

NAME OF COMMITTEE	COUNCIL
DATE	9 th September 2010
REPORT TITLE	New Executive Arrangements
Report of	Leader
WARDS AFFECTED	All

Summary of report:

Local authorities operating leader and cabinet executives are required to move to a new style of executive arrangements which are to come into force after the election of the new authority in May 2011. This report seeks Council's approval to go to public consultation on new arrangements.

Financial implications:

The cost has not been determined but as proposed can be contained within current budgets held by the Monitoring Officer for Member-related expenditure.

RECOMMENDATION:

That the Council approve for public consultation the proposals for a new-style leader and cabinet executive as set out in paragraph 3.1 of the report

Officer contact:

Delyth Jenkins Evans, Head of Corporate Services. Tel (01803) 861364

1. BACKGROUND

1.1 The current type of "executive arrangements" – by which term we mean the system by which the Council carries out its business, or "functions" – were laid down in 2000. The legislation changed in 2007 and now local authorities which wish to operate with an executive must choose to adopt one of two types:

(a) elected mayor and cabinet

This is a directly elected mayor operating with a cabinet of between two and nine councillors appointed by the mayor, carrying out between them all the functions delegated to the executive by the Council.

(b) new leader and cabinet model for English authorities

This is a leader elected by the whole Council operating with a cabinet of between two and nine councillors appointed by the leader carrying out between them all the functions delegated to the executive by the Council.

The former third option of a mayor and council manager has been abolished. Authorities operating "fourth option" arrangements (old-style committees) are not affected.

1.2 The new English model for a leader and cabinet executive differs from the current model in that:

- The leader is to be appointed for four years, not annually;
- His/her term of office extends beyond the date three days after the date of the next election, when all other councillors retire, until the AGM of the next council (i.e. in May 2015);
- The leader can only be removed from office by resolution of the Council;
- The leader is responsible for arranging for the discharge of the executive functions –
 - personally; or
 - by the executive corporately; or
 - by another member of the executive (a "portfolio holder" – the leader designates the portfolios); or
 - by a committee of the executive; or
 - by an officer; or
 - by a combination of any of these.
- The leader, the executive, a portfolio holder or a committee of the executive may all arrange for any of their functions to be carried out by officers;
- The leader must appoint (and may remove) from the cabinet a deputy leader who holds office for the same period as the leader and who must act in the office of leader in the leader's absence.

2. ISSUES FOR CONSIDERATION

2.1 As a district council currently operating executive arrangements, the Council must pass a resolution to move to either an elected mayor and cabinet executive, or a new style leader and cabinet executive. There must first be a consultation period and the resolution must be passed before 31st December 2010. If we fail to do it, the Secretary of State can impose a leader and cabinet executive by Order.

Timetable for change

- 2.2 The Act prescribes a timetable for moving to the new executive arrangements:
- 2.2.1 the Council must draft proposals for change including a timetable for the implementation of the proposals and any transitional arrangements;
 - 2.2.2 the Council must then consult local government electors and “other interested parties” on the preferred proposition, allowing sufficient time for responses;
 - 2.2.3 the Council must consider the results of the consultation bearing in mind the obligation to ensure that the new proposals should aim to assist in securing continuous improvement in the way that the Council’s functions are exercised;
 - 2.2.4 the Council should then publish the adopted arrangements in the prescribed manner and implement them as from May 2011.
- 2.3 The first requirement is to approve today one of the two forms of executive arrangements for the purposes of consultation, namely a leader and cabinet executive in the form set out below.
- 2.4 There is no apparent desire for an elected mayor in the South Hams. But that option should be included in the consultation. A mayor has the same powers of an executive leader as are spelt out above.

3. OTHER HEADINGS as required

- 3.1 The form of executive arrangements that it is proposed should be offered for public consultation is a new-style leader and cabinet executive in this form:
- Leader appointed for four years from the AGM in 2011 until the AGM in 2015, subject to Council resolution
 - Leader and cabinet of up to nine Executive Members, each to have personal executive powers with up to £10,000 revenue spend on any one project in any part of the District
 - Leader and Executive Members may delegate decisions to officers
 - All other decisions to be taken -
 - by the Leader and cabinet sitting together (as now) or
 - delegated to a committee of the executive, if so determined by the executive
 - Portfolios to be settled by the Leader in his absolute discretion from time to time
 - Leader will appoint a deputy leader for the same period as himself with powers to act in the Leader’s absence.

- 3.2 The range of matters to be determined by the executive and the other bodies of the Council will be considered as part of the current review of the Constitution.
- 3.3 It is proposed that the consultation should be commenced as soon as possible after this meeting and the outcome reported to Council for approval on 16th December (the legislation requires a specially convened meeting but it can be combined with the one already scheduled for that date). A draft of the consultation paper is attached as Appendix A.

4. LEGAL IMPLICATIONS

- 4.1 As indicated above it is mandatory that the Council move to new-style executive arrangements as from next May. The Council is required to consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 4.2 Members should bear in mind that the consultation may trigger a petition from the public for a referendum for a mayor under other provisions of the same legislation. If that should arise then the proposals set out above for a leader and cabinet executive will become the “fall-back” model to be adopted in the event that the elected mayor model is rejected.
- 4.3 In a recent letter to the leaders of all district councils, the Minister of Housing and Local Government indicated that as the Government proposes to introduce legislation permitting councils wider scope to choose their own arrangements, which will require fresh consideration next year, the consultation in this round need not be particularly extensive nor costly. However, there are a number of legal cases which together prescribe how consultation should be conducted and these should not be ignored. In summary –
- consultation must clearly set out what is being proposed;
 - people’s views must be sought at a time when it is still possible for the authority to change its mind; and
 - the results of the consultation must be properly considered when the authority comes to make up its collective mind.
- 4.4 Since the proposed arrangements do not differ significantly from the current arrangements, except in respect of the limited powers proffered to the individual Executive Members, it is appropriate for consultation to be carried out by publishing a clear summary of the proposed changes in a press release and other appropriate media, with comments invited by post or through the Council’s website. It could also be the subject of discussion at parish cluster meetings.

5. FINANCIAL IMPLICATIONS

The cost has not been determined but as proposed can be contained within current budgets held by the Monitoring Officer for Member-related expenditure.

6. RISK MANAGEMENT

The risk management implications are:

Opportunity	Issues / Obstacles	Benefits
Opportunity to update and improve the efficiency of the arrangements for conducting the Council's business and affairs	<p>The timetable is constrained but a period of approximately ten weeks is considered adequate for the issues to be properly consulted upon and responses furnished</p> <p>Some member training will be required (it will be built into the induction training for new members)</p> <p>Executive members' individual decisions will still be required to be published and may be called in by Scrutiny</p>	Extending the powers of individual members of the executive to take decisions should mean decisions are made more quickly.

Corporate priorities engaged:	CP5: working with others to improve access to key Council services
Statutory Powers	Local Government Act 1972 as amended by the Local Government and Public Involvement in Health Act 2007
Considerations of equality and human rights:	The proposals in this report do not engage issues of equality or human rights save that consultation will take into account the needs of disadvantaged groups
Biodiversity considerations:	The proposals in this report do not engage issues of biodiversity
Sustainability considerations:	The proposals will be canvassed with due regard to sustainability, using electronic media wherever and so long as that is compatible with the proper engagement of the whole community
Crime and disorder implications:	The proposals in this report do not engage issues of crime and disorder
Background papers:	Council Constitution Acts of Parliament – as above Letter from Grant Shapps MP to leaders of

	District Councils in England, 7 July 2010
Appendices attached:	A: Proposed consultation paper

DRAFT OF CONSULTATION PAPER TO BE PUBLISHED

NEW ARRANGEMENTS FOR EXECUTIVES

Under legislation passed by the last Government, local authorities are required to review the way they operate and must adopt new arrangements to come into effect after the local elections in May 2011.

Since 2000, South Hams District Council has had a Council Leader and a Cabinet of eight councillors. It proposes to continue with a leader and cabinet, but with some extensions to the arrangements:

- The Leader will be appointed for four years, from the AGM in 2011 until the AGM in 2015
- The Leader will appoint up to nine other councillors to form the cabinet (called the Executive Members)
- The Leader and each of the Executive Members will have personal executive powers to spend up to £10,000 on any one project in any part of the District
- All other decisions will be taken either -
 - by the Leader and Executive Members sitting together (as they do now) or
 - delegated to a committee of the executive
- The portfolios to be held by the Executive Members will be settled by the Leader from time to time
- The Leader will appoint a deputy leader for the same period as himself with powers to act in the Leader's absence.

The Council is entitled to adopt these proposals without submitting them to a referendum. But South Hams electors may if they wish submit a petition to the Council requiring it to hold a referendum on whether there should be directly-elected mayor, instead of a leader and cabinet. An elected mayor would have the same powers as a leader and sit with a cabinet of up to nine councillors. There must be at least 4092 signatures (5% of the electorate) on a petition before a referendum can be called. If a referendum proposing a mayor is called, but that proposal is rejected, the Council would adopt the arrangements set out above.

Timetable for change

The following timetable is proposed:

9 th September 2010	South Hams District Council approves proposal for consultation
13 th September 2010	Consultation period begins

30 th November 2010	Consultation period ends
16 th December 2010	South Hams District Council considers results of consultation and passes a resolution to adopt a new form of executive arrangements
January 2010	New arrangements are published
26 th May 2010	New arrangements are implemented (as from the Council AGM)

Responses to this consultation should be sent, no later than 30th November 2010, to:

The Head of Corporate Services,
South Hams District Council,
Follaton House,
Plymouth Road,
TOTNES
Devon
TQ5 9NE

or emailed to monitoring.officer@southhams.gov.uk