

COUNCIL	AGENDA ITEM No. 7 (iii) (c)
14 JULY 2010	PUBLIC REPORT

Cabinet Member(s) responsible:	Councillor Marco Cereste, Leader of the Council	
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NEW EXECUTIVE ARRANGEMENTS & POSSIBLE CHANGES TO ELECTORAL CYCLES UNDER THE LOCAL GOVERNMENT & PUBLIC INVOLVEMENT IN HEALTH ACT 2007

RECOMMENDATIONS
FROM: SOLICITOR TO THE COUNCIL
<p>That Council :</p> <ol style="list-style-type: none"> 1. In respect of new executive arrangements: <ol style="list-style-type: none"> a) Agree whether to commence a consultation process about a change to executive arrangements; and b) if a consultation process is to be commenced, agree the proposed methods set out in paragraph 4.3 for consulting electors and other interested persons about the new executive arrangements; and c) agree to the proposed timetable set out at Appendix 2 for the consultation and implementation of the new executive arrangements. 2. In respect of electoral cycles: <ol style="list-style-type: none"> a) Agree whether to commence a consultation process about a change to electoral cycles; and b) if a consultation process is to be commenced, agree that the proposed consultation should take place alongside the consultation in respect of the new executive arrangements, following the same timetable and using the same methods

1. ORIGIN OF REPORT

The Local Government and Public Involvement in Health Act 2007 introduced changes to executive arrangements and the ability to change electoral cycles.

2. PURPOSE OF REPORT

- 2.1 In respect of **executive arrangements**, under the current legislation the Council has a statutory obligation to consult on and implement new executive arrangements as detailed in Part 3 of the Local Government and Public Involvement in Health Act.
- 2.2 In respect of **electoral cycles**, the Council may resolve to change its electoral cycle, but is under no statutory obligation to do so.

3. NEW EXECUTIVE ARRANGEMENTS

- 3.1 The Local Government Act 2000 required most local authorities to operate executive arrangements using one of three model forms of executive provided by the Act:
- Elected mayor and cabinet
 - Leader and cabinet
 - Elected mayor and council manager
- Peterborough City Council chose the leader and cabinet model.
- 3.2 Part 3 of the Local Government and Public Involvement in Health Act 2007 abolished two of these models, namely the elected mayor and council manager, and the old style leader and cabinet models (which Peterborough currently operates).
- 3.3 Under the 2007 Act local authorities are now required to operate one of two models, either:
- elected mayor and cabinet; or
 - “new style” leader and executive
- No other form of executive arrangement is permitted. The 2007 Act requires all local authorities to change their executive arrangements to one of the two prescribed arrangements.
- 3.4 Under transitional arrangements Peterborough City Council continues to operate its current arrangements until the third day after the May 2011 local elections. Under the 2007 Act it cannot continue its current arrangements beyond the end of the transitional period because its current model ceases to exist.
- 3.5 The main differences between Peterborough City Council’s current executive model and two options available under the 2007 Act are set out in the table at Appendix 1.
- 3.6 Peterborough City Council already adopts constitutional arrangements that put the leader in strong position, for example, by allowing him to appoint his own cabinet, which was not a requirement under the previous legislation. If the council chooses to adopt the new style leader and cabinet model, there will be very little difference, in practice, to the current arrangements, except that the leader will be appointed for a 4 year term, instead of annually.
- 3.7 However, it is important to note that the Act provides that a leader may be removed by council resolution. Therefore in practice, even under the new model, a leader would require the continued support of his political group. There would be nothing to prevent the group taking a decision each year to elect the group leader. If the person previously elected as leader of the council no longer had the support of the group, the group could bring a motion to council that the leader should be removed.
- 3.8 The current government has indicated that it may introduce legislative changes to allow councils to choose to revert to the old style committee system. This legislation is not in place, and is unlikely to be in place before the end of December 2010, which is the deadline for implementing the change under the 2007 Act. If the Council chooses not to consult, and does not change its executive arrangements in that timescale, then the current legislation provides that the Secretary of State will draw up proposals for the

authority and they will be deemed to be implemented on the last day of the transitional period. If the council chooses to delay in anticipation of new legislation being introduced, it takes the risk that if legislation is not changed before the deadline expires, the Secretary of State may impose a model under the 2007 Act and remove the choice from the authority as to which model it prefers.

4. PROPOSED CONSULTATION PROCESS FOR NEW EXECUTIVE ARRANGMENTS

4.1 The 2007 Act requires the authority to take reasonable steps to consult the local government electors for, and other persons interested in, the authority's area before drawing up proposals. The Act does not specify either the type or the length of the consultation that should be carried out. There are examples of good practice from other councils that have already carried out such consultation, and these are taken into account in the proposals being put to council.

4.2 The detail of the consultation should include the following details:

- Summary of why the consultation is taking place
- Details of the authority's current system of governance
- A summary of the two new governance options
- The key differences between the models

4.3 It is recommended that the council consults using the following methods:

- The Council's website
- Neighbourhood Councils
- Scrutiny Committees
- Parish Council Liaison Committee

4.4 It is not possible to use Your Peterborough because it is printed shortly before the Council meeting, and it has not been possible to anticipate the likely outcome of the council meeting with sufficient certainty to include appropriate wording about a possible consultation.

4.5 Good practice suggests a minimum of 6 weeks consultation, but to allow time for all the groups set out at 4.3 to be consulted, it is proposed that the consultation period ends on 30th September, which will be a period of 11 weeks. This is considered reasonable, as it allows longer for people to respond given that it is over the holiday period.

4.6 A suggested timetable for carrying out the consultation process and implementing the new arrangements by the statutory deadline of 31st December 2010 is set out in Appendix 1.

5. ELECTORAL CYCLES

5.1 The Local Government and Public Involvement in Health Act 2007 permits the Council to resolve to change its electoral cycle at certain fixed periods of time.

5.2 Peterborough City Council currently elects by thirds of its membership, so elections are held over a three year period, the fourth year being a fallow year with no local elections scheduled. Elections are currently scheduled for 2011 and 2012, with 2013 being a fallow year.

5.3 The Act provides that the council can make a resolution to move to whole elections.

5.4 The resolution must be made within fixed periods of time set down in the Act.

- i) the period ending 31 December 2010, or
- ii) the period in 2014, or in any fourth year afterwards, that starts with the day after that council's annual meeting and ends with 31 December.

- 5.5 The council must decide whether it wishes to move from thirds to whole council elections. If it decides to retain election by thirds, no further action is required, and the council's next opportunity to consider this issue will be in 2014.
- 5.6 If the council does wish to move from thirds to whole elections, it must
- 5.6.1 Consult such persons as it thinks appropriate on the proposed change
- 5.6.2 Convene a special meeting of council
- 5.6.3 Pass a resolution to change by a two thirds majority of those voting
- 5.6.4 Publish an explanatory document to the decision and make this available for public inspection, and
- 5.6.5 Give notice to the Electoral Commission.
- 5.7 The authority may also request the Electoral Commission to give the Boundary Committee a direction to undertake a review of the authority's area with a view to establishing single member wards, where it considers this to be appropriate.
- 5.8 If an authority subsequently wishes to move back to electing by thirds, it must carry out the same procedure as set out above, except that the Electoral Commission must make an order to that effect, and before doing so, must consider whether to direct the Boundary Committee to carry out a review with a view to the desirability of establishing three member wards.
- 5.9 If the Council decides to move to whole council elections, the first whole council elections would take place in 2011 and each fourth year thereafter.
- 5.10 The Electoral Commission has previously carried out research, and published some of the advantages and disadvantage of whole council elections and elections by thirds, which are summarised below:
- (i) *For partial elections:*
- *More frequent opportunities for electors to exercise their right to vote*
 - *May facilitate more immediate political accountability*
 - *May tend to produce less drastic changes in political direction, and provide greater political continuity*
 - *Can ensure that the political composition of authorities more accurately reflects the current political complexion of local areas*
 - *May reduce the likelihood that the timing of important or controversial decisions are distorted by the timing of elections*
- (ii) *For whole elections:*
- *Greater possibility of wholesale change in control may encourage participation*
 - *Too frequent elections may dilute public interest*
 - *Opportunity for all electors in the area to influence the composition of the authority at the same time*
 - *May tend to encourage greater long-term planning by authorities, and discourage continuous election campaigning.*

5.11 There is a potential to make some financial savings from moving to whole council elections:

POTENTIAL SAVINGS

The costs are all estimated according to records of previous elections and dependent on UK Parliamentary and European elections being held in a five year cycle simultaneously with local elections. Costs are index linked but exclude nominal PCC support costs.

Part of the cost (approximately 33%) of elections by thirds is offset when local elections fall in a UK Parliamentary election or European election year due to the council being able to claim part of the cost of hiring polling stations, staff, postage etc from the Ministry of Justice.

It is estimated that more frequent by-elections would be held should the council move to whole elections as the council could not let the vacancy remain unfilled an election was not being held in that municipal year. The figure estimated is the cost of having 2 by-elections per year not including the year during which whole council elections will be held. (Costs for 2 by-elections have also been included in 'fallow' years during the current 'by thirds' cycle).

The estimated cost of holding whole elections is based on hiring additional polling stations and staff to cover the five wards that would not have had elections on the current cycle, additional count staff and administrative costs. There would be potentially 3 times as many candidates due to all 57 seats being up for election as against the current 19 seats each year for elections by thirds.

As the first whole council elections could not be held until 2011, potential savings have been estimated over 7 years from 2011:

YEAR:	2011	2012	2013	2014 (European)	2015 (General)	2016	2017	TOTAL
ELECTIONS BY THIRDS	£173,000	£182,000	£18,500	£134,000	£141,000	£222,000	£21,000	£891,500
WHOLE ELECTIONS	£259,500	£17,500	£18,500	£19,500	£210,000	£20,000	£21,000	£566,000
POTENTIAL SAVINGS OR ADDITIONAL COST	+£86,500	-£164,500	NIL	-£114,500	+£69,000	-£202,000	NIL	£325,500 (over 7 yrs)

Potential savings distributed over 7 years = £46,500 per annum.

6. ALTERNATIVE OPTIONS CONSIDERED

6.1 New executive arrangements :

- (a) This is a statutory requirement, and as the legislation currently stands, if the council does not confirm new executive arrangements by the statutory deadline of 31 December 2010, the Secretary of State will draw up proposals for the authority and they will be deemed to be implemented on the last day of the transitional period. This removes the choice of preferred arrangement from the authority.
- (b) The council could decide not to carry out a consultation. The current government has indicated that it may allow local authorities to revert to the old style system of committees. No legislation is yet in place, and a bill is not expected until the autumn. It is unlikely that legislation will be in place before the statutory deadline of 31 December 2010 imposed by the 2007 Act. A number of councillors have suggested that no consultation should be carried out until the options for the local authority are clearer. It is possible not to carry out a consultation, and not to make a positive decision to change Peterborough City Council's executive arrangements. The council would not be acting illegally in doing so, as the Act contains a clear fallback provision for the Secretary of State to draw up the proposals if the legislation is not changed in the meantime. The risk associated with this option is that the council would not be able to choose its own model, and could receive adverse publicity for not following current legislation.

6.2 Changes to electoral cycles : there is no obligation on the council to make changes to its electoral cycles. It is an option available to it under the Local Government and Public Involvement in Health Act 2007. The council has a choice whether to consider changes, but if it intends to do so, it must carry out public consultation before carrying out its proposals.

7. IMPLICATIONS

7.1 Financial:

The cost of consultation using the website and publications will be contained within existing budgets. There are potential savings from moving to whole council elections which are set out in detail in section 5.11 above.

7.2 Legal:

Legal implications are dealt with fully in the body of the report.

7.3 Crime & Disorder:

There are no crime & disorder risks identified.

7.4 Equality Impact Assessment:

The proposals to consult in relation to new executive arrangements, and the option to consult on a change in electoral cycles, do not have any specific impact on any particular group.

8. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

Electoral Commission report *The Cycle of Local Government Elections in England: Report and Recommendations* published in January 2004.

APPENDIX 1 : Summary of differences between current system and the 2 new models

	Current executive model	New style council leader and cabinet model	Directly elected mayor and cabinet model
Appointment and term of office	Leader appointed by full council annually	Leader appointed by full council for a 4 year term subject to resignation or disqualification	Mayor elected directly by the electorate for a 4 year term
Status	Leader is a member /councillor for all purposes	Leader is a member / councillor for all purposes	Directly elected mayor is not considered to be a member / councillor unless legislation indicates otherwise
Executive functions	Size of cabinet determined by leader. All executive functions vested in leader who can then delegate	Size of cabinet determined by leader. All executive functions vested in leader who can then delegate	All executive functions vested in the mayor who can then delegate
Appointment of cabinet	Council appoints the leader who then appoints cabinet members and assigns responsibility	Council appoints the leader who then appoints cabinet members and assigns responsibility	Mayor appoints cabinet members and assigns responsibility
Deputy leader	No legal requirement to have a deputy leader but constitution vests power to appoint in leader	Legal requirement to have a deputy leader appointed by the leader	Legal requirement to have a deputy leader appointed by the mayor

**Appendix 2 :
Timetable for consultation and implementation of new executive arrangements**

14 July 2010	Initial report to be considered by council and agree process for and length of Consultation
16 July to 30 September 2010	Public consultation via council website
1 to 29 September 2010	Consideration by Neighbourhood Councils
7 to 20 September 2010	Consideration by Scrutiny Committees
13 September 2010	Report to Cabinet to enable its comments to be included in the consultation responses
13 October 2010	Report to Council on outcome of public consultation, to include recommendations of Cabinet, Neighbourhood Councils, Scrutiny Committees, on draft proposals. Council to authorise the publication of its proposals and pass a resolution to make the change in governance arrangements based on the preferred model. (Note : if Council has resolved to consult on changes to electoral cycles, proposals must then be considered at a meeting specially convened for this purpose, so a special council meeting will be set up for 6pm on the same evening as the ordinary council meeting).
October / November 2010	Publication of proposals
May 2011	The new arrangements must be operative no later than the third day following the local government elections currently scheduled for 5 May 2011.