

## NEW EXECUTIVE ARRANGEMENTS

### 1. INTRODUCTION

- 1.1 The Local Government and Public Involvement in Health Act 2007 requires that, from three days after the District Council elections on 5 May 2011, the Council ceases to operate its present executive arrangements, and starts to operate one of the following two forms:

A Leader and Cabinet Executive, consisting of a member of the Council who the Council elects as Leader, and between 2 and 9 Council members appointed to the Cabinet by the Leader (the “strong Leader plus” model); or

A Mayor and Cabinet Executive, consisting of a directly elected Mayor and between 2 and 9 Council members appointed to the Cabinet by the Mayor (the “Mayor model”).

- 1.2 The present Government has indicated that it will pass legislation to give Councils more flexibility to decide how they operate, including reverting to the Committee system if they wish to do so. Provisions for this should be included in a Localism Bill, publication of which is expected soon. This Bill will probably not become law until 2012, and in the meantime Councils have been told that they have to comply with the requirements of the 2007 Act and implement the new arrangements. Continuing with the present arrangements is therefore not an option. However, the new arrangements may well themselves be open to change within the next couple of years.
- 1.3 These provisions cover the Council’s executive arrangements only. The full Council’s overall responsibility for approving the budget and major policies, and the determination of regulatory matters such as planning and licensing by proportionally constituted Committees, are not affected.

### 2. CONSULTATION

- 2.1 While there is a statutory duty to consult before drawing up proposals, the Minister for Housing and Local Government has stated that, in the light of the priority of cutting out wasteful spending and the Government’s commitment to giving Councils more discretion on their governance arrangements, the case was strong for consultation on the 2007 Act provisions to be at the minimal cost option, and that in his view no more than a small newspaper advert or press release on the Council’s website may be proportionate.
- 2.2 In the light of this, consultation at zero cost was undertaken via an article on the website, accessible direct from a banner on the home page. The consultation period was from 20 September to 29 October 2010.
- 2.3 One response was received, supporting the Leader model. Anecdotal evidence is that other Councils that undertook low key consultation obtained very few, or (in two known cases) no, responses. Even Councils that undertook more extensive consultation such as placing public notices in the press, issuing press releases, and writing to partner organisations and Parish Councils tended to receive only a few tens of responses.

### **3. FEATURES OF THE TWO OPTIONS**

#### **3.1 Strong Leader plus model**

This is similar to the Council's current arrangements, but with the following differences:

- 3.1.1 The Leader is elected for 4 years, rather than annually. (Although the Government has stated its intention to remove the necessity to elect a Leader for 4 years when the forthcoming Localism Bill becomes law). His/her term of office lasts until the first annual meeting of the Council after his retirement as a Councillor at the end of the 4 years.
- 3.1.2 The Leader holds ultimate responsibility for all the functions carried out by the Cabinet and its members, and decides the content and number of Portfolios and how executive decision-making powers are delegated, as well as appointing members to the Cabinet.
- 3.1.3 The post of Deputy Leader becomes a formal appointment. If the Leader is unable to act, or the office of Leader becomes vacant, the Deputy Leader assumes all the Leader's statutory functions and must act in the Leader's place.
- 3.1.4 The Leader may be removed from office by resolution of the Council. (This Council already has such a provision in its Constitution).

#### **3.2 Mayoral model**

The Mayoral model is similar to the Strong Leader plus model, but with two important differences:

- 3.2.1 The Mayor is directly elected, in a separate election to that for District Councillors. The post of Mayor therefore exists in addition to the 60 District Councillors, and he/she does not represent any particular Ward or area of the Council. He/she may or may not be a member of a political party.
- 3.2.2 The Mayor cannot be removed from office by the Council.

The Council could retain the position of Chairman for ceremonial purposes if it transferred to the Mayoral option.

### **4. POTENTIAL ADVANTAGES AND DISADVANTAGES OF EACH OPTION**

- 4.1 Commentators have highlighted the following perceived advantages and disadvantages of the strong Leader plus versus the Mayoral system for Councils that currently operate a Leader and Cabinet executive.

#### 4.2 Strong Leader plus

Advantages	Disadvantages
Closest to existing arrangements, which are familiar, and work.	No direct personal mandate to the Leader from the electorate
No additional expenditure	
Full Council retains right to remove Leader	

#### 4.3 Mayor

Advantages	Disadvantages
Residents directly choose who leads the Council, so Mayor has strong personal mandate	Additional cost of Mayoral election, and possibly costs of supporting office of mayor
Clear line of accountability	Council's inability to remove Mayor places too much power in the hands of one person
	Potential governance problems or "impasse" if Mayor cannot command support of majority of Councillors
	Risk of "single issue" candidate being elected

4.4 There is a provision in legislation requiring the Council to hold a referendum on the question of whether to have a directly elected mayor if a petition signed by 5% or more of the District's electorate (currently just over 7,000) is received requesting this. So if the Council adopts the strong Leader plus model now, this does not rule out the possibility of the public obliging the Council to hold a referendum on a change to the Mayoral model at any stage, if a sufficient number of voters support this.

### 5. DISCRETIONARY EXECUTIVE FUNCTIONS

5.1 The 2007 Act states that the proposals for new executive arrangements must state the extent to which functions specified in the Functions and Responsibilities Regulations are to be the responsibility of the executive. Those regulations in general lay down which of the Council's functions are, and which are not, executive functions, and the Council has no discretion about these. However, there are a number of areas in which individual Councils can choose whether the matter is or is not to be an executive function. The Council previously decided that the list of matters set out in Appendix 1 to this report were to be executive, rather than non-executive functions. A formal resolution by the Council is required in this respect for the purposes of the new arrangements.

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## **6. CABINET RECOMMENDATION/NEXT STEPS**

- 6.1 The Cabinet at their meeting on 1 December 2010 considered this report and supported the recommendations detailed below. Following this a notice has been published in Lymington and New Milton Advertiser and Times newspaper describing the main features of the proposals and where the full proposals can be inspected. It should be noted that there is no further public right to comment on the proposals.
- 6.2 The proposals are now before a special meeting of the full Council as required by the legislation. Once the proposals are approved a further newspaper notice has to be published.
- 6.3 Changes to the Council's constitution from May 2011 will be necessary, even if the Strong Leader plus model is adopted. For example, the scheme of delegations to Portfolio Holders will be in the Leader's discretion rather than approved by the Council, as will the number and subject matter of Portfolios.

## **7. FINANCIAL IMPLICATIONS**

- 7.1 There will be costs associated with the placing of newspaper notices. This need only be minimal (c. £200-£300). (The law simply requires that a notice is published "in one or more newspapers circulating in [the Council's] area").
- 7.2 If the Mayoral option is preferred, there would be additional costs of a mayoral election, which could be in excess of £200,000 if not combined with another election, or in excess of £130,000 if combined. There may also be costs associated with mayoral allowances and supporting the office of mayor, but these cannot be quantified at this stage.

## **8. ENVIRONMENTAL/CRIME AND DISORDER IMPLICATIONS**

- 8.1 None arising directly from this report.

## **9. EQUALITY AND DIVERSITY IMPLICATIONS**

- 9.1 None arising directly from this report.

## **10. CONCLUSION**

- 10.1 The 2007 Act requires this Council to move to either the "Strong Leader plus", or the "Mayoral", model of executive arrangements from May 2011. However, in the light of comments made by the present Government, the new arrangements might be short-lived.
- 10.2 The Leader and Cabinet model has worked satisfactorily in this District for almost 10 years, and is the least costly option to operate. No groundswell of opinion in favour of a change to the Mayoral system is at present apparent. In these circumstances, it is suggested that, of the two options currently open to it, the "Strong Leader plus" model is the more appropriate one for this Council to adopt.

- 10.3 The differences of substance between the Strong Leader plus model and the system the Council currently operates are:
- (a) The Leader would be elected for a four year term, instead of annually;
  - (b) The Leader, rather than full Council, would decide on the number and content of Cabinet portfolios;
  - (c) The Leader, rather than the Cabinet, would decide on how executive decision-making powers were to be delegated; and
  - (d) The office of Deputy Leader would become a formal appointment, and the post-holder would assume all the Leader's powers if the Leader was unable to act.

## 11. RECOMMENDATION

- 11.1 That the new Leader and Cabinet option for executive arrangements, to operate from the May 2011 quadrennial elections, be agreed;
- # 11.2 That the list of functions at Appendix 1 to this report (functions which may, but need not, be the responsibility of the executive) continue to be executive functions; and
- 11.3 That the Head of Legal and Democratic Services be authorised to make any necessary amendments to the Council's constitution directly consequent on the recommendations above being approved.

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### Background Papers:

Published material

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**FUNCTIONS ALLOCATED UNDER SECTION 11(2)(b) LOCAL GOVERNMENT ACT 2000  
AND REGULATION 3 AND 4 OF THE LOCAL AUTHORITIES  
(FUNCTIONS AND RESPONSIBILITIES) REGULATIONS 2000**

**A. Regulation 3 (Schedule 2) Functions – Functions which may be (but need not be)  
the responsibility of an Authority's Executive**

1. Any matter under a local Act
2. Discharge of any functions relating to contaminated land.
3. The discharge of any function relating to control of pollution or management of air quality.
4. The service of an abatement notice in respect of a statutory nuisance.
5. The passing of a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.
6. The inspection of the authority's area to detect any statutory nuisance under Section 79 of the Environmental Protection Act 1990.
7. The investigation of any complaint as to the existence of a statutory nuisance under Section 79 of the Environmental Protection Act 1990.
8. The appointment of any individual:-
  - (a) to any office other than an office in which he is employed by the authority;
  - (b) to any body other than
    - (i) the authority,
    - (ii) a joint committee of two or more authorities;or to any Committee or Sub-Committee of such a body,and the revocation of any such appointment.
9. The making of agreements for the execution of highways works
10. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities
11. Any function of the Council in its capacity as a harbour authority (to the extent that the function does not fall within paragraph 1. of this Annex)
12. The obtaining of information as to interest in land, or of particulars of persons interested in land, under section 330 of the Town and Country Planning Act 1990 or section 16 of the Local Government (Miscellaneous Provisions) Act 1976, in connection with the functions of the Cabinet.