

Subject: Consultation on Governance Arrangements

Date of Meeting: 10 March 2008

Report of: Director of Strategy and Governance

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Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 Communities and Local Government are currently consulting on proposals to change the requirements which govern how a Council moves from one form of executive model of governance to another. This report sets out the proposed changes and seeks views on a Council response.

2 RECOMMENDATIONS:

- 2.1 That the Committee notes the consultation questions and agrees the proposed responses at Appendix One.

3. RELEVANT BACKGROUND INFORMATION:

- 3.1 The 2008 "Communities in Control: Real People, real power" White Paper made a number of policy commitments to encourage increased public participation in local democracy. One of these commitments was to look again at the means available to Councils and local people to move from one form of governance arrangement to another. A consultation paper has now been issued which addresses this and raises a number of specific questions upon which responses are sought.
- 3.2 This report sets out a brief summary of the issues raised in the consultation paper. At Appendix One the text of the seven consultation questions is reproduced together with a proposed response. The Committee is asked to consider the questions and proposed responses and agree any changes. The deadline for responses is 20th March 2009 (an extended deadline to allow the views of the Governance Committee to be fully represented). The consultation paper itself is reproduced at Appendix Two for information.

The proposals

Changing governance arrangements

- 3.3 The current legislative framework for changing a Council's governance model enables a Council to move to a directly elected mayor and cabinet executive in one of the following ways:-
- Following consultation and drawing up proposals, a Council can simply resolve to move to those arrangements. (The Local Government Public Involvement in Health Act 2007 removed the old requirement of holding a referendum where there was a proposal to move to a mayoral model);
 - The Council can make its proposals subject to approval in a governance referendum;
 - A governance referendum can be triggered by a petition submitted by local people representing 5% of the population.
- 3.4 A council currently operating the mayor and cabinet model which wishes to move to the leader and cabinet system can likewise take one of the above approaches. However, in the case where the Council is seeking to resolve to make the change from a mayoral model with no referendum, special additional requirements apply. These are that the Council must include in its proposal a statement setting out the arguments for and against the change and the reasons for wanting the change.
- 3.5 The first consultation question relates to these additional requirements which apply only to a proposal to move away from a mayoral model and asks whether they should be removed. The proposed response at Appendix One suggests that the additional requirements should be removed as the system is currently inappropriately weighted in favour of retaining a mayoral model.

The moratorium period for a referendum

- 3.6 Where a referendum has been held in respect of adopting new governance arrangements, there is currently a moratorium period stating that a further referendum may not be held for 10 years. (It used to be 5 years but was extended by the Local Government Public Involvement in Health Act 2007).
- 3.7 The second consultation question proposes a reduction in the moratorium period where the earlier referendum resulted in no change. The draft response at Appendix One suggests that the period required between referendums should not be reduced. Running a referendum is resource intensive and the proposal assumes that where the public

vote against change this should carry less weight than where a change is agreed.

Threshold for a petition requiring a governance referendum

- 3.8 Currently a governance referendum can be triggered by a petition signed by 5% of the local electorate. The consultation paper raises the concern that this threshold is hard to meet and therefore asks for comments on a proposed reduction to either 4%,3%, or 2%. As an alternative, there is an option of setting numerical thresholds dependent on the number of local government electors or keeping the threshold as a percentage but with minimum and maximum numerical thresholds.
- 3.9 Three consultation questions address the options for reducing the threshold for petitions and/or setting numerical or other thresholds. The proposed response suggests that the current percentage threshold is not too high and is straightforward for the public to understand and for the Council to administer.

E- Petitioning

- 3.10 The consultation paper expresses the Government's wish to make it easier for people to become involved in local democracy and therefore proposes to introduce electronic petitioning alongside paper petitions. Signatures from both types of petition could be combined for the purposes of meeting the petition threshold.
- 3.11 In recognition of the need to ensure that e-petitions can be verified, procedures are proposed which would require the e-petition to be a facility provided by the Council. The petition would be verified against the electoral register.
- 3.12 The final two consultation questions ask whether e-petitions should be acceptable and whether these should be run by a secure Council facility. The draft response at Appendix One suggests that Brighton & Hove City Council supports these measures as they increase public accessibility to the Council and support sustainable practices.

4. CONSULTATION

- 4.1 Consultation with relevant Officers has taken place.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 None at this stage as the proposals are at the consultation phase. If the thresholds for petitions and/or the moratorium period for a referendum are reduced there could be an increase in the number of referendums

that the Council is required to administer which would have a cost to the Council.

Finance Officer Consulted: Patrick Rice Date: 24/02/09

Legal Implications:

- 5.2 None at this stage as the proposals are at the consultation phase. A further report with legal and financial implications will be brought forward if the proposals are taking forward and new legislation enacted.

Lawyer Consulted: Elizabeth Culbert Date: 16 January 2009

Equalities Implications:

- 5.3 The proposals in the consultation paper include e-petitioning which, if brought forward, may increase access to petitioning for all groups.

Sustainability Implications:

- 5.4 None at this stage. If e-petitioning is made available this could have a positive impact.

Crime & Disorder Implications:

- 5.5 There are no Crime and Disorder implications arising from this report.

Risk and Opportunity Management Implications:

- 5.6 None at this stage – the risk management implications will need to be reviewed once firm proposals are made to amend the existing requirements for changing governance arrangements.

Corporate / Citywide Implications:

- 5.7 None at this stage. The corporate/citywide implications will need to be reviewed once firm proposals are made to amend the existing requirements for changing governance arrangements.

SUPPORTING DOCUMENTATION

Appendices:

- Appendix 1 List of consultation questions and proposed responses
Appendix 2 Consultation Paper

Background Documents

None

Appendix One

List of consultation questions and proposed responses

Question 1	<p>Should we remove the special requirements that a proposal to move from a mayoral and cabinet executive must include a statement setting out the arguments for and against the change and the council's reasons for wanting to make that change?</p> <p>Proposed response</p> <p>Yes - the requirements should be the same whether for a change from a mayoral or leader and cabinet system. To have a different set of rules that applies only to a move from a mayoral model is confusing and unnecessary. To make it more difficult to move from a mayoral system appears to be favouring retaining that system and weighting against the leader and cabinet system. This undermines the principal that the choice of model rests at local level.</p>
Question 2	<p>Do you agree with the proposal that the moratorium period should be reduced from ten years to four years where a governance referendum does not result in a change?</p> <p>Proposed response</p> <p>No – it is onerous for the Council to administer and run a referendum and the current period allows for stability. We do not think that the moratorium period should be different depending on the outcome of the referendum. Such a proposal appears to be seeking to ignore and undermine the wishes of local people where their legitimate view has been expressed that they do not wish to see a change in the arrangements. The impact of a 'no' vote or a 'yes' vote should be the same. Again, the proposals appear to seek to exert an influence over councils and local people as to which model of governance they choose.</p>
Question 3	<p>Should the threshold for a petition to trigger a governance referendum be reduced across the board? If yes, to what level should the threshold be reduced, bearing in mind the considerations about the balance between the practicalities of collecting signatures and the demonstration of a significant level of interest in change.</p> <p>No - to trigger a referendum and require the Council to administer this properly, ensuring the electorate is informed as to what the choices mean for them and the City, is extremely resource</p>

	<p>intensive. It should only therefore be triggered where a sufficiently large proportion of the population has expressed a wish to see a change so that there is a realistic possibility of a 'yes' vote. Anything less than 5% of the population does not indicate a sufficient level of interest to justify the amount of cost, time and instability that a referendum can cause.</p>
Question 4	<p>Should numerical thresholds be set? If so, what should the basis and bands for these thresholds be?</p> <p>No - the percentage of population approach is simple and easy to apply. Numerical bands and thresholds would be an unnecessary complexity which would leave room for error/confusion.</p>
Question 5	<p>Should the threshold be a percentage, but subject to certain minimum and maximum numerical thresholds? What should those percentage and numerical thresholds be?</p> <p>No - the percentage threshold without qualification is clear to understand and simple to apply. Setting minimum and maximum levels is adding complexity where it is not required. The public need to understand these rules and we are concerned about complicating the rules for this reason.</p>
Question 6	<p>Do you agree that a traditional paper based petition calling for a governance referendum may be supplemented, if the petition organiser so wishes, by e-petitioning?</p> <p>Yes - subject to the e-petition being through a secure facility provided by the council - we support any measures which improve or simplify public access to the Council. We further support any measures which will help Councils adopt sustainable practices wherever possible.</p>
Question 7	<p>Do you agree that e-petitioning for a governance referendum must be through a secure e-petitioning facility provided by the council concerned?</p> <p>Yes - in order to ensure that the e-petition was able to be properly verified it would need to be conducted through a secure facility provided by the Council. This would prevent the petition process being abused and consequently undermined.</p>