

EXETER CITY COUNCIL

**EXECUTIVE
7 DECEMBER 2010**

**COUNCIL
14 DECEMBER 2010**

**NEW EXECUTIVE ARRANGEMENTS UNDER THE LOCAL GOVERNMENT AND
PUBLIC INVOLVEMENT IN HEALTH ACT 2007**

1.0 PURPOSE OF REPORT

1.1 To highlight the requirement set out in the Local Government and Public Involvement in Health Act 2007 ("The Act) for authorities to change their Executive Arrangements and move towards either:

(a) A new style of Leader and Executive where the Strong Leader is elected by members of the Council for a four year term or until the leader's term of office ends. The Executive members are appointed by the Leader from members of the Council or

(b) A directly elected Mayor and Executive where the Mayor is elected for a period of four years. The Executive members are appointed by the Mayor from members of the Council.

1.2 The Act requires a meeting of the Council to take place before 31 December 2010 to pass a resolution to move to one of the models set out in paragraph 1.1 above with effect from the third day after Council elections in May 2011.

1.3 Notwithstanding the requirement of the Act identified above, the coalition government has publicised its intention to revoke the relevant provisions in the Act which requires a move to the new style of Executive arrangement.

2. BACKGROUND INFORMATION

2.1 Members will recall that the Local Government Act 2000 introduced fundamental changes to the Council's governance arrangements. In place of the committee system, the 2000 Act introduced a separation of political management arrangements such that there was a clear separation of functions between policy setting, decision making and scrutiny. This meant Councils such as Exeter were obliged to adopt one of the following three Executive models:

- Elected Mayor and Executive Cabinet.
- Leader and Executive Cabinet.
- Elected Mayor and Council Manager.

- 2.2 Exeter City Council elected to adopt the Leader and Executive Cabinet model with the Executive taking collective responsibility for decision making. Under the Council's current constitutional arrangements, the Leader of the Council together with eight other councillors are appointed annually to serve on the Executive. The Leader would normally hold office until the next annual meeting of the Council unless he/she resigns or is suspended from office.
- 2.3 The previous government argued in its White Paper "Strong and Prosperous Communities" that the current Leader and Executive model hampers decision making because the Leader is not authorised to act alone or choose his/her Executive members. In addition, they argued that a Leader facing re election each year may find it difficult to push through decisions which may be unpopular in the short term. As a result, this model has been removed by the Act with effect from May 2011 hence the need to move to a new style Executive.
- 2.4 It is worth noting that the City Council has received a formal letter registering a petition for a directly elected mayor in Exeter from the English Democrats. It would appear that identical registrations are being lodged with a significant number of councils across the country.
- 2.5 The number of signatories needed on such a petition for Exeter is 4315. If 4315 or more valid signatories emerge (after checking against the electoral register) then a referendum must be held. If the referendum resulted in a 'yes' vote then the City Council would be obliged to hold a mayoral election.

3. **THE CURRENT POSITION**

- 3.1 The Rt Hon Grant Shapps MP wrote to all council leaders on the 7 July 2010. A copy of this letter is attached to this report as appendix 1. It states that the requirements of the Act

"... necessarily remain in force unless and until that Act is repealed by fresh primary legislation. It is our intention to do this...

In considering how to approach these requirements you will wish to have regard to the circumstances of today, including both the priority of cutting out all wasteful spending and the Government's commitment to allow councils to return to the committee system, should they wish to, and on elected mayors. We intend to remove the necessity to elect a leader for four years. We intend to provide for these commitments in our Localism Bill to be introduced later in this Parliamentary session. This may mean that the Governance model you may adopt in May 2011 may be further changed within a year or so..... Accordingly, the case is strong for any consultation now about future governance arrangements to be the minimal cost option. It will be for each authority to decide, but in our view no more than a small newspaper advert/article or press release on your website may be proportionate and right in these circumstances".

4. **THE NEW EXECUTIVE MODELS**

- 4.1 Unless it is repealed, the Act requires the City Council to move to a new style Executive with effect from the third day after Council elections in May 2011. The Council would be in breach of this legal obligation if it fails to bring about the prescribed changes by the timetable set out in the Act.
- 4.2 In the event the Council fails to implement the changes, the Act provides for the Secretary of State to intervene. Whilst such an intervention seems unlikely, failure to resolve to move to a new style of Executive by the 31 December 2010 will bring with it a much greater risk that all decisions made by the Executive after May 2011 could be subject to challenge on the basis that the new Executive is not properly and legally constituted.
- 4.3 The new style Executive must be either one of the following:
- (a) New style Strong Leader who chooses his/her own Executive Cabinet – that is an indirectly elected Leader with a four year term.
- (b) Directly elected Mayor and Executive Cabinet with a four year term.
- 4.4 The Act does not change any other element of the constitutional framework introduced by the 2000 Act. In other words, full Council would continue to set the council tax, approve the budget and formulate the policy framework within which Executive decisions have to be made.
- 4.5 No changes in relation to Scrutiny arrangements are proposed. In addition, “regulatory functions” such as Planning and Licensing remain the same since they are not the responsibility of the Executive.

5. **New style Strong Leader and Executive Model:**

- 5.1 Under the new model, the Leader would continue to be elected by full Council although his/her term of office would be extended to four years (or until his/her term of office ends) instead of the one year currently prescribed.
- 5.2 Under this new model, the Leader could:
- Be responsible for all Executive functions.
 - Determine the size of the Executive having a maximum of 10 and a minimum of 2 members.
 - Appoint/remove a Deputy Leader and Executive members.
 - Decide whether to delegate functions to the Executive, individual councillors and officers.
- 5.3 Full Council would be able to remove the Leader provided the Council’s constitution provided for this. In the event members decide to move to a Strong Leader model, then it is suggested that Council’s constitution should be amended to provide for this.

5.4 How would this affect the way the Executive works in Exeter?

5.5 Exeter City Council currently requires all the political groups to be represented on the Executive made up of up to ten members. The Leader, together with eight other Members are appointed to the Executive by full Council on the nomination of the Leader and group Leaders. In the event that Members decide to opt for the Strong Leader Model, members could agree to continue with this arrangement by way of “convention” which would be included in the Constitution.

5.6 In addition, Members can agree to continue Exeter’s current practice of having collective decision making at Executive i.e. no individual member shall have power to make decisions on his/her own. Again this could be catered for by way of “convention”.

5.7 The role of the Lord Mayor would continue unchanged under this new style of Executive arrangement.

6. Directly elected Mayor and Executive:

6.1 Under this new model, the directly elected Mayor would be chosen through an election by the electorate.

6.2 The Mayor would be elected for a four year period. However, he/she could not be removed by full Council.

6.3 Like the Strong Leader and Executive model, the directly elected Mayor would have the same powers as the Leader as is set out in paragraph 5.2 above.

7. CONSULTATION

7.1 The Act requires public consultation seeking the views of the local residents as to what their preferred model would be.

7.2 The Council must have regard to the consultation response and must take this into account when reaching a final conclusion as to which model to adopt. The Council is entitled to take other factors into account and has a specific duty to consider the extent to which the proposals if implemented would be likely to assist in securing continuous improvements in the way in which the Council’s functions are exercised having regard to economy, efficiency and effectiveness.

7.3 Given the Government’s published intention to revoke the legal requirement to move to the new Executive arrangements, there is clearly a balance to be struck between the legal requirement to move to a new Executive model to avoid the possibility of future challenges to Executive decisions after May 2011 and the desirability of ensuring tax payers’ money is not wasted on unnecessary consultation.

7.4 The Council must be prepared to move to the new Executive arrangements by May 2011 in the event this legislation is not repealed. As a result, a consultation exercise seeking the views of the local electorate as to which style of Executive model to adopt was commenced by way of Media release dated 21 October and sent to:

- Express & Echo
- Western Morning News
- BBC T.V Spotlight
- BBC radio Devon
- Heart FM
- Exeter FM
- Exeter City Council's web site

A copy of this media release is attached to this report as Appendix 2. The consultation responses received are set out in Appendix 3 to this report.

7.5 Once the new style Executive arrangement has been agreed by Council, a public notice in one or more of the local newspapers must be published setting out:

- (a) The main feature of the new executive arrangement.
- (b) When the new Executive arrangement will come into force.
- (c) The address of the Council's principal office and also stating that the provisions of the new arrangement will be made available at the office for inspection on an appointed date specified in the notice.

8. **RECOMMENDED that:**

8.1 Having regard to the views of interested persons and the electorate into account, Executive recommends to Council one of the following styles of Executive arrangement to be adopted with effect from May 2011:

- (a) The Strong Leader with Executive model or
- (b) The directly elected Mayor with Executive model.

8.2 In the event that the Strong Leader model is adopted and in the event the legislation is not repealed in time, then the Assistant Chief Executive be authorised to make any associated and necessary changes to the Council's Constitution in accordance with paragraphs 5.3, 5.5 and 5.6 above to be effective from May 2011.

8.3 That the Assistant Chief Executive be authorised to publish a notice in accordance with paragraph 7.5 of this report.

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Corporate Services Directorate

The Local Government and Public involvement in Health Act 2007.
The Local Government Act 2000