

Bath & North East Somerset Council

MEETING/ DECISION MAKER:	Council	
MEETING/ DECISION DATE:	12 November 2015 (adjourned to 17th December 2015)	
TITLE:	REFERENDUM ON PROPOSAL FOR BATH & NORTH EAST SOMERSET COUNCIL TO OPERATE A DIRECTLY ELECTED MAYOR AND CABINET EXECUTIVE INSTEAD OF A LEADER AND CABINET EXECUTIVE MODEL	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report: APPENDIX ONE: PROPOSALS APPENDIX TWO: SCALE OF FEES		

1 THE ISSUE

1.1 This report is to inform Council of the position following the receipt of a valid petition requesting a referendum on a move to a Directly Elected Mayor and Cabinet Executive form of governance, as required by Regulations 17 (1) and (2) of the Local Authorities (Referendums) (Petitions) (England) Regulations 2011 and Regulation 4 (1) of the Local Authorities (Conduct of Referendums) (England) Regulations 2012. It sets out the arrangements for following the process required by legislation and also makes proposals for operating a Directly Elected Mayor and Cabinet Executive model in the event of a vote in favour of a directly elected mayor in the referendum. It also includes proposals relating to fees payable for the referendum and other elections.

2 RECOMMENDATION

2.1 That Council:

- (1) Notes the position concerning the receipt of a valid petition as set out in Paragraph 5.1 of the report.

- (2) For the purposes of the publication of a notice required by Regulations 17(1) and (2), approves the proposals set out in Appendix One on the operation of Directly Elected Mayor and Cabinet Executive Model arrangements, should this model be implemented following a referendum.
- (3) Approves the proposals for seeking recommendations of the Independent Remuneration Panel in the event of a vote in favour of a directly elected mayor in the referendum, as set out in Paragraph 5.7 of the report.
- (4) Approves the fees as set out in Appendix Two.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 The costs of the referendum are estimated to be £180,000, based on the costs of the last European Parliamentary Election. The costs of the referendum are not currently included in the Council's budget but would be a legitimate charge against the Council's Revenue Budget Contingency Reserve.
- 3.2 In the event of a vote in favour of a directly elected mayor in the referendum, the Elected Mayor would be entitled to remuneration under the Council's member allowance scheme, which would be determined by the Independent Remuneration Panel. Any remuneration for the Mayor would need to be factored into future budgets.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 The statutory basis for the proposal is set out in the report. Other than via changes in legislation, there is no scope for this process and timescale to be varied by the Council or through central government action.

5 THE REPORT

- 5.1 The Council received a valid petition under Regulation 9 of the Local Authorities (Referendums) (Petitions) (England) Regulations 2011 on 7th August 2015 requesting the authority to hold a referendum on the proposal to operate a Directly Elected Mayor and Cabinet Executive model, as opposed to the current Leader and Cabinet Executive model.
- 5.2 In assessing and verifying the petition, which was dated 7th August 2015, the Council followed the strict guidance set out by the regulations. These require the Council to check each entry individually against the current register of electors. As a result of this detailed checking, the Council established that there were 6,818 entries which matched the electoral register and 2,789 entries which did not. The total number of valid entries required to validate the petition was 6,437. It is anticipated that the referendum will be held early next year. Further details of the referendum process including the specific question to be asked will be announced in due course.
- 5.3 In the event of a vote in the referendum for changed arrangements, the first election for a Directly Elected Mayor would take place in October 2016. The first Directly Elected Mayor would hold office until May 2019 and terms of office thereafter would be 4 years.

5.4 Although moving to a Directly Elected Mayor and Cabinet Executive model represents a significant change to the way in which the Council operates, any Mayor would not have any constitutional powers additional to those currently held by the Council Leader. Before the holding of a referendum, the Council is required to publish, a minimum of 56 working days prior to the referendum, a statement on the operation of the proposed new form of governance. Appendix One sets out proposals for how the Council would operate, drawing on the Council's current operations and setting out the role of a Directly Elected Mayor, and the role's relationships with the Council and Cabinet. The proposals highlight (by comparison to existing documents) the key changes for the Council's constitution. These are:

- Part 1 Summary and Explanation
- Part 2 - Articles 1 and 2 of the Constitution showing the proposed changes to the Council, its composition, membership and relationship with citizens.
- Part 2 - Article 7 The Cabinet
- Part 2 - Article 15 Review of the Constitution
- Part 3 Responsibility for Functions. As required, the proposal sets out which functions are to be the responsibility of the Executive, should the form of governance proposed in the petition be approved.
- Part 4 Executive Procedural Rules
- Part 5 Terms of Reference of Cabinet

In addition, other identifiable changes of significance are also highlighted. There will be some aspects of the Council which would need to be determined by any future Directly Elected Mayor, for example relating to the exact size and distribution of portfolios of the Cabinet. In addition, it is expected that there may be further consequential amendments to the Constitution, its Procedural Rules and other matters which would be required in the event of an affirmative vote in the referendum. These will require consideration and agreement by Council.

5.5 To summarise the key changes from introducing a new model, a Directly Elected Mayor and Cabinet Executive model would work as follows:

- Any person can stand for election as elected Mayor, provided he/she satisfied the eligibility and qualification requirements for standing as a councillor (which also apply to elected mayor). It is possible for an existing councillor to stand for election as elected Mayor, but if elected this would create a casual vacancy in the Council on taking office.
- The Directly Elected Mayor takes office on the fourth day following the election and would hold office until his/her successor comes into office unless he/she resigns or dies, or becomes disqualified from office under legislation governing the qualifications and disqualification to hold office of councillor (which also applies to elected mayors). A Directly Elected Mayor cannot be removed from office or required to resign as a result of any vote or resolution of the Council. The Mayor would be required to appoint a Cabinet of at least two and not more than 9 councillors, one of

whom must be designated “Deputy Mayor”. The Directly Elected Mayor would have authority to delegate Cabinet functions to members of Cabinet as he/she sees fit.

- The position of the current 65 councillors would remain unchanged, including meetings of Full Council, Policy Development and Scrutiny Panels and regulatory panels such as licencing and planning. However, the Local Government Boundary Commission has agreed to begin a review of the number of councillors starting in 2017/18, and a change in the Executive model planned or in place for the Council may affect the number of Councillors deemed appropriate for the Council.

There is no effect on the Bath Mayoralty as these arrangements are determined by the Charter Trustees Regulations.

5.6 A change to any new model of governance would not have any immediate impact on Council staffing arrangements. The requirement to have certain statutory officers in place (Head of Paid Service; Monitoring Officer; S151 officer etc) would remain unchanged.

5.7 In addition, Regulation 2(b) of the Local Authorities (Elected Mayor and Mayor’s Assistant) (England) Regulations 2002 provides that an elected mayor of a local authority be treated as a councillor of that local authority for the purposes of Section 18 (1), (3), (4) and (5) of the Local Government and Housing Act 1989, which provides for a scheme of basic and special responsibility allowances for local authority members. A member allowances scheme can only be agreed or amended by Council itself, following the recommendation of the Independent Remuneration Panel. It is therefore proposed that in the event of a ‘vote in favour of a directly elected mayor in the referendum, the Independent Remuneration Panel be asked to make recommendations on the arrangements for remuneration that should apply to a Directly Elected Mayor Model, including remuneration of the mayor. It is proposed that this work take place after the referendum but before the mayoral election. It may be appropriate however for some indication to be given as to the Directly Elected Mayor’s remuneration prior to any election.

5.8 The schedule for election fees requires approval as outline by Regulations 36(4) and 36(5) of the Representation of the People Act 1983.

6 RATIONALE

6.1 The rationale for the proposal attached in Appendix One is that it best reflects continuity between the Council’s current approach to its Executive arrangements whilst ensuring that it is clear how the functions of a Directly-Elected Mayor would be exercised within these arrangements.

6.2 The rationale for Appendix Two is that the scale of fees and charges relating to the referendum is consistent with the scale of fees and charges at local government elections and referendums which are adopted by the Council’s neighbouring authorities (i.e. Bristol City Council, Mendip District Council, North Somerset Council, Sedgemoor District Council, South Gloucestershire Council, South Somerset District Council, Taunton Deane Borough Council and West

Somerset Council). The Counting Officer's fee for the referendum on a Directly Elected Mayor is based on the fee which was allocated to Bath and North East Somerset's Counting Officer at the Referendum on the UK Parliamentary Voting System held in 2011.

7 OTHER OPTIONS CONSIDERED

- 7.1 The option of using this as an opportunity to change the allocation of Executive arrangements was considered but not deemed appropriate.
- 7.2 This is an opportunity to update the Council's scale of fees and charges for all local government elections, by-elections and neighbourhood planning referendums, taking into consideration the fees paid by our neighbouring local authorities.

8 CONSULTATION

- 8.1 This has taken place with the Chief Executive, Monitoring Officer and S151 Officer.

9 RISK MANAGEMENT

- 9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

Contact person	<i>Andy Thomas 01225 394322</i>
Background papers	<i>List here any background papers not included with this report, and where/how they are available for inspection.</i>
Please contact the report author if you need to access this report in an alternative format	