

<b>COUNCIL</b>	<b>AGENDA ITEM No.13(a)</b>
22 JUNE 2022	<b>PUBLIC REPORT</b>

Report of:	Fiona McMillan, Director of Law and Governance	
Cabinet Member(s) responsible:	Councillor Andy Coles, Cabinet Member for Finance and Corporate Governance	
Contact Officer(s):	Rachel Edwards, Head of Constitutional Services Mark Emson, Electoral Manager	Tel. 452277

## **CONSULTATION TO CHANGE SCHEME OF ELECTIONS**

<b>RECOMMENDATIONS</b>	
<b>FROM:</b> <b>Director for Law and Governance, Fiona McMillan,</b> <b>following recommendations from DLUHC/CIPFA</b> <b>External Assurance Review - Governance Report</b>	<b>Deadline date: N/A</b>
<p>It is recommended that Council:</p> <p>i) Agrees to commence a consultation process with relevant stakeholders on a proposal to change the Council's scheme for elections by thirds to a scheme for whole council "all-out" elections, with views also sought on the commencement year for such elections being given as either 2023 or 2024.</p> <p>ii) Should agreement be given to i), to delegate authority for running the consultation process and reporting back to a special meeting of Full Council to the Head of Constitutional Services in consultation with the Chief Executive and the Director of Law &amp; Governance.</p>	

### **1. PURPOSE AND REASON FOR REPORT**

- 1.1 One of the recommendations contained in the External Assurance Review – Governance Report commissioned by the Department for Levelling Up, Housing and Communities (DLUHC) and published on 2 November 2021 was that the Council should formally consider, through an evaluation process, the option of moving to a four year "all out" electoral cycle as an alternative to the current system of election by thirds (with the exception of the fourth year).
- 1.2 The purpose of this report is to agree to launch a consultation with stakeholders as set out in the report on whether to move to "all out" electoral cycle or continue with an election by thirds.
- 1.3 It is considered that the council would have the ability to consult and prepare for the change to the electoral cycle to be consulted on and implemented in May 2023, subject to potential additional resources in the Elections Team. However, consultation will include options for commencement date and benefits of a 2023 or 2024 date are set out below at 2.17 - 2.20.
- 1.4 A House of Commons Research Briefing on UK elections published in March 2022 found that more than two-thirds of councils currently elect all councillors once every four years.

### **2. BACKGROUND AND KEY ISSUES**

- 2.1 Peterborough City Council requested Exceptional Financial Support from the Government during 2020. A condition of the support was that the Department for Levelling-Up, Housing and Communities (DLUHC) and the Chartered Institute for Public Finance and Accountancy (CIPFA) would undertake reviews on finance and governance matters. These reports were published on 2 November 2021.
- 2.2 The Governance Assurance report recommended that the Council formally considers moving to “all out” elections every four years, instead of electing by thirds by March 2023, via an evaluation process.
- 2.3 This report recommended this change to bring stability to the Council’s decision-making and encourage the development of more strategic long-term solutions.
- 2.4 The timetable set out the Governance Assurance reports states that the formal evaluation of the option for four yearly electoral cycle should be initiated by July 2022. The Council must then discuss the outcome of the evaluation with DLUHC. After these discussions have taken place a special meeting of Council should be convened to consider the results, at the latest by March 2023.
- 2.5 The legislation governing the move to “all out” elections is contained within the Local Government and Public Involvement in Health Act 2007 (as amended by Schedule 2 of the Localism Act 2011). The Act gives councils the power to decide whether to move to “all out” council elections.

### **Benefits of “All Out” Council Elections**

- 2.6 There is limited recent research on the subject of different electoral cycles and their benefits, however in 2004 the Electoral Commission published its research on the subject of local government electoral cycles, which is attached at **Appendix A**, which concluded that (whole council) “all out” elections would provide clearer and more equitable system of voting for electors in the area.
- 2.7 The research focused primarily on promoting a consistent national pattern of local elections, which it concluded would help to focus national attention on local government issues. Peterborough City Council is considering a move to “all out” elections independently of any future government programme to regularise local council elections and support the ongoing financial pressures.
- 2.8 The report also discussed issues around clarity and understanding for electors, which it found was reduced by a system that elects thirds. Research conducted by MORI formed part of the report and highlighted the level of misunderstanding amongst electors regarding who they are voting for, or how often they are expected to vote. This confusion increases amongst younger voters or those from black or minority ethnic groups which suggested there are equality issues to recognise when considering an appropriate electoral system.
- 2.9 The Government has previously recommended that councils who currently elect by thirds consider the benefits of moving to “all-out” elections due to the risk of becoming stuck in a culture of perpetual electioneering, with little opportunity to focus on the strategic and an inability to address longer term challenges, with the leadership lacking the political stability needed for a high performing authority.
- 2.10 In contrast, holding elections every four years can facilitate stable, strategic place leadership, with the ability to deliver a clear programme for the electorate and the time to tackle some of the longer-term issues communities might face. The stability and continuity that “all-out” elections can bring, can also help councillors build up experience of particular portfolios or areas of work and create confidence for the Council’s partners that the Council’s governance and approach is stable and give greater confidence to the business community in their dealings with the council.

### **Recommendation of Governance External Assurance Review**

2.11 The Lead Reviewer for the PCC External Assurance Review on Governance, Andrew Flockhart, emphasised the Council's current "short-termism" due to the electoral cycle was one of the factors which had led to Peterborough's need for an external assurance review, and that a large city such as Peterborough need continuity in its vision and leadership with the ability to see plans through and deliver objectives in order to be successful.

2.12 He concluded that -

***“There are two aspects of the culture at the City Council which need careful consideration. First, the persistence of NOC in the Council combined with annual elections means that the political groups have an eye to the forthcoming elections every year (except for the fourth year). This introduces a high degree of political sensitivity around budget choices which are made, typically in February just a short time before the elections in May. A win or loss of a couple of seats could change the political control of the Council. So, there is a lot at stake each year (except every fourth year) in May. Whilst there is no political will to change this arrangement, officer's report that it is often very difficult to win Member support for the consideration of proposals that will make savings but are considered to be too politically sensitive. Equally, this context leads to a series of short-term solutions and is not conducive to the development of more strategic, long-term solutions. This issue is very likely to persist.***

***In the short term, the risks associated with this for the future sustainability of the Council's finances can be mitigated by all councillors recognising their responsibilities for the Council's finances and by the cross-party work being promoted by the Leader of the Council. The political Group Leaders share a particular responsibility for leading the way on this. It is vital this responsibility is acknowledged and the work to enhance cross party work on financial issues is maintained. Failure to do so will put the approval of a balanced (and legal) budget at risk each year.***

***Looking to a long-term solution for this issue, I am recommending that the Council consider formally, by March 2023, through an evaluation process, the option of moving to "all out" elections on a four-year cycle as an alternative to the current system of election by thirds with the exception of the fourth year. The Council should discuss the outcome of the evaluation with DLUHC.”***

### **Benefits of Elections by Thirds**

2.13 The current system of electing by thirds means that in year one PCC elect 18 seats; in year two 20 seats; and in year three 22 seats are elected, with a 'fallow' year on year four.

2.14 The benefits of this system have in the past been stated as providing great stability for the Council in terms of its membership. Electing in thirds reduces the risk of wholesale change within the Council (although for some this may be desirable and so not a risk but an opportunity) and allows for succession planning because there is always a mixture of new and experienced councillors for the Council.

2.15 Additionally, electing by thirds provides the electorate a great opportunity to be involved in decision-making at the Council, and arguments have been put forward that this makes councillors more democratically accountable.

2.16 It has been stated that some smaller political parties would find it difficult to field enough candidates to contest all seats at an "all out" elections. However, electing by thirds does not, in and of itself, create a greater availability of candidates for any party, but those candidates who are willing to stand have more frequent opportunities to do so.

2.17 Lastly, it has been suggested that electing by thirds ensures that knowledge on delivering elections is retained and maintained within the Electoral Services team. However, as there are a wide variety of electoral events that take place across the cycle (which use similar procedures and legislation) this would not have a significant impact on the training or expertise of the team.

**Appendix B** shows Election cycle timetable from 2022 – 2040.

### **Benefits of moving to ‘all outs’ in 2023 rather than 2024**

- 2.18 City elections would be standalone in 2023 which would assist electors with voting on one ballot paper – it is considered that multiple elections on the same day could cause voter confusion with different voting methods.
- 2.19 The Council’s Improvement Panel are keen to see a move to “all-out” elections, should this be the council’s decision, implemented as soon as possible in order to bring the political and financial stability it considers is currently lacking in order to expedite the council’s improvement journey.
- 2.20 The impact on the Elections team is likely to be less if running the first ‘all-out’ elections separately from other polls.

### **Benefits of moving to “all outs” in 2024 rather than 2023**

- 2.21 There would likely to be financial benefits in running “all-out” elections at the same time as confirmed Police and Crime Commissioner Elections in 2024 and there is also the potential for Parliamentary elections at the same time.

## **3. CONSULTATION**

- 3.1 The Council must take a number of steps when considering changing its electoral system. The Council cannot pass a resolution on whole council elections unless first:
- It has taken reasonable steps to consult with such persons as it thinks appropriate on the proposed change;
  - It holds a meeting which is specially convened for the purpose of deciding the resolution;
  - The resolution is supported by a majority of at least two thirds of the members voting on it; and
  - The resolution must specify the year for the first ordinary elections of the council at which all councillors are to be elected.
- 3.2 For Peterborough City Council, this would mean with members themselves, political parties, parish councils who would be consequentially affected by the change, Members of Parliament for both Peterborough and North West Cambridgeshire Constituencies, the public, Cambridgeshire County Council and all neighbouring Local Authorities along with the council’s Improvement Panel. **Appendix C** shows an example of the questionnaire.
- 3.3 There may be other stakeholders that members feels is appropriate to consult with.
- 3.4 An eight-week consultation will commence from 25 July – 19 September 2022.
- 3.5 Responses will be evaluated after the close of the consultation period and the results will then be reported to the DLUHC and the Improvement Panel, who are taking a strong interest in the Council’s consideration of this issue and have committed to providing advice on the transition to “all-out” elections in the event the council chooses to pursue this route. Both DLUHC and the Improvement Panel have indicated their willingness to provide advice and support on the transition to “all out” elections.
- 3.6 Following those discussions, a Special Council meeting will be convened on 12 October 2022, prior to Full Council meeting.
- 3.7 After passing the resolution there is required publication of notices.

- 3.8 Should the Council pass a resolution to move to “all-out” elections, it cannot pass another resolution (i.e. to move back to a system of thirds) before the end of five years, beginning with the day on which the resolution is passed.
- 3.9 Should the Council not agree to move to a scheme of whole council elections, the Secretary of State holds the power to require a change by Order laid in Parliament. This is provided for under Section 86(A1) of the Local Government Act 2000 (as amended). As it requires government and Parliamentary resource, it has been used only a few times in recent years, all to councils with intervention of some sort (Stoke, Birmingham, Doncaster) and all required to change to whole council elections.
- 3.10 Not changing the scheme of elections will require the Council to carefully consider how the disadvantage of a scheme of elections by thirds, including those set out in the review and such matters as regular pre-election periods might be mitigated.
- 3.11 Conversely, those matters that are considered an advantage in the current scheme would need to have consideration given as to how any advantages may be kept and how any disadvantages brought about, including the considerable increase in electoral administration required in an irregular cycle, might be overcome.

### **Next Steps**

- 3.12 If Council is minded to proceed with investigating the potential for “all out” elections, the next step would be to approve the consultation with stakeholders as identified in this report, plus any stakeholders that member’s feel is appropriate through discussion. The consultation would run for an eight-week period, between 25 July and 19 September 2022 and would be published on the Council’s website, notice boards and libraries, local papers, social media channels as well as emails being sent directly to Members of Parliament for both Peterborough and North West Cambridgeshire Constituencies, Cambridgeshire County Council, all neighbouring Local Authorities, Parish Councils and the Council’s Improvement Panel. The Communications Team would actively promote the consultation through press and social media channels. **Appendix E** shows the list of consultees.
- 3.13 Proceeding with a public consultation does not in any way bind members in terms of the recommendation it may make to the specially convened Council meeting following the consultation. The results of the consultation would be submitted to a specially convened meeting of Council for further discussion and consideration. If members choose not to proceed with the consultation stage, then no further action needs to be taken but the reasoning for doing so will need to be explained to central government.

## **4. IMPLICATIONS**

### **4.1 Financial Implications**

**Appendix D** sets out the budget requirement for elections under the current election by thirds scheme, and the proposed four year "all out" cycle.

For a number of reasons (combination of polls, postage and printing increases), forecasting the cost of elections is challenging, with many suppliers increasing costs year on year.

Under the current system, it is expected that additional budget of £80k (from £190k to £270k) will be required. This could be reduced if budget in fallow years was put into reserve but would still ultimately mean an increase in budget of £17.5k from £190k to £207.5k.

Under the proposed four year "all out" cycle, additional investment of £410k (£600k forecast cost minus current budget of £190k) will be needed initially. With the use of a reserve to smooth out any fluctuations in cost between election years and non-election years from 2024/25 onwards the

budget requirement reduces by £25k each year to £165k. This £25k saving would increase to £45k a year if the additional £20k set aside for a by-election is not needed.

The “all-out” option is ultimately cheaper, paying back the additional investment over 8 years (6 years if no by-elections are needed), and costs between £115k and £215k less over ten years, depending on the by-election requirement.

## **4.2 Legal Implications**

Consultation must give sufficient reasons for its proposals to allow consultees to understand them and respond to them properly, sufficient time for responses to be made and considered and responses must be conscientiously take into account in finalising the decision.

A resolution for whole-council elections is made by the Council under s.32 of the Local Government and Public Involvement in Health Act 2007. The requirements associated with the making of that resolution are set out within the body of the report. If passed, a scheme for whole-council elections, will mean ordinary elections of the councillors of the council are to be held in the year specified in the resolution, and every fourth year afterwards.

Section 31A was later introduced into legislation to ensure a minimum period exists between resolutions to change electoral schemes. If the year set for the change in electoral system in the resolution (also a requirement introduced later) is too far in the future, then there is a risk that this could be considered to be unlawfully undermining the intention of this provision to provide stability and safeguard of time between changes in electoral schemes.

The Council has the power to determine the electoral cycle for the Parish Councils in the area, and any move to “all out” council elections for Peterborough would have an impact on parish councils, as in some years the Council would not be holding elections where the parishes were taking place. This would increase the costs for these parish councils as they would not be able to share costs with the Council.

Any changes to parish council electoral areas or election cycles would form part of this consultation.

## **4.3 Equalities Implications**

The Electoral Commission report from 2004 references research which suggests that both younger age groups and those with an ethnicity other than were less likely to know when local elections were taking place, and that moving to a nationwide pattern of “all out” elections would improve enfranchisement for these groups compared with those who do not share it. Moving to “all out” elections may provide an opportunity for the Council to positively impact on the opportunities of these groups to participate and vote in elections.

## **4.4 Carbon Impact Assessment**

The individual considerations arising out of this report will have due regard to the Council’s Environmental and Climate Change Action Plan (i.e reduction in transport on polling day).

## **5. BACKGROUND DOCUMENTS**

5.1 None.

## **6. APPENDICES**

Appendix A – Electoral Commission “The cycle of local government elections in England”

Appendix B – Elections Timetable

Appendix C – Draft copy of questionnaire

Appendix D – Table showing costs per election and total cost savings

Appendix E – List of Consultees

This page is intentionally left blank