

EXTRAORDINARY COUNCIL	AGENDA ITEM No. 3
12 October 2022	PUBLIC REPORT

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 452282

MOVE TO WHOLE (ALL OUT) ELECTIONS

RECOMMENDATIONS	
FROM: Director of Law and Governance following recommendations from DLUHC/CIPFA External Assurance Review – Governance Report	Deadline date: N/A
<p>It is recommended that Council:</p> <ol style="list-style-type: none"> 1) Considers and notes the outcome of the public consultation on whether the Council should move to whole council elections ('all outs') or retain the current system of election by thirds. 2) Considers the recommendation of the External Assurance Governance Review that the Council should consider moving to whole council elections ('all outs') and the reasons for that recommendation, along with the consultation response from the Independent Improvement Panel. 3) Formally resolves to move to Whole Council Elections ('all outs'). 4) If such resolution under (3) is passed by a two-thirds majority of council, Council is recommended to resolve that the move to whole elections ('all outs') should commence at the May 2023 elections. 5) If a resolution under (4) above is not carried, Council is recommended to resolve that the move to whole elections ('all outs') should commence at the May 2024 elections. 	

REPORT SUMMARY

A key recommendation of the External Assurance Governance Review, undertaken on behalf of the Department for Levelling Up, Housing and Communities, published on 2 November 2021, was that the Council should formally consider the option of moving to a four-year, whole council electoral cycle. At a meeting of Full Council on 22 June 2022 the Council voted unanimously to hold a public consultation process to seek the views of the public on moving to whole council elections ('all outs'), either in 2023 or 2024. This report presents, for consideration, the outcomes of that public consultation.

A change to the current Electoral Cycle from elections by thirds to Whole Council Elections ('all outs') requires a decision of Council and is subject to a two-thirds majority.

If a resolution to move to ‘all outs’ is defeated, the council will retain its current electoral cycle of elections by thirds. A vote on which year such a move should commence, should the resolution to change electoral cycles be passed, will require a simple majority.

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 for Council to formally consider making a resolution to move from the current ‘thirds’ electoral cycle to whole (‘all out’) electoral cycle, and, subject to the outcome of that decision (which requires a two-thirds majority vote), resolve whether such a move should commence in May 2023 or May 2024.
- 1.3 It is considered that the council has 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.
- 1.4 The Government’s current policy is to encourage all councils still not holding ‘all out’ elections to consider using the powers Parliament has given to switch to such election to help incentivise long-term planning.
- 1.5 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 outs’ elections every four years, instead of electing by thirds by March 2023, via an evaluation process.
- 2.3 The 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.
- 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). This Act gives councils the power to decide whether to move to ‘all out’ council elections.
- 2.6 At the Council meeting on 22 June 2022, members unanimously agreed to formally launch a public consultation process to seek views on moving to whole (‘all out’) elections.

CONSULTATION OUTCOME

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- 3.1 A public consultation ran for 8 weeks, from 25 July 2022 to 19 September 2022, with a further extension of one week, until Monday 26 September 2022, during the mourning period of the death of the Queen.
- 3.2 The consultation was conducted using offline and online channels and was well promoted on the Council's website and social media outlets. This included:
- Press release when consultation launched plus a further one on 21st September to advise of one week left to take part.
 - Social media - twice weekly on Facebook and Twitter.
 - Regular staff messages and mentioned on staff conversations.
 - Hard copies of consultation paper on TH and SMH reception and in all libraries.
 - Consultation paper translated into top 10 languages which were available upon request.
 - Consultation was also shared with this group of stakeholders listed in **Appendix A**.
- 3.3 Respondents were able to engage using an online form or by completing a paper copy. Paper copies were made available at Libraries and the Town Hall on request. Respondents were invited to submit additional comments on the electronic and paper form.
- 3.4 Responses have been evaluated and results have been reported to DLUHC and the Improvement Panel. The results can be summarised as follows, with the overall results revealing that 150 of the 232 respondents were in favour of moving to whole Council ('all out') elections, with 130 of those people supporting the move in 2023. The response to the consultation reflected a broad range of the community in Peterborough. Whilst the response was less than expected, the results provide valuable insight into the public's view on the matter. The full outcomes of the public consultation report can be found at **Appendix B**.
- 3.5 Peterborough MP Paul Bristow responded to the consultation in writing, which can be seen at **Appendix C**, stating his opposition to a move to 'all-out' elections and setting out his reasoning.
- 3.6 Mr Bristow also forwarded to the Council's Chief Executive correspondence between him and Paul Scully MP, Minister of State at DLUHC. In a letter dated 3rd August 2022 Mr Scully confirmed that he had previously expressed his agreement with Andrew Flockhart's findings and confirmed that they were in line with government policy, which is "to encourage all councils still not holding all-out elections to consider using the powers Parliament has given them to switch to such elections to help incentivise long term planning". He added that "at this point the recommendation is that the Council formally consider the move" and that "ultimately this is a local decision, and it is for the Council, supported by their Improvement Panel, to decide if the adoption of a four-year electoral cycle is the best way forward for them as part of their improvement journey".
- 3.7 Mr Scully subsequently wrote again to Mr Bristow on 10th August 2022 to add further detail. He confirmed that "it is Government policy to urge councils that elect in thirds to consider switching to all out elections every four years. This was set out by former Secretary of State the Rt Hon Robert Jenrick MP in a written ministerial statement to Parliament on 10 June 2021, that such a move could provide for stable strategic leadership, greater accountability and better value for money for taxpayers." He went on to say that "In and of itself, Peterborough City Council choosing not to move towards all out elections is unlikely to constitute a reason for intervention using best value powers under the Local Government Act 1999. However, it is important to note that my department does want to see evidence that Peterborough is taking its obligations to improve seriously. My predecessor wrote to Councillor Fitzgerald in November of last year, in which she was clear that as part of the Council's improvement, she expected to see the Council's plans relating to the independent recommendation of a four year "all out" electoral cycle in due course" and that he was encouraged to see that a consultation had commenced. He concluded by saying "Following the conclusion of the consultation, should the council not pursue the move to "all out" elections, I will look to the independent Improvement Panel for assurance that the Council has a robust plan to address the issue which led to his recommendation".

- 3.8 Both DLUHC and the Improvement Panel have offered their willingness to provide advice and support on any transition to 'all out' elections.
- 3.9 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.
- 3.10 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.

4. Recommendation of Governance External Assurance Review

- 4.1 The Lead Reviewer for the PCC External Assurance Review on Governance, Andrew Flockhart, emphasised in his 2021 report that 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.
- 4.2 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."*

Consultation Response from the Council's Improvement Panel

- 4.3 The Independent Improvement Panel has responded to the consultation as follows: *"The Panel is pleased that the Council is taking the opportunity to consider the option of 'all out' elections every four years. In doing so it is vital that all Members understand the ways in which the normal local election processes in Peterborough can influence decision making to focus too much on short term and ward-based issues and not enough on the deep, complex issues facing the whole community and the Council as a whole over the coming 3 to 5 years. Big and difficult choices lie ahead, for example in policies for adult social care and the economic development of the City. Whatever choice the Council makes in relation to the subject of this report, it is very important that all Members take responsibility for the strategic choices facing the Council and consider them with the best interests of the whole community in the long term."*

- 4.4 The Panel has confirmed that the decision to change the council's electoral cycle is a decision for councillors. If the decision is made to retain the current electoral system, the Panel has confirmed that it, and DLUHC, would focus on the consequences for political decision making at the Council and whether it will impact on the council's improvement journey. It will form part of DLUHC's view of the council and whether the Improvement Plan work is sufficient, given the difficult decisions that need to be made about the budget and organisational culture change in extremely challenging financial circumstances. or whether further intervention may be needed.

5. **CONSIDERATIONS**

- 5.1 A decision to retain the current scheme of elections will require the Council to carefully consider how the disadvantages of elections by thirds, including those set out in the review such as failures of long-term and strategic decision making due to regular pre-election periods, might be mitigated. Conversely, if a decision is made to move to whole council ('all out') elections is made, considerations will need to be given to whether any of those matters that are considered an advantage in the current scheme can be retained in some way.

Benefits of "All Out" Whole Council Elections

- 5.2 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 D**, which concluded that whole council ('all out') elections would provide clearer and more equitable system of voting for electors in the area.
- 5.3 The research focussed primarily on promotion 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 pressure.
- 5.4 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. The 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.
- 5.5 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. Longer-term strategic thinking is particularly important in the two keys areas of Adult Social Care and the growth agenda, which would benefit from a 3–5-year perspective.
- 5.6 At Peterborough the stability and continuity that 'all out' elections can bring could help councillors build 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. Creating a stable political environment is important in order to provide confidence for businesses and investors, who may be deterred by prospects of political instability, in order for Peterborough to reach its economic development potential and attract investors for growth.
- 5.7 Electing by thirds reduces the possibility that all political groups can work together to build political consensus on medium term financial strategies, which may require radical remodelling of services and finances, and produces a barrier to continued improvement. At PCC there is evidence from previous years that as elections approach, there is more focus placed on political

agendas, with a view to the elections, resulting in a loss of focus on council priorities and services or long-term strategic planning, particularly in relation to the council's budget.

Benefits of Elections by Thirds

- 5.8 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 seat are elected, with a 'fallow' year on year four.
- 5.9 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.
- 5.10 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.
- 5.11 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.
- 5.12 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 E shows Election cycle timetable from 2022 – 2040.

Benefits of moving to 'all outs' in 2023 rather than 2024

- 5.13 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.
- 5.14 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.
- 5.15 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

- 5.16 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. Running an 'all out' election, combined with other grant funded elections would reduce the cost for local elections. The costs would be split three-ways.
- 5.17 A change to the current Electoral Cycle from elections by thirds to Whole Council Elections ('all out') requires a decision of the Council and is subject to a two-thirds majority.

6. IMPLICATIONS

Financial Implications

- 6.1 **Appendix F** sets out the budget requirement for elections under the current election by thirds scheme, and the proposed four year 'all out' cycle.
- 6.2 Moving to whole council elections would cost the Council **£625K less over a ten-year period**, with around **£62k saving per year** compared to elections by thirds. Current expenditure on elections by thirds would need to be ring fenced to pay for the cost of the second electoral cycle of whole council elections.
- 6.3 The annual cost to deliver elections by the current electoral cycle of 'thirds' is £270K. The total cost over a three-year period is £810K, with year four being a 'fallow' year.
- 6.4 The cost to deliver 'all out' elections is around £600K.
- 6.5 A one-off Investment of £410K would be needed for the first year of 'all out' elections, which could be sought from the Transformation Reserve.
- 6.6 Any by-elections would be an additional cost of £20k each.

7. Legal Implications

- 7.1 A resolution for whole-council ('all out') 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 ('all out') 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.
- 7.2 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.
- 7.3 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.
- 7.4 Any changes to parish council electoral areas or election cycles would form part of this resolution.
- 7.5 The Local Government and Public Involvement in Health Act 2007 enables the Council to change its electoral cycle by way of a resolution at Full Council. If a Council wishes to move from thirds to whole council elections it must in accordance with S33(2) of the Local Government and Public Health Act 2007, as amended by Schedule 2 of the Localism Act 2011
- Consult such persons as it thinks appropriate on the proposed change
 - Convene a special meeting of Council
 - Pass a Council resolution to change by a majority of at least two thirds of the elected members voting on it
 - Publish an explanatory document on the decision and make this available for public inspection; and
 - Give notice to the Electoral Commission.

The resolution must specify the year for the first ordinary elections of the Council at which all Councillors are to be elected.

7.6 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 carefully taken into account in finalising a decision.

7.7 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, as provided for under section 86(A1) of the Local Government Act 2000, as amended.

8. Equalities Implications

8.1 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.

9. Carbon Impact Assessment

9.1 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).

10. BACKGROUND DOCUMENTS

10.1 The Cycle of Local Government Elections in England – Consultation Paper Electoral Commission 2003
The Cycle of Local Government Elections in England – Recommendations for change – Electoral Commission 2004
Local Government and Public Involvement in Health Act 2007 – Sections 31-36
Localism Act 2011 – Sections 21-24
Representation of the Peoples Act 1983

11. APPENDICES

11.1 Appendix A – List of Consultation Stakeholders
Appendix B – Public Consultation Report
Appendix C – Peterborough MP Paul Bristow – response to consultation
Appendix D – Electoral Commission - Electoral Cycles
Appendix E – Election Cycle timetable until 2040
Appendix F – Financial costs