

Whole Council Elections – Further Options

Final Decision-Maker	Democracy and General Purposes Committee
Lead Head of Service	Angela Woodhouse, Head of Policy, Communications and Governance
Lead Officer and Report Author	Ryan O’Connell, Democratic and Electoral Services Manager
Classification	Public
Wards affected	All

Executive Summary

This report provides the further options on Whole Council Elections as requested by the Committee in its resolution on 8 September, in response to a 2/3rds majority of those voting at Council not voting for the committee’s recommendation of adopting whole council elections.

Purpose of Report

Noting

This report makes the following recommendations to this Committee:

That the options available on whole council elections be noted.

Timetable

Meeting	Date
Democracy and General Purposes Committee	23 November 2021

Whole Council Elections – Further Options

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	No direct impacts as this report is for noting.	Democratic and Electoral Services Manager
Cross Cutting Objectives	No direct impacts as this report is for noting.	Democratic and Electoral Services Manager
Risk Management	No risks as this report is for noting.	Democratic and Electoral Services Manager
Financial	There is an estimated additional cost of £50k in conducting a poll discussed in the report, however the recommendation is for noting.	Democratic and Electoral Services Manager
Staffing	None as this report is for noting.	Democratic and Electoral Services Manager
Legal	<p>The legislation governing the move to Whole Council Elections is the Local Government and Public Involvement in Health Act 2007 as amended by the Localism Act 2011. The Act gives Councils the power to decide whether to move to whole council elections, elections by halves or elections by thirds. The legislation to move to whole council elections includes certain actions that must be taken during the process.</p> <p>The report also considers the process required under the Council's constitution, primarily under part 3.1 procedure rule 21.2.</p> <p>This report also considers the power to conduct a local poll under section 116 of the Local Government Act 2003. The report considers the application of this power and advises that further legal advice is provided in the event they wish to use it for this purpose.</p>	Democratic and Electoral Services Manager

Privacy and Data Protection	None.	Democratic and Electoral Services Manager
Equalities	None.	Democratic and Electoral Services Manager
Public Health	None.	Democratic and Electoral Services Manager
Crime and Disorder	None.	Democratic and Electoral Services Manager
Procurement	None.	Democratic and Electoral Services Manager
Biodiversity and Climate Change	None.	Democratic and Electoral Services Manager

2. INTRODUCTION AND BACKGROUND

- 2.1 At its meeting on 8 September 2021 the Committee resolved that officers bring back a report on further options for whole council elections, including a referendum, in the event that a 2/3rds majority of those voting was not achieved at Council on the adoption of whole council elections. This report meets the requirement of the committee following the vote at an Extraordinary Council meeting held on 29 September 2021.
- 2.2 At this stage the committee are asked to note the options available.

3. AVAILABLE OPTIONS

- 3.1 Option 1 – Members could bring forward a motion, in the usual way, for whole council elections after the elections in May 2022 when the membership of the Council may well have changed.
- 3.2 Option 2 – Members could bring forward a motion in 2021/22 for Council to reconsider the motion on Whole Council Elections. However, in order for Council to reconsider a matter it has already determined either 6 months will need to have elapsed from the previous decision, or the motion would

need to be signed by at least one third of the whole number of Council Members (19 Members) (Council's Constitution Part 3.1, Procedure Rule 21.2).

- 3.3 Option 3 – The Democracy and General Purposes Committee could request that the matter is looked at again and place it onto their work programme with a view to a future Council decision at least 6 months after Council's original decision has elapsed.
- 3.4 Please note that any decision on whole council elections must have had a consultation carried out with the public prior to being taken. Whilst any decision taken reasonably soon on whole council elections could be deemed to be valid due to the consultation undertaken in July/August 2021 any significant delay to reconsidering the matter would require a further consultation to be conducted.
- 3.5 Option 4 – Conduct a Poll - whilst the previous consultation would currently be valid for any whole council elections decision, the Democracy and General Purposes Committee could request that a poll is carried out under section 116 of the Local Government Act 2003. This power to hold a poll under section 116 is not a referendum (for which no local government power exists in regard to this matter) but allows a council to conduct a poll and the electoral register can be used for that purpose (section 116 is one of the few defined purposes the electoral register can be used for).
- 3.6 Section 116 sets out the following:

116 Local polls

- (1) *A local authority may conduct a poll to ascertain the views of those polled about—*
 - (a) *any matter relating to—*
 - (i) *services provided in pursuance of the authority's functions, or*
 - (ii) *the authority's expenditure on such services, or*
 - (b) *any other matter if it is one relating to the authority's power under section 2 of the Local Government Act 2000 (c. 22) (authority's power to promote well-being of its area).*
- (2) *It shall be for the local authority concerned to decide—*
 - (a) *who is to be polled, and*
 - (b) *how the poll is to be conducted.*
- (3) *In conducting a poll under this section, a local authority must have regard to any guidance issued by the appropriate person on*

facilitating participation in a poll under this section by such of those polled as are disabled people.

- 3.7 The section 116 power is generally regarded as having been drafted as a wide power to encourage public involvement in Council decisions but there is a question of whether such a power would apply to the frequency of elections and whether this matter constitutes *services provided in pursuance of the authority's functions*. However, given the legislation on whole council elections requires a consultation to be carried out, and elections have a direct impact on the provision of council services and finances, particularly electoral registration and more widely how services are delivered in the election period of each year it is likely a poll could be conducted in such a way as to meet this requirement. But this would need to be confirmed with a legal opinion prior to commitment if this is a route that the committee were minded to follow in the future.
- 3.8 The cost estimate for carrying out such a poll could be reduced to £50k, if combined with the May 2022 election. This estimate arises from the full cost of conducting the poll in 8 wards (those are not scheduled as part of the May 2022 election) and of combining with the remaining 18 wards where elections would already be held. This includes additional costs of counting, staffing, communications and printing.
- 3.9 The outcome of the poll could then be used to either inform a future decision on whole council elections at local level, or to lobby the Secretary of State for change. However, the chances of lobbying being successful are considered to be extremely low as the Secretary of State historically has only intervened in a council's election cycle when there are serious issues at an authority already under investigation.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 That the options are noted and further legal advice is sought on conducting a poll should that option be considered in the future.

5. RISK

- 5.1 None directly, but if any options are pursued in future individual risks would need to be assessed for each option.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 None.
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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 None as the report is for noting.

8. REPORT APPENDICES

None.

9. BACKGROUND PAPERS

None.