

MUNICIPAL YEAR 2009/2010 REPORT NO. 255

MEETING TITLE AND DATE:

Council 31st March 2010

REPORT OF:

Director of Finance & Corporate Resources

Contact officer and telephone number:

John Austin
0208 379 4094

Agenda - Part: 1	Item: 12
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Subject:

Implementation of Statutory Requirements within the Local Government and Public Involvement in Health Act 2007 and the Local Democracy, Economic Development and Construction Act 2009

Cabinet Member consulted: Cllr Rye

1. EXECUTIVE SUMMARY

- 1.1 The Local Government and Public Involvement in Health Act 2007 ("the 2007 Act") placed a mandatory duty on Local Authorities to adopt one of two new forms of executive model. The Council considered a report on 11th November 2009 and agreed to adopt the Leader & Cabinet model, including the option to remove the Leader by a majority vote of the Council.
- 1.2 This report seeks approval of the draft Constitutional amendments necessary to implement the new governance arrangements and which are appended to this Report as Schedule One.
- 1.3 This report also seeks approval of the decision-making arrangements for any urgent business which may arise between the new Executive arrangements coming into force on 11th May 2010 and the first Annual Meeting after the elections on 26th May 2010.
- 1.4 The procedure for electing a new Leader in the event of his or her removal is subject to a further constitutional amendment and is at Page 3 of Schedule One.
- 1.5 The Local Democracy, Economic Development and Construction Act 2009 introduces a new statutory post of Scrutiny Officer with effect from 1st April 2010 and the Council is asked to note this new statutory function and approve designation of this post.
- 1.6 The proposals herein were approved by the Governance Review Group at a meeting on 4th March 2010.

2. RECOMMENDATIONS

- 2.1 To approve the draft constitutional amendments necessary to implement the new governance arrangements and appended to this Report as Schedule One.
- 2.2 To approve the decision-making arrangements for urgent business between the new Executive arrangements coming into force on 11th May 2010 and the first annual meeting after the May election on 26th May 2010, and for further interim periods hereafter. It is recommended that the Chief Executive takes any such urgent decisions after consulting the relevant party leaders.
- 2.3 To agree the procedure for electing a new Leader in the event of his or her removal and approve the Constitutional amendment for the same in Paragraphs 3.4 - 3.6 and Page 3 of Schedule One.
- 2.4 To approve the designation of the post of Head of Corporate Scrutiny Services as the Council's statutory Scrutiny Officer pursuant to the statutory requirement in the Local Democracy, Economic Development and Construction Act 2009 with effect from 1st April 2010, together with the relevant constitutional amendment at Page One of Schedule One.

3. BACKGROUND: - NEW EXECUTIVE ARRANGEMENTS

Background

- 3.1 Part 3 of the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act") obliged the Council to adopt one of two new statutory choices of executive model: a Leader and Cabinet executive or directly elected Mayor and Cabinet. By a resolution of the Council at a specially convened meeting on 11th November 2009, Enfield opted for the new-style Leader and Cabinet executive model.
- 3.2 In making its decision about which option to adopt, the Council considered the extent to which its proposals would help secure continuous improvement in the way in which the Council's functions are exercised having regard to a combination of economy, efficiency and effectiveness. The Council's view is that the Leader and Cabinet executive model permits a more cohesive leadership. It enables the Leader to choose his/her Cabinet thereby improving an already efficient and successful model, whilst maintaining strong governance.
- 3.3 Prior to drawing up its proposals for change, the Council consulted with the public on the new executive arrangements and stated that its preferred option was the Leader and Cabinet model. The Consultation commenced

on 3rd July and ran until 16th October 2009 – extended slightly due to the postal strike.

- 3.4 The election of the Leader will be at the first Annual Meeting of the Council following elections, but if it fails to elect a Leader then at a subsequent meeting of the Council.
- 3.5 The Leader will initially hold all the Council's executive functions under his or her personal control. The Leader will be responsible for appointing and removing members to the Cabinet (between 2 and 9 members) from the elected councillors, for determining their roles and will also decide which executive functions are delegated to local committees. Members of the Cabinet may be appointed or dismissed at any time during the four-year term of the Council, allowing for flexibility to react to changing needs of the Borough.
- 3.6 Currently, if the Council wishes to remove the Leader it does so by a Motion of no confidence and a simple majority vote. Such a Motion must be moved on notice and can be submitted by any Member no later than eight calendar days prior to the Council meeting. If rejected, it cannot be moved again unless signed by at least seven Members and once it has been dealt with, a similar Motion cannot be moved for at least six months. At a meeting on 4th March 2010 the Governance Review Group confirmed that no additional requirements are necessary to move such a Motion.
- 3.7 The Leader must appoint a Deputy Leader who will hold office until the end of the Leader's term, although he or she can be removed or replaced mid-term by the Leader.

4. PROPOSED AMENDMENTS TO THE COUNCIL'S CONSTITUTION

Enfield's Constitution dictates that any changes to the Constitution must be agreed by the Council. The draft constitutional amendments necessary to implement the new governance arrangements are attached hereto at Schedule One of this Report.

5. ARRANGEMENTS FOR URGENT BUSINESS IMMEDIATELY FOLLOWING ELECTION

The term of office for Councillors starts and ends on the fourth day after the date of the election and the Council has a statutory duty to ensure that the new Executive arrangements are in force no later than the third day after the elections, by 11th May 2010. With regard to any urgent business in the meantime and prior to the first Annual Meeting, it is recommended that the Council's Chief Executive will take any such urgent decisions after consulting with the relevant party leaders.

6 JOB DESCRIPTIONS

The job description for the Leader of the Council as referred to in Part 2, Chapter 3 of the Constitution will have to be updated following implementation of the new executive arrangements.

7 THE LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2009

From 1st April 2010 the Council is required to implement the statutory post of Scrutiny Officer and it is recommended that the post of Head of Corporate Scrutiny Services be designated as the Council's statutory Scrutiny Officer.

Section 31 of the Local Democracy, Economic Development and Construction Act 2009 introduces the new statutory post of Scrutiny Officer amending Section 21 of the Local Government Act 2000 by adding provisions to determine the role of the Statutory Scrutiny Officer as follows:

To promote the role of the Authority's Overview and Scrutiny Committee or Committees;

To provide support to the Authority's Overview and Scrutiny Committee or Committees and the Members of that Committee or those Committees;

To provide support and guidance to-

- (i) Members of the Authority*
- (ii) Members of the Executive of the Authority, and*
- (iii) Officers of the Authority*

8 ALTERNATIVE OPTIONS CONSIDERED

There is a statutory requirement upon the Council to implement the new executive arrangements by the 3rd day after the day of the relevant elections which will be held on 6th May 2010.

9 REASONS FOR RECOMMENDATIONS

To comply with the statutory requirements of the Local Government and Public Involvement in Health Act 2007 and the Local Democracy, Economic Development and Construction Act 2009.

10 COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS

10.1 Financial Implications

The proposals will be met from existing resources.

10.2 Legal Implications

In moving to the proposed new executive arrangements the Council will meet the statutory requirements imposed upon it by the Local Government and Public Involvement in Health Act 2007 and the Local Democracy, Economic Development and Construction Act 2009

Any changes to Enfield's Constitution must be agreed by a majority of the Council.

10.3 Property Implications

None.

10.4 Key Risks

There is a risk to the Council in not implementing this legislation as the Council has a statutory obligation to implement the new executive arrangements.

11 PERFORMANCE MANAGEMENT IMPLICATIONS

Adopting one of the two new forms of the executive model will have a direct impact on the objectives set out in the Council's Business Plan:

- Aim 6f – ensure the Council maintains strong corporate governance

12 COMMUNITY IMPLICATIONS

Positive Impact

Clear and accountable governance to ensure effective delivery of the Council's executive arrangements.

Background Papers

None.

SCHEDULE ONE - CONSTITUTIONAL AMENDMENTS

Part 1

1.3 How Decisions are Made

Remove “The Cabinet is the part of the Council which has overall responsibility for the delivery of Council services. The Cabinet is made up of a Leader elected by the Council and up to 9 further councillors appointed by the Leader.”

And replace with “The Leader has overall responsibility for executive decision-making power and the delivery of Council services and is elected by the Council for a four-year term at the Council’s annual meeting after elections (subject to the power to remove). The Leader may appoint a Cabinet of up to nine Councillors - one of whom is to be his or her deputy leader - and decide on the scope of their respective functions/portfolios.

Add additional paragraph “Any reference to the Cabinet within this Constitution is a reference to the Leader and such Members as the Leader may appoint” (this could also be inserted at Part 2, 6.1)

Part 2

4.3(6) Add ‘electing and removing the Leader’ and remove ‘and Deputy Leader’

4.3(17) Add to considering Motions “including whether to remove the Leader”

Add new Section 5.16 (Statutory Scrutiny Officer)

“The Head of Corporate Scrutiny Services is designated as the Council’s Statutory

Scrutiny Officer whose function is:

To promote the role of the Authority’s Overview and Scrutiny Committee or Committees;

To provide support to the Authority’s Overview and Scrutiny Committee or Committees

and the Members of that Committee or those Committees;

To provide support and guidance to-

- (i) Members of the Authority
- (ii) Members of the Executive of the Authority, and
- (iii) Officers of the Authority”

6.1.1 Delete first paragraph “Cabinet is part of the Executive, that part of the Council responsible for most day-to-day decisions and the delivery of services”

Delete second para from “It comprises up to ten councillors..”

And replace with “The Leader can appoint up to nine Members to the Cabinet, one of whom must be a Deputy Leader and the Leader decides

whether particular decision-making powers will be undertaken collectively or by individual Members within the Cabinet”

- 6.3 Add “The Leader will be a councillor elected to the position by the Council for a four-year term. The full Council retains the power to remove the Leader by simple majority
Remove (e) “the end of each Municipal year”.
- 6.4 Remove (e) “the end of each Municipal year”.

Chapter 2.14 Add “Part III of the Local Government and Public Involvement in Health Act 2007”

Part 3

- 3.3 Replace “Cabinet” with “Leader”.
- 3.4 After “Cabinet” add “meaning the Leader and such Members as the Leader may appoint”.
- 3.6(1) Add “as delegated by the Leader”
- 3.6(2) Add “as delegated by the Leader”.

Part 4 - Council Procedure Rules

- 1.1 Remove (f) “elect the Leader and the Deputy Leader”
Remove (g) “agree the number of Members to be appointed to the cabinet” Replace with “note the decision of the Leader as to the number of Members of the Executive; who he or she has appointed to those roles; the scope of their respective portfolios and the terms of delegation to them and Officers”.

Add 1.3 role of Annual Council Meeting when there has been an ordinary election.

Add “At the first annual meeting after an ordinary election of Councillors the following shall apply in addition to the above:

- (1) elect Leader to serve for a four-year term or until the next annual meeting after ordinary whole Council elections
- (2) Note appointment by the Leader of his or her Deputy Leader to serve for the four-year term
- (3) Note the Leader’s decision as to the number of executive Members, their respective functions and any other executive changes the Leader may have made.

Add 1.4 “the Leader can be removed by a majority vote of the Council. If such a resolution is passed the Council should elect a new Leader at the same meeting, otherwise the Deputy Leader is to act in his place until such time as a new Leader can be elected”.