

Executive Arrangements – New Governance Proposals

Proposals have approved in accordance with the provisions of the Local Government and Public Involvement in Health Act 2007 for a change in the authority's executive arrangements.

As required by the legislation, public notice has been given that the detail of these arrangements are available for public inspection.

This document describes the arrangements.

1. Background

1.1 The Act inserted new provisions in the Local Government Act 2000 and also amended other local government legislation and required all local authorities to review their executive arrangements. The timescale depended on the type of local authority. As a "non-metropolitan district" the borough council was required to review its own arrangements by 31 December 2010. Any changes must be implemented 3 days after the date of the May 2011 local elections, that is on 8 May 2011.

1.2 The council was required to adopt one of two executive arrangements:

- New style leader and cabinet executive
- Mayor and cabinet executive.

Continuing with the status quo is not an option.

1.3 The council's current political management arrangements date from May 2002 when the provisions of the Local Government Act 2000 were formally adopted. The council adopted what is now referred to as the "old style Leader and cabinet executive" under the old provisions of S. 11(3) of the Local Government Act 2000. Prior to this

(since October 1999) the council had operated leader and cabinet arrangements on a pilot basis.

1.4 Section 33E (6) of the Local Government Act 2000 says that *"Before drawing up its proposals, the local authority must take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area."*

1.5 The council agreed a 12 week consultation commencing Monday 15 March and closing on Monday 7 June. Information provided on the council's website (with a link from the front page titled "Have your say – how do you want Eastbourne Council to be run?" with an opportunity being given for comments to be made. The launch of the consultation was announced via a press release which resulted in articles in the Eastbourne Herald (newspaper and website) and the Argus. The website information was available in printed leaflet form at council reception points and on request (with large print, audio and interpretation options available if requested). The question asked of residents and other interested persons was if they believed the council should continue to operate with a leader and cabinet or move to a directly elected mayor and cabinet. Background information was provided explaining the differences between the 2 options.

1.6 Responses to the website consultation and other articles and comments in local media were set out in reports to the council's scrutiny committee and the cabinet at their respective meetings on 5 and 14 July 2010. A copy of the cabinet's recommendation and the council's resolution at their meeting on 21 July 2010 is appended.

1.7 Formal notice of the proposals was given on 1 September 2010 and information published on the council's website. On 15 September 2010 the council passed the formal adoption resolution. A copy of the council resolution is appended.

1.8 Further background information is available on the council's website at
<http://www.eastbourne.gov.uk/council/executive>

This includes all the documents made available at the time of the consultation, together with the reports referred to at paragraphs 1.6 and 1.7 above and the cabinet's subsequent recommendations to the council.

2. Features of the proposed new executive arrangements

1. A leader to be elected by the full council for a 4-year term commencing at the annual meeting (the first to be held following the local elections due to take place on 5 May 2011).
2. Provide for a cabinet comprising the leader and between 2 and 9 councillors appointed by the leader.
3. Require the leader to appoint one of the cabinet as deputy leader and for the deputy leader's term of office to match that of the leader, save that the leader can end the appointment at any time and appoint a new deputy leader.
4. Provide for the deputy leader to exercise all the powers of the leader in the absence of the leader.
5. Allow for full council to remove the leader from office on a vote of no confidence and appoint a new leader.
6. Provide for the leader to discharge all of the authority's executive functions or make arrangements for their discharge by the cabinet, a member of the cabinet, a committee of the cabinet or by an officer of the council.
7. Maintain the current allocation of "local choice" functions between the executive and the council.
8. Transitional arrangements whereby the council's current arrangements remain in force until the 8 May 2011 and provide for appropriate arrangements to be made for the exercise of executive functions and responsibilities between 8 May and the day of the annual meeting (see section 3 below).

3. Timetable and transitional arrangements

3.1 The new style leader and cabinet arrangements must be implemented by the 3rd day after the local elections due to be held on 5 May 2011 (i.e. on 8 May 2011 at the latest). The council have agreed that in the interim (from 15 September 2010 to 7 May 2011 inclusive, the existing arrangements will continue to operate.

3.2 Because the council's annual meeting, at which the first election of the new style leader will take place, is not scheduled to be held until 25 May 2011, the leader in office on 8 May will take on the powers and responsibilities of the new style leader. This will be irrespective of whether or not the leader has been re-elected to the council. The leader shall appoint a deputy and may also appoint members to a cabinet.

3.3 In the event that the leader at this time no longer commands the support of a majority of the members of the council having regard to the known party affiliations of the newly elected council, the leader (or the deputy leader if acting in the absence of the leader) and cabinet (if appointed) shall only exercise their powers with the agreement of the council's chief executive who will consult with the leader of the majority group (or the other group leaders if no one group has a majority) to ensure that no decision is taken that in his judgement does not command the support of the leaders representing a majority of the members of the council. The exercise of delegated powers by officers of the council will be subject to a similar limitation in this period. Where a delegated power requires consultation with the leader or cabinet portfolio holder, the requirement will be extended to include the leader or leaders of other groups (or their respective spokespersons if identified).

4. Reasons for the council's choice

4.1 The council believes that adopting the strong leader and cabinet option will best secure the continuous improvement in the way in which the council's functions are exercised, having regard to a combination of economy, efficiency and effectiveness. In reaching this view the following factors were identified:

- The need for continuity at a time when the council was part-way through a process of significant change in its management and ways of working and also facing considerable financial pressures.
- Concern at the potential additional costs of the mayor option; especially as it would be likely that the mayor would become full time and expect remuneration that reflected such additional commitment.
- The absence of evidence pointing to any clear advantage in adopting the directly elected mayor model.

- The greater potential for conflict where a mayor did not have majority support from the council as a whole.
- The apparent misunderstanding on the part of some of those advocating a mayor in believing the office was more likely to be held by a non- party political person when evidence from elsewhere suggested otherwise.
- That a leader would still need to maintain the confidence of the council as a whole throughout his/her term of office unlike a mayor who would not be subject to any recall/vote of confidence procedure.
- Recognition, that having regard to the new government's statement concerning further legislation on councils' choice of political management arrangements and restoring the option of a committee system, expending time and resources on a major change would be inappropriate at this time.

5. Contact details

5.1 For further information please contact:

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A. Extracts from the minutes of the meeting of the Cabinet and the Council held on 14 and 21 July 2010 respectively:

Cabinet, 14 July 2010

***40 New executive arrangements** (Council, 24 February 2010, page 270, minute 65).

- 40.1 Cabinet considered the report of the Local Democracy Manager. The report continued the process for the Council to adopt revised "executive arrangements" in line with recently introduced legal obligations. This process had begun with an introductory report to full Council on 24 February 2010 when the legislative requirements and timetable were noted and consultation arrangements approved.
- 40.2 There were 2 options to choose from. Either a Leader elected by the Council or a directly elected Mayor. Both would carry out all the Council's "executive functions" assisted by a number of councillors appointed by the Leader/Mayor to a Cabinet. A 3-stage decision making process had to be followed. This, the second stage, was about receiving the results of the public consultation and choosing one of the options. The final stage would formally adopt the new executive arrangements (Council resolution to be passed no later than 31 December 2010). The changes would be effective as from 8 May 2011 as required by statute (i.e. 3 days after the May 2011 borough council elections).
- 40.3 The Council had agreed a 12 week consultation. Information was provided on the Council's website (with a link from the front page titled "*Have your say – how do you want Eastbourne Council to be run?*") and at Council reception points. The launch of the consultation was announced via a press release which resulted in articles in the Eastbourne Herald (newspaper and website) and the Argus. A total of 23 responses were received via the Council's website. A summary of the comments and arguments made by respondents was circulated as follows:

Pro Mayor
<ul style="list-style-type: none">• More democratic – the popular choice.• Provides direct accountability to electorate.• An election would help clarify aims and objectives of mayoral candidates.• Best system to deliver leadership quality and provide a local champion.

- Positive impact on public services.
- Encourage local enterprise.
- Counter influence of political parties: an independent could win.
- Time for a ceremonial mayor is now past.

Pro Leader

- Better system of checks and balances.
- Councillors are in best position to assess who is best qualified to act as leader.
- Public have unrealistic expectations of what mayors can achieve – powers of both mayor and leader are the same. In a 2-tier system, mayor would have little overall influence and authority on town as a whole.
- Extra cost of mayor.
- Leader allows for strong and decisive leadership with support of majority of councillors.
- Potential weakness of independent or minor party mayor in conflict with council majority.
- Risk that mayoral elections could become more about self promotion and personalities and not policies.
- Loss of a civic and non-partisan mayor able to give leadership to town as a whole.

- 40.4 The new coalition government had recently said that they were concerned about the overly prescriptive way in which local authorities currently work. As part of the localism agenda, it was therefore committed to allow local authorities to return to the committee system rather than the existing executive models, should they wish to. This would require legislation and the government was currently considering how this could be best implemented. In the meantime councils would still be required to comply with their obligations under existing legislation. A further statement from the Minister for Housing and Local Government dated 7 July 2010 requested that councils did not incur any significant expenditure in undertaking consultation on the executive changes and incur only minimal expenditure.
- 40.5 The Scrutiny Committee, at their meeting on 5 July 2010, had received the same report and the committee's comments were circulated. The committee did not comment as to their preferred option and instead asked Cabinet to consider the option of reverting to a committee system of political management in the future when such an option became available. The committee had also expressed disappointment at the low level of response to the consultation. The Local Democracy Manager had informed the committee that the consultation effort had been reasonable and proportionate for a matter of this nature and had been carried out at minimal cost.

40.6 Cabinet took account of the consultation responses and also the various background papers that had been drawn to their attention. In reaching the view that the leader and cabinet model should be adopted, Cabinet identified the following factors:

- The need for continuity at a time when the Council was part-way through a process of significant change in its management and ways of working and also facing considerable financial pressures.
- Concern at the potential additional costs of the mayor option; especially as it would be likely that the mayor would become full time and expect remuneration that reflected such additional commitment.
- The absence of evidence pointing to any clear advantage in adopting the directly elected mayor model.
- The greater potential for conflict where a mayor did not have majority support from the Council as a whole.
- The apparent misunderstanding on the part of some of those advocating a mayor in believing the office was more likely to be held by a non-party political person when evidence from elsewhere suggested otherwise.
- That a leader would still need to maintain the confidence of the Council as a whole throughout his/her term of office unlike a mayor who would not be subject to any recall/vote of confidence procedure.
- Recognition, that having regard to the new government's statement concerning further legislation on councils' choice of political management arrangements and restoring the option of a committee system, expending time and resources on a major change would be inappropriate at this time.

*40.7 **Resolved (key decision):** (1) That full Council at their meeting on 21 July 2010 be recommended to:

(a) Adopt the strong leader and cabinet option on the grounds that this would best secure the continuous improvement in the way in which the council's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

(b) Authorise the Local Democracy Manager in liaison with the Leader of the Cabinet to:

- (i) draw up a document describing the Council's "proposals for change" as required under the legislation based on the chosen option and detailing the timetable for implementation and transitional arrangements; and
- (ii) to publish notice of the proposals and make a copy of the document available for public inspection.

(c) That the forgoing proposals, in addition to any other provisions that may be required by the legislation, provide for:

9. A leader to be elected by the full council for a 4-year term commencing at the annual meeting (the first to be held following the local elections due to take place on 5 May 2011).
10. Provide for a cabinet comprising the leader and between 2 and 9 councillors appointed by the leader.
11. Require the leader to appoint one of the cabinet as deputy leader and for the deputy leader's term of office to match that of the leader, save that the leader can end the appointment at any time and appoint a new deputy leader.
12. Provide for the deputy leader to exercise all the powers of the leader in the absence of the leader.
13. Allow for full council to remove the leader from office on a vote of no confidence and appoint a new leader.
14. Provide for the leader to discharge all of the authority's executive functions or make arrangements for their discharge by the cabinet, a member of the cabinet, a committee of the cabinet or by an officer of the Council.
15. Maintain the current allocation of "local choice" functions between the executive and the council.
16. Incorporate the transitional arrangements described in paragraph 3.2 of the report to Council on 24 February 2010 whereby the Council's current arrangements remain in force until the 8 May 2011 and provide for appropriate arrangements to be made for the exercise of executive functions and responsibilities between 8 May and the day of the annual meeting.

(2) To note that further reports will be made (a) to Council on 15 September 2010 following publication of the Council's proposals at which a formal adoption resolution will be moved; and (b) to a subsequent meeting of the Council to deal with changes to the Council's constitution and delegation arrangements.

Council 21 July 2010:

- 31. New Executive Arrangements.** Councillor Tutt reported on behalf of the Cabinet. It was proposed by Councillor Tutt, seconded by Councillor Elkin and;

Resolved: (1) That the strong leader and cabinet option be adopted on the grounds that this would best secure the continuous improvement in the way in which the Council's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

(2) That the Local Democracy Manager be authorised, in liaison with the Leader of the Cabinet, to:

- (i) draw up a document describing the Council's "proposals for change" as required under the legislation based on the chosen option, including the provisions described in the Cabinet's resolution 1(c), and detailing the timetable for implementation and transitional arrangements; and
- (ii) publish notice of the proposals and make a copy of the document available for public inspection.

(3) That further reports will be made (a) to Council on 15 September 2010 following publication of the Council's proposals at which a formal adoption resolution will be moved; and (b) to a subsequent meeting of the Council to deal with changes to the Council's constitution and delegation arrangements.

B. Extract from the minutes of the meeting of the Council held on 15 September 2010:

- 38. Executive arrangements – New governance proposals.** Full details of this matter were given in earlier reports to full Council on 24 February 2010 and Cabinet on 14 July 2010. The Council now considered the latest report of the Local Democracy Manager asking that the Council pass the formal resolution to adopt new governance proposals for the discharge of the Council's executive functions and responsibilities. Public notice had been given of the proposals which were set out in the appendix to the report.

The main features of the arrangements were as follows:

1. A leader to be elected by the full council for a 4-year term commencing at the annual meeting (the first to be held following the local elections due to take place on 5 May 2011).
2. Provide for a cabinet comprising the leader and between 2 and 9 councillors appointed by the leader.
3. Require the leader to appoint one of the cabinet as deputy leader and for the deputy leader's term of office to match that of the leader, save that the leader can end the appointment at any time and appoint a new deputy leader.
4. Provide for the deputy leader to exercise all the powers of the leader

in the absence of the leader.

5. Allow for full council to remove the leader from office on a vote of no confidence and appoint a new leader.
6. Provide for the leader to discharge all of the authority's executive functions or make arrangements for their discharge by the cabinet, a member of the cabinet, a committee of the cabinet or by an officer of the council.
7. Maintain the current allocation of "local choice" functions between the executive and the council.
8. Transitional arrangements whereby the council's current arrangements remain in force until the 8 May 2011 and provide for appropriate arrangements to be made for the exercise of executive functions and responsibilities between 8 May and the day of the annual meeting

The Council's reasons for adopting these arrangements were set out in the proposals document.

It was moved by Councillor Tutt, seconded by Councillor Elkin, and

Resolved: That the new governance proposals for the Council's executive arrangements as set out in the document appended to the report be formally adopted as required under the Local Government and Public Involvement in Health Act 2007 and otherwise in accordance with provisions in the Local Government Act 2000 and regulations made under these Acts.