the Leader determined the degree of delegation of powers to individual Cabinet members. This Council adopted the 'strong Leader' option.
- 1.3.4 The new Leader and Cabinet Executive model within the Act is a different legal form of executive to the old-style Leader and Cabinet Executive model, with the result that the transition to the new Leader and Cabinet Executive model, as required by the Act, is a 'change to the form of executive', even where the authority is currently operating a 'strong Leader' model under the Local Government Act 2000.
- 1.3.5 The new Leader and Cabinet Executive model is very similar to the old 'Strong Leader' model, but is different in three key respects, which cannot be achieved under the old legislation. Therefore for Maidstone whatever option is chosen is a change to the executive arrangements.
- 1.3.6 So in the new model like Maidstone, the Council elects the Leader for four years and the Leader is then responsible for:-
- Determining the size of the Cabinet
 - Appointing the members of the Cabinet
 - Allocating portfolios or areas of responsibility to the various Cabinet Members
 - Allocating decision-making powers to the Cabinet and to individual Cabinet Members, and
 - Removing and replacing Cabinet Members
- 1.3.7 However, the three key differences which are required in the new Leader and Cabinet Executive model but is not in the old model are :-
- The Leader's term of office is extended beyond the 4th day after the local elections to run up to the day of the first annual meeting after the Leader's normal day of retirement as a Councillor.
 - During his/her term of office, the Leader will automatically cease to be Leader upon death or disqualification, but may only be removed from office by a resolution of Council.
 - There is a requirement for the leader to appoint a Deputy Leader
- 1.3.8 Whatever option is chosen is a change and legislation states that the authority must 'take reasonable steps to consult the local government electors and other interested persons in the area' and in doing so it is suggested that the Council could give its preferred option. However,

recent advice from the new government which will be proposing a number of changes in this area states that Councils must comply with the requirements of the Act but that consultation can be minimal and has indicated that a small newspaper article / advert or Press release on the website would be appropriate consultation.

1.4 Alternative Action and why not Recommended

1.4.1 The Act requires the Council to adopt new executive arrangements and to undertake the consultation regarding the change.

1.5 Impact on Corporate Objectives

1.5.1 There is no impact on Corporate Objectives if the Council retains the option closest to its existing style of executive arrangements.

1.6 Risk Management

1.6.1 There are no risk management implications in this report.

1.7 Other Implications

1.7.1

- 1. Financial
- 2. Staffing
- 3. Legal
- 4. Equality Impact Needs Assessment
- 5. Environmental/Sustainable Development
- 6. Community Safety
- 7. Human Rights Act
- 8. Procurement
- 9. Asset Management

X

1.7.2 Legal implications of these changes are detailed in the report.

1.8 Appendices

1.8.1 None

1.8.2 Background Documents

1.8.3 Local Government and Public Involvement in Health Act 2007

1.8.4 Advice note from Bevan Brittan on Changing Executive Arrangements

IS THIS A KEY DECISION REPORT?

Yes

No

If yes, when did it first appear in the Forward Plan?

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This is a Key Decision because:

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Wards/Parishes affected:

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