

MAIDSTONE BOROUGH COUNCIL

COUNCIL

15 DECEMBER 2010

REPORT OF THE HEAD OF CHANGE AND SCRUTINY

Report prepared by Ryan O'Connell

1. NEW EXECUTIVE ARRANGEMENTS

1.1 Issue for Decision

1.1.1 To consider the results of the consultation on the new executive arrangements and the proposals outlined below for the new Leader and Cabinet executive arrangements.

1.2 Recommendation of the Head of Change and Scrutiny

1.2.1 That the outcome of the consultation be noted;

1.2.2 The proposals for the new Leader and Cabinet executive arrangements be approved and adopted in accordance with the Local Government and Public Involvement in Health Act 2007;

1.2.3 That the constitution be amended to reflect the proposals without evaluation by the Standards Committee.

1.3 Reasons for Recommendation

1.3.3 At its meeting on 22 September 2010 the Council agreed to consult on new executive arrangements in accordance with the Local Government and Public Involvement in Health Act 2007. It was agreed that the Council's preferred option would be for the Leader and Cabinet Executive model.

1.3.4 The consultation has now been carried out with no responses received. As a result the preferred option is recommended for adoption by Council.

1.3.5 The Right Hon. Grant Shapps MP wrote to the Leaders of all non-metropolitan district councils in England stating that the councils need not incur any significant expenditure on these requirements in the 2007 Act and the Government's expectation was that all councils would pursue these obligations at minimal cost. This was due to the

Government proposing new primary legislation that would repeal the requirement in the Act. However, it was formally confirmed that the Council still needed to decide to move either to the new Leader and Cabinet model or the Mayor and Cabinet model by 31st December 2010. It was stated that any governance arrangements adopted by the Council under 2007 Act may be further changed in due course if the necessary legislation comes into force.

1.3.6 The Act also requires that in making the change the Council provides notice in a local newspaper of its consideration to change and also advertises its decision. A notice has been placed in the Kent Messenger for 10 December 2010 informing the public of the proposals in this report. Once taken the decision of the Council will also have to be advertised.

1.3.7 The Council is required to set out its proposals for its new executive arrangements. These are set out below as the Council's proposals in this regard:

1.3.8 **Proposed Executive Arrangements**

The proposals set out below are based on the statutory provisions.

With effect from the third day after the May 2011 elections, the Council will adopt the Leader and Cabinet Executive (England) Model as set out in the provisions of the Local Government Act 2000 as amended by the 2007 Act. The key elements of the arrangements will be as follows:-

(a) Election and removal of Leader

The Leader will be a Councillor elected to the position of Leader by the Council. The term of office for the Leader will start from the day of his/her election as Leader and will end on the day when the Council holds its first annual meeting after the Leader's normal day of retirement as a Councillor. The Leader will hold office unless he/she:-

- i. Resigns from office
- ii. Is suspended from being a member under Part (III) of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension);
- iii. Is no longer a Councillor (otherwise than by expiration of office);
- iv. Is removed from office by resolution of the Council on the motion signed by at least two members of the Council and included on the agenda for a council meeting. Such motion must be given in writing to the

proper officer at least 6 clear working days prior to the relevant meeting and should indicate the reasons for the motion. The motion should take precedence over every other item of business.

(b) Appointment of the Cabinet and scheme of delegation

The Leader will determine the size of the cabinet and appoint between two and nine members of the Council to the Cabinet. The Leader will allocate areas of responsibility i.e portfolios to them and will be able to remove them from the cabinet at any time. The Leader will determine the scheme of delegation for the discharge of the Executive functions of the Council and report to the Council all appointments and changes to the cabinet.

(c) Deputy Leader

The Leader will appoint one of the members of the Cabinet to be his/her deputy to hold office until the end of the term of office of the Leader (unless the person resigns as deputy Leader, ceases to be a councillor or is suspended or disqualified or removed from office by the Leader). The Leader may, if he/she thinks fit, remove the deputy Leader from office but must then appoint another person in his/her place.

(d) Absent Leader

If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in his/her place. If the Deputy Leader is unable to act or the office is vacant, the Cabinet must act in the Leader's place or arrange for a member of the cabinet to do so.

(e) Removal of Leader

As referred to in paragraph (a) above, and authorised by Section 44(C) of the Local Government Act 2000 (as amended) provision is made for removal of the Leader by resolution. The Act specifies that if the Council pass the resolution to remove the Leader the new Leader is to be elected:

- (i) At the meeting which the Leader is removed from office,
or
- (ii) At a subsequent meeting

(f) Consequential Amendments

Changes will need to be made to the Summary and Explanation in the Constitution and to Article 7, Part 3 Responsibility for Functions and in Part 4 the Procedure Rules, together with any other consequential changes which are required.

1.3.8 It is considered that these proposals would assist in securing continuous improvement in the way in which our functions are exercised, having regard to a combination of economy, efficiency and effectiveness as they represent the closest fit to our current arrangements.

1.3.9 Transitional Arrangements

The Council will continue to operate the previous arrangements until the end of the transitional period under the 2007 Act, i.e. the third day after the elections in 2011.

1.4 Alternative Action and why not Recommended

1.4.1 New arrangements have to be agreed by the Council as required by the Local Government and Public Involvement in Health Act 2007. If a decision is not taken on this matter by 31 December 2010 then the Council could have the new arrangements imposed upon it which would not be good practice or governance for a responsible authority.

1.5 Impact on Corporate Objectives

1.5.1 Efficient and effective public services – the proposals in this report give consideration to securing continuous improvement in the way in which our functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

1.6 Risk Management

1.6.1 There is a risk that Council will have executive arrangements that are not in accordance with legislation. This is managed through the action in this report and through having due consideration to the consultation (though there were no responses) and government guidance received on implementing the new arrangements.

1.7 Other Implications

1.7.1

1. Financial
2. Staffing
3. Legal

X

4. Equality Impact Needs Assessment
5. Environmental/Sustainable Development
6. Community Safety
7. Human Rights Act
8. Procurement
9. Asset Management

1.7.2 Legal – The Council must abide by the Local Government and Public Involvement in Health Act 2007 and this report ensures the Council does this.

1.8 Relevant Documents

1.8.1 Background Documents

The Local Government and Public Involvement in Health Act 2007