

MUNICIPAL YEAR 2009/2010 REPORT NO. 31

MEETING TITLE AND DATE:

Council
1 July 2009

REPORT OF:

Director of Finance & Corporate
Resources

Contact officer and telephone number:

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Agenda - Part: 1

Item: 15

Subject:

Local Government and Public Involvement in
Health Act 2007 ("The 2007 Act")

Wards: All

Cabinet Member consulted: Cllr Rye

1. EXECUTIVE SUMMARY

- 1.1 The Local Government and Public Involvement in Health Act 2007 ("the 2007 Act") gives effect to the Government's proposals for reform of the local government system in England and Wales and, for the reform of the current arrangements for patient and public involvement in the provision of health and social care services. This Act follows on from the responses gathered to the Government's White Paper 'Strong and Prosperous Communities'. The 2007 Act places a mandatory duty on Local Authorities to adopt one of two new forms of executive model.
- 1.2 A report was taken to the Constitution Review Group (CRG) that supported the Leader and Cabinet Model and the adoption of the power to remove the Leader.

2. RECOMMENDATIONS

- 2.1 Council is asked to review the options in respect of the new executive arrangements and to indicate its preferred option.
- 2.2 Council is asked to confirm whether, if the Leader and Cabinet model is the preferred option, it would also require the adoption of the power to remove the leader prior to the expiry of the term of office.
- 2.3 Council is asked to confirm that the extent and type of consultation being undertaken is acceptable.

- 2.4 Council is asked to agree that the meeting specially convened to pass a resolution following the consultation take place on the same night as the 11th November meeting of full council with a suggestion that the first meeting starts at 7.00 pm and the second meeting commences on the rising of the first meeting.

3. BACKGROUND

The Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) was enacted in October 2007 and aimed to strengthen public engagement in local affairs and health. While the 2007 Act details a number of issues including Byelaws, Single Member Wards and the creation of Parish Councils within London Authorities this report deals only with the new Executive Arrangements (Section 4 of the 2007 Act).

4. NEW EXECUTIVE ARRANGEMENTS

Background

- 4.1 The Local Government Act 2000 (“the 2000 Act”) provided for three forms of executive arrangements. The Government intends to encourage directly elected leadership and Part 3 of the 2007 Act provides for the discontinuance of the three forms of executive and rewrites the 2000 Act introducing 2 choices of executive model: a leader (new-style) and cabinet executive - or mayor and cabinet.
- 4.2 Councils, such as Enfield, already having a Leader and Cabinet executive must choose a new form of executive albeit that this may consist of a leader and cabinet executive under the new provisions. The obligation to choose a new executive is effected by a resolution of the Council that must be passed, in the case of London Boroughs by 31st December 2009 for implementation post May 2010 local elections.
- 4.3 The Act provides for the general procedure that must be followed in drawing up proposals for a change in governance arrangements, including a referendum where required and consultation of the public and other interested persons on the proposals. A resolution must then be passed to make the proposed change. In addition, provision is also made regarding the implementation of the change.

New Style Leader and Cabinet Executive Key Features

- 4.4 Where whole Council elections are used, as in Enfield, the Council members will elect a councillor as leader for a four year term. The Leader can be removed after consideration by full Council, but only if power to remove a leader is adopted. Although this model is broadly the same as that which Enfield is currently operating, the Council must make proposals if it is to adopt this form of executive under the Act and

vary the arrangements so that they differ from the existing arrangements.

- 4.5 As indicated, the Leader can be removed by the local authority before the end of the term of office if its executive arrangements so provide. It will therefore be necessary for the Council to adopt this power if it so requires and this will need to form part of the proposals.

Mayor and Cabinet Executive Key Features

- 4.6 A Mayor directly elected by the local electors will appoint two or more Councillors to the executive. In this form of executive, the Mayor cannot be unelected. This would represent a change to the form of the current executive arrangements. An elected mayor is not a Councillor. He or she does not have an electoral ward to represent and would operate full time as mayor.
- 4.7 The ceremonial role of the Mayor will continue as a separate function and by a separate person to the directly elected Mayor. It is likely that each role will be given a different name to ensure that no confusion is caused to the public.

Common Features

- 4.8 Both the New-Style Leader or Mayor will initially hold all the Council's executive functions under their personal control. The head of the executive (whether New-Style Leader or Mayor), will be responsible for appointing and removing members to the Cabinet (between 2 and 9 members) from the elected councillors and for determining their roles. He or she will also decide which executive functions are delegated to local committees. Members of the executive 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.
- 4.9 The Leader or Mayor must appoint a deputy who will hold office until the end of the mayor's / leader's term, but a deputy can be removed or replaced mid-term by the Leader or the Mayor.

Timetable For Implementing New Executive Arrangements

- 4.10 See attached Schedule 1

Consultation Process

- 4.11 The Council is obliged, prior to drawing up proposals to consult with the public on the executive arrangements. This may include consulting on a preferred option. Schedule 2 sets out in detail the consultation process and timetable to which the Council will be working and the format of the suggested consultation. However it is envisaged that the consultation will be on the Internet first on 3 July 2009. In addition, the

Area Forums will be consulted, hard copies of the consultation will appear in the Libraries and an Article will appear in Our Enfield on 17 August with a follow up in September 2009.

Schedule 3 of this report includes the draft wording for the website and paper consultation.

Transitional Period

- 4.12 Schedule 4 of the Act (Part 1, s.2) states that the Local Authority, if they are operating an old-style leader and cabinet executive like Enfield, can continue with this form of executive in the transitional period.
- 4.13 The transitional period is the period from 30 December 2007 (that is when s. 62 (5) came into force) to the third day after the day of the relevant elections. "Relevant elections" means the first ordinary elections of councillors of the local authority after the end of the permitted resolution period i.e. the elections in May 2010.

Drawing Up Proposals

- 4.14 The Council must consider the extent to which the proposal would be likely to assist in securing continuous improvements in the exercise of its functions, having regard to economy, efficiency and effectiveness.
- 4.15 The Local Authority must draw up proposals for change including a timetable for implementation of the proposals and details of any transitional arrangements, which are necessary for the implementation of the proposal.
- 4.16 If the proposed change is a different form of executive i.e. a change from a leader to an elected Mayor, the proposals may provide for the change in governance arrangements to be subject to approval in a referendum.

Extraordinary Meeting

- 4.17 Any resolution to make the change in governance arrangements must be passed at a meeting that is specially convened for the purpose of deciding the resolution. It must also be during the permitted resolution period, which for London Boroughs is the **period ending 31 December 2009**. In accordance with Enfield's constitution any changes to the constitution have to be taken to Full Council for a decision.

It is proposed that this meeting is held before the ordinary Council meeting scheduled to take place on 11 November 2009 with a possible start time of 7.00 p.m.

- 4.18 The council will be required to agree a timetable with respect to the implementation of the proposals.

Post resolution

- 4.19 The new executive must be in place by third day after the day of the relevant elections, which in Enfield's case will be 11 May 2010 (the election being on 6 May 2010).
- 4.20 After drawing up proposals the local authority must: publish a document setting out proposals; publish a notice in the newspaper stating that the resolution has been made and the date when the new arrangements will begin; ensure that copies of a document setting out proposals are available at reasonable times at the civic centre for the public to inspect; and, publish a notice in one or more local papers that the proposals are available for inspection.

Changes to the Constitution

- 4.21 Following the resolution on which form of executive to adopt, there will be changes to the constitution that must also be approved by full council.

Election of Leader

- 4.22 The election of the Executive Leader would be at the first annual meeting of a local authority following elections, but if it fails to elect a leader then at a subsequent meeting of the Council.

Election of Mayor

- 4.23 A mayor would be elected at the council elections in May 2010.

Increased Members Powers – Now In Force

- 4.24 Prior to the introduction of Executive arrangements, it was not possible to delegate any matter to a single member. Since the 2000 Act this has been possible but only within the executive. One of the purposes of this Act is to enhance the role of individual members.
- 4.25 Subject to provisions that may be made by the Secretary of State excluding certain functions, this section allows the delegation to individual members of functions so far as they relate to their division or ward – that is “all the duties and powers of a local authority, the sum total of the activities Parliament has entrusted to it¹”
- 4.26 The Mayor or Leader has the power to delegate executive functions, but they cannot use this power if the member in question is a member of the executive to whom the power could be delegated under the 2000 Act.

¹ HL, *Hazell v Hammersmith and Fulham* RLBC [1992] A.C 1 p29

- 4.27 This is a discretionary matter for the executive to take a decision on. It is not time limited and under the new arrangements it will be for the new leader/mayor to delegate matters.

5. ALTERNATIVE OPTIONS CONSIDERED

The Council has no alternative but to adopt one or other of the new executive arrangements.

6. REASONS FOR RECOMMENDATIONS

To note the proposals in the Act, particularly the Executive arrangements and to recommend a preferred option for public consultation.

7. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS

7.1 Financial Implications

The proposals will be met from existing resources.

7.2 Legal Implications

The Local Government and Public Involvement in Health Act 2007 imposes a duty on the Council to move to one of the two executive arrangements proposed and to engage the local community in the consultation process. This will therefore meet the obligations contained in the Act.

7.3 Property Implications

None.

7.4 Risk Management Implications

- 7.4.1 Clearly the main risk to the Council would lie in not implementing this legislation as the Council has no alternative but to adopt one or other of the new executive arrangements.

- 7.4.2 There are however some practical considerations that do need to be addressed: Should the New Style Leader option be adopted, it would not be possible for full Council to remove the leader unless the power to remove is adopted. Also, it is essential to monitor progress so that the preferred option is in place for May 2010.

8. PERFORMANCE MANAGEMENT IMPLICATIONS

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

- Aim 5e - provide effective community leadership and promote active citizenship and involvement in decision-making.
- Aim 5g - ensure the Council maintains strong corporate governance in line with more demanding legislative requirements.

9. COMMUNITY IMPLICATIONS

Positive Impact

- 9.1 Under the Local Government and Public Involvement in Health Act 2007, the Council is required to adopt one of two new forms of executive model – Members of the public will be given the opportunity to give their views on the preferred option during the mandatory consultation period.
- 9.2 If the Council decides to put in place new arrangements for the governance of its area at community level ie parish councils, this would result in more empowerment and decision-making being transferred to local people. Members of the community can initiate a review of community governance by petitioning the Council, but the authority will make the final decision.

Background Papers

Published Papers

SCHEDULE 1

TIMETABLE FOR IMPLEMENTING THE EXECUTIVE ARRANGEMENTS

July 2009

Council meeting on 1 July 2009

Consultation process to begin on Friday 3rd July 2009 and continue for a period of 15 weeks until 16 October 2009.

October 2009 – December 2009

Review results of the Consultation

Report to be prepared to go to Constitution Review Group on 20 October 2009 and full Council on 11 November 2009

Resolution to be passed by **31 December 2009**.

SCHEDULE 2

CONSULTATION PROCESS

Guidance and good practice dictates that we must consult for a minimum of 12 weeks and it is proposed to do this for a 15 week period between 3rd July and 16th October 2009 following the Council meeting on 1st July.

- The form of wording for the Consultation document is attached at Schedule 3.

The Council must determine those groups it wishes to consult being some or all of residents, Members, the Voluntary and Community Sectors and Strategic Partners. It should be noted that the Act requires the Council to “take reasonable steps to consult the local government electors for, and other interested persons in, the Authority’s area”. Accordingly, although it appears unnecessary to consult with all of the aforementioned groups, the Council may nonetheless opt to do this.

It is proposed to consult the electorate and other interested persons using the following methods:

- Questionnaire on Council’s website.
- Publication in the August issue of ‘Our Enfield’ magazine, which is delivered to households on August 17th ; the preferred format and content of the magazine is to be agreed. The editorial deadline for the August edition is 17th July. A shorter, follow-up article, reminding readers of the consultation and the deadline for responses, will feature in the September edition which will be delivered to households on 21st September 2009.
- Consultation at the following Area Forum meetings (hard copy questionnaires to be made available).
 - Tuesday 14 July - Chase, Southbury and Town
 - Wednesday 15 July - Edmonton Green, Haselbury and Upper Edmonton
 - Wednesday 22 July - Enfield Highway, Enfield Lock and Turkey Street
 - Tuesday 8 September - Cockfosters, Grange and Highlands
 - Wednesday 30 September - Jubilee, Lower Edmonton and Ponders End
 - Tuesday 13 October - Bowes, Southgate and Southgate Green
 - Thursday 15 October - Bush Hill Park, Palmers Green and Winchmore Hill

- Hard copies of the questionnaire will be provided at the Area Forums and at the main libraries and civic offices. (Freepost will be included for returning questionnaires.)
- Memo to partners/stakeholders,
- Consultation with the Council's strategic partners, the Voluntary and Community sector and race forum.

Hard copy responses will be sent to Democratic Services who will input and collate information. The consultation will include an equal opportunities form but copies in additional languages will not be provided.

Draft Consultation Document



For help with this document, call 020 8379 5119, minicom 020 8379 5119 or email enfield.council@enfield.gov.uk

Have Your Say On How The Council Takes Decisions New governance arrangements for Enfield - Consultation

Why are we consulting now?

Under the Local Government and Public Involvement in Health Act 2007, the Council is required to make changes to its current governance arrangements (the way in which the Council is run and takes decisions). It is therefore important that the views of local residents and other interested parties help inform the final decision as to which new governance model Enfield Council should adopt in future.

How the council currently works

Enfield has 63 locally elected councillors (who are also known as ‘Members’) from 21 wards, that is three members in each ward. The councillors are elected to make decisions to improve local services on behalf of local people.

Since May 2002, Enfield has operated a Cabinet and Leader model of decision-making. We were one of the first councils to modernise our decision making process. The Cabinet is made up of 8 councillors, plus the Leader, from the leading political party in the borough.

Enfield has a Ceremonial Mayor. The Mayor chairs full Council meetings and has a ceremonial role opening events or otherwise representing the Council as a whole.

Cabinet members are given powers to agree matters within their own portfolio areas.

What are the new proposals?

The Local Government and Public Involvement in Health Act 2007 requires Councils to choose between one of two models:

Option 1 - Leader and Cabinet

This is similar to the council's current arrangements whereby the Leader of the Council is elected by full Council (This is a meeting of all the 63 Councillors from the 21 Wards in Enfield). However, under the new proposal the Leader will be elected for a four-year term rather than being elected annually. The Leader will be able to appoint up to nine other Councillors, including a deputy leader who will form the Cabinet. Currently Cabinet is appointed by full Council. Full Council will have the power to remove the Leader from office.

Option 2 - Directly elected Mayor and Cabinet

This is an alternative form of Leadership in which a Mayor would be directly elected by voters for a four-year term. An elected Mayor is not a Councillor and does not necessarily have to be a member of a political party. He or she does not have an electoral ward to represent and would operate full time as Mayor. The Cabinet would consist of up to 9 elected councillors, chosen by the Mayor.

The Council's preferred option is ?????.

Have your say....

We would like to hear your views on how Enfield Council should be run in the future.

Please tell us what you think by completing our short questionnaire. [Click the link below to access the questionnaire:](#)
Questionnaire

The Council will consider the results of this consultation when deciding which of the two options for new executive arrangement will be adopted in Enfield at a specially convened Full Council meeting to be held on 11 November 2009.

If you would like further information about the consultation on New Governance Arrangements please email Stephen Addison or telephone 020 8379 4097

The closing date is 16 October 2009.



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