

Taunton Deane Borough Council

At a meeting of Taunton Deane Borough Council held in the John Meikle Room, The Deane House, Belvedere Road, Taunton on 14 December 2010 at 9.15 pm. (Meeting No. 2)

Present The Mayor (Councillor Horsley)
 The Deputy Mayor (Councillor Brooks)
 Councillors Mrs Allgrove, Beaven, Bishop, Bowrah, Cavill, Coles,
 Mrs Copley, Mrs Court-Stenning, Critchard, Denington, D Durdan,
 Ms Durdan, Edwards, Gaines, Govier, Guerrier, Hall, Hayward,
 Henley, Mrs Herbert, Mrs Hill, House, Miss James, R Lees,
 Mrs Lees, Mrs Lewin-Harris, McMahon, Meikle, Morrell, Murphy,
 O'Brien, Paul, Prior-Sankey, Slattery, Mrs Smith, P Smith,
 Mrs Stock-Williams, Stone, Stuart-Thorn, Swaine, Thorne, Watson,
 Mrs Waymouth, Ms Webber, A Wedderkopp, D Wedderkopp,
 Mrs Whitmarsh, Williams and Mrs Wilson

Also present : Mrs Anne Elder, Chairman of the Standards Committee.

1. Apologies

Councillors Farbahi, Mrs Floyd, C Hill, Mrs Messenger and Mullins.

2. Declarations of Interest

Councillors Brooks, Govier, Prior-Sankey, Mrs Waymouth and D Wedderkopp declared personal interests as Members of Somerset County Council. Councillor Henley declared personal interests both as a Member of the Somerset County Council and as an employee of Job Centre Plus. Councillor McMahon declared personal interests both as a Member of the Somerset County Council and as a Director of Southwest One. Councillor Slattery declared a personal interest as an employee of Sedgemoor District Council. Councillor Miss James declared a personal interest as an employee of Viridor. Councillors Mrs Court-Stenning, Mrs Hill, Mrs Smith and Stone declared personal interests as employees of Somerset County Council. Councillors Hayward and Mrs Whitmarsh declared personal interests as the Council's representatives on the Somerset Waste Board. Councillor Mrs Wilson declared a personal interest as an employee of Job Centre Plus. Councillor Watson declared a personal interest as the alternate Director of Southwest One.

3. **Recommendation to Council from the Executive**

New Executive Arrangements

A report was considered at the last meeting of Full Council concerning the provisions in the Local Government and Public Involvement in Health Act 2007 regarding new Executive arrangements for Local Government.

This Act required every Local Authority to reconsider its existing Executive arrangements and adopt one of only two specific Executive models.

Local Authorities were also required to pass a resolution by 31 December 2010 upon which one of the two Executive models would take effect three days after the next Local Government Elections on the 5 May 2011.

Taunton Deane currently operated an “old-style” Leader and Cabinet Executive which was one of three Executive models outlined in the Local Government Act 2000.

The 2007 Act now allowed for only two Executive models:-

- Mayor and Cabinet, or
- Leader and Cabinet (the ‘Strong Leader’ model).

The ‘new’ Leader and Cabinet arrangements provide the closest match with the arrangements that the Council currently operated and would provide for an Executive consisting of:-

- a Leader elected by the Council for a four year term of office; and
- two or more Councillors (with a maximum of nine) appointed to the Executive by the Leader.

Full Council had previously indicated that it would prefer to implement the Strong Leader and Cabinet model as the model that should be implemented. However, before taking a formal decision on this matter, a consultation exercise had to be undertaken.

The consultation had now taken place which had resulted in just one letter being received which supported the Strong Leader model.

Details of the proposed changes to the Council’s Constitution that would be required if the Strong Leader model was approved, were submitted.

Moved by Councillor Denington, seconded by Councillor Mrs Allgrove that:-

The Transitional Arrangements to take effect from 5 May 2011 contained in Part 3 Responsibility of Functions be amended to read as follows:-

“New Executive arrangements will take effect on the third day following the election i.e. on the 8 May 2011. However the new Leader will not be appointed until the Annual Council meeting on the 19 May 2011. The Leader and Executive Councillors remain in office until the new ruling party takes control (whether re-elected or not) at that Annual Council meeting.”

The amendment was put and was carried.

On the motion of Councillor Williams, it was

Resolved that:-

- (1) the Strong Leader and Cabinet model be adopted; and
- (2) the necessary amendments to the Council's Constitution, as set out in Appendix 1 (Article 6 The Executive) and Appendix 2 (Part 3 Responsibility of Functions) to these minutes, be approved.

(Councillors Stone and Govier left the meeting at 9.21 p.m. and 9.22 p.m. respectively.)

(The meeting ended at 9.35 pm.)

Appendix 1

Article 6 The Executive

6.1 Role

The Executive will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

6.2 Form and composition

The Executive will consist of the Leader, Deputy Leader and six councillors ("Executive Councillors") appointed to the Executive by the Leader with the agreement of the controlling Party Group or Groups.

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6.3 Leader

The Leader will be a councillor elected to that position by the Full Council. Subject to the exceptions in Article 6.5 below, the Leader will hold office for the duration of his/her four year term, which will be extended until the Annual Meeting after the election where his/her successor will be appointed.

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6.4 Deputy Leader

The Leader must appoint a Deputy Leader from one of his members of the Executive. The Deputy Leader, unless he resigns as Deputy Leader or ceases to be a member of the authority, is to hold office until the end of the term of office of the Executive Leader. The Leader may, if he/she thinks fit, remove the Deputy Leader from office.

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Where a vacancy occurs in the office of Deputy Leader, the Leader must appoint another executive member in his place.

If for any reason the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in his/her place.

If for any reason –

(a) the Leader is unable to act or the office of Leader is vacant, and
(b) the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the Executive must act in the Leader's place or must arrange for a member of the Executive to act in his place.

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6.5 Term of Office – Exceptions

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Events which will result in the Leader's term of office ending prematurely are:-

- (a) he or she resigns from the office; or
- (b) he or she is suspended from being a councillor (under Part III of the Local Government Act 2000); or
- (c) he or she is no longer a councillor; or
- (d) he or she is removed from office by special resolution of the Council (using the procedure set out in Article 6.9.

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6.6 Other Executive members

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Other Executive members shall hold office until:-

- (a) the happening of any of the events set out in Article 6.5; or
- (b) they are removed from office by the Leader who must give written notice of any removal to the Chief Executive and to the Executive Councillor. The removal will take effect two working days after receipt of the notice by the Chief Executive.

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6.7 Proceedings of the Executive

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Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

6.8 Responsibility for functions

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(a) The Executive

It shall be the function of the Executive meeting together to design and allocate Portfolios to each of their number.

(b) The Leader

It will be the duty of the Leader to:-

- (1) Redefine, clarify and update the list of these Portfolios set out in Part 3 of this Constitution.
- (2) Similarly note the names of those Executive Councillors to whom those portfolios have been allocated by him/her.
- (3) Note those Executive functions which have been similarly allocated to the officers, to any Area Committees or to joint arrangements.

6.9 "Special Resolution"

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This is the process referred to in 6.5 and 6.6 above whereby - in exceptional circumstances - the Leader or a member of the Executive may be removed by full Council.

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Fourteen days written notice of the intended moving of such a resolution at a Council meeting must be given to the Democratic Services Manager, the Chief Executive, the Leader and to any member of the Executive named in the notice. The notice shall require the signatures of at least one half of the Council.

It shall be placed on the agenda of the next ordinary Council meeting unless an extraordinary council meeting has been requisitioned. The proposal having been debated, it shall be voted upon. It shall be approved by the full council with a majority of the members of the Authority present and voting at the meeting. If approved:-

- (a) a proposal shall be immediately laid before the same Council meeting as to the appointment of a new Leader; and
- (b) such a proposal shall require a simple majority, and if passed;
- (c) the change of Leadership shall take effect immediately on the passing of that resolution.

Appendix 2

Part 3 Responsibility for Functions

1.0 Scheme of Delegations

- 1.1 Legally a local authority depends upon a series of statutes which in some cases give it a power (that is, a discretion,) to do something - or - in others - a duty to carry out that function or service. Each power or duty is often made subject to various limits as to just how it is to be exercised.
- 1.2 Because of this statutory foundation for the work of local councils, it is important that we are always specific as to which statute we are using to achieve our purposes. Unless we make that clear, then it is difficult if not impossible for the community to hold us to account.
- 1.3 Apart from this “what and how”, we also need to say - for transparency and accountability purposes - “who” it is within the Council - that has the power to do something. This means that we must produce a “Delegation Scheme” describing these formal responsibilities.

2.0 Who?

- 2.1 To help understand what follows, there are a number of levels of decision-making under our Constitution. Each of these is reflected by the tables which follow later in this section.
- 2.2 First is Full Council itself. Full Council retains a range of higher level decisions - many relating to our overall strategies - or to the setting of our annual budget and of Council Tax. Some of these functions can legally only be undertaken at this highest level. With others, it has been this Council's own choice to do so.
- 2.3 Next is the Executive. The law requires that the great majority of the Council's decision-making must only be carried out by or through the Executive - either meeting together – or, in some cases, on an individual basis. The Act prevents other councillors making such decisions.
- 2.4 Individual Executive Councillors also have decision-making powers delegated to them.
- 2.5 Next comes a group of “regulatory” functions. Broadly, these are roles where the Council has the task of controlling the activities of individuals -

often on an application-by-application basis. To deal with these detailed controls, parliament decided that special committees should be retained - outside the Executive. In our case this means we have, for instance, a Planning Committee and a Licensing Committee made up of elected members and which meet in public so as to hear the various opinions expressed about individual cases before them.

- 2.6 The Corporate Governance Committee has certain limited decision-making powers delegated to it by the Council. These powers are described later in Section 4 Appendix 1 Part J
- 2.7 Finally are the officers. The great bulk of day-to-day operational decision-making is delegated by the Council, or the Executive, or the Planning and Licensing Committees to our professional staff. They need these powers so as to enable them to provide the services of the Council in the most economic, efficient and effective way.

3.0 What?

- 3.1 Attached are a number of tables setting out the broad areas of our statutory powers and the activities and functions we are involved in.
- 3.2 Section 1 is a list of those matters which remain either with the Full Council itself for decision or which are within its control - because the law either requires or permits it. The section also shows to whom these powers have been delegated (if at all) - whether to a committee or to an officer.
- 3.3 Section 2 sets out those powers and duties which the law excludes from Executive decision-making - such as planning, licensing and staffing issues. These are listed as delegated to a committee or to an officer with any limits on those delegations also included.
- 3.4 Section 3 lists those powers and duties which are ones which only the Executive can deal with - itself - or through the officers or area or joint committees. This covers the great majority of our powers and duties - with most operational decision-making continuing to be delegated to the Officers.
- 3.5 This part also lists these functions across a series of Portfolios. These reflect the current responsibilities of each of the current members of the Executive for the setting of the overall direction for these services. The extent of these Portfolios can be varied at the discretion of the Leader. The electronic version of this Constitution will describe the current positions.

- 3.6 Section 4 describes the delegation arrangements to the Officers and the individual Executive Councillors. As with our current Delegation Scheme, most of the operational decision-making under these powers and duties is delegated on to the officers.
- 3.7 Section 4 Appendix I Part A sets out the current decisions delegated by the Planning Committee to the Growth and Development Manager or in his absence the Development Management Lead or the Building Control Manager
- 3.8 Section 4 Appendix I Part B describes the similar delegations made by the Licensing Committee to the Community Services Manager or in his absence the Licensing Manager.
- 3.9 Section 4 Appendix I Parts C&D set out similar delegations made by the Committee to the Community Services Manager and in his absence the Environmental Health Lead .
- 3.9.1 Section 4 Appendix I Part E sets out similar delegations made by the Council
- 3.11 Section 4 Appendix I Parts F G H and I describe powers that are only exercisable by Full Council.
- 3.12 Section 4 Appendix I Part J sets out the powers and duties of the Corporate Governance Committee.
- 3.13.1 Section 4 Appendix I Part K sets out the Proper Officers in respect of various Public Health Acts and Regulations.

TRANSITIONAL ARRANGEMENTS TO TAKE EFFECT FROM 5TH MAY 2011

New Executive arrangements will take effect on the third day following the election i.e. on the 8th May 2011. However the new Leader will not be appointed until the Annual Council meeting on the 19th May. [The Leader and Executive Councillors remain in office until the new ruling party takes control at that Annual Council meeting](#)

Deleted: Therefore the current leader will remain the leader until the new Leader is appointed at Annual Council providing he is re-elected. ¶

Deleted: Should the current leader fail to be re-elected then the Chief Executive shall be authorised to make such decisions as she deems necessary in the running of the Council for that period.¶

