



## **POLICY AND RESOURCES COMMITTEE**

**Tuesday 30<sup>th</sup> November 2021**

<b>REPORT TITLE:</b>	<b>CONSULTATION TO CHANGE SCHEME OF ELECTIONS</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF LAW AND GOVERNANCE</b>

### **REPORT SUMMARY**

A recommendation of the External Assurance Review is, published 2<sup>nd</sup> November 2021, was that the Council should move to implement a four year, “all out” electoral cycle at the earliest opportunity.’ This report brings forward a process to enable that change to begin to take place.

### **RECOMMENDATIONS**

That the Policy and Resources Committee authorise commencement of a consultation process with a view to changing the Council’s scheme for elections by thirds to a scheme for whole-council elections and that the year for elections be set for the purposes of the consultation as 2022, 2023 or 2024.

## **SUPPORTING INFORMATION**

### **1.0 REASON/S FOR RECOMMENDATION/S**

- 1.1 To commence a consultation process in accordance with the Local Government & Public Involvement In Health Act 2007 on whether the Council should change to whole council elections every 4 years.
- 1.2 The Council is responding to a recommendation made in the Minister of State's External Assurance Review that 'should move to implement a four year, "all out" electoral cycle at the earliest opportunity'.
- 1.3 The earliest practicable year for a change in electoral scheme to whole council elections is considered to be 2023, which provides the Council with the ability to consult and prepare for the change and is felt to best accord with the Boundary Commission's planned review.

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 The Committee may disagree with the recommendations contained within the External Assurance Review.
  - The reasons for the recommendation are set out in the Review.
- 2.2 A different implementation date.
  - The considerations of the different potential years to first hold whole council elections are set out in the body of the report below.

### **3.0 BACKGROUND INFORMATION**

- 3.1 A condition of Wirral Metropolitan Borough Council's capitalisation direction for 2021/22 was an external assurance review. In undertaking the governance element of the review, Ms Ada Burns was asked to determine whether "the Council has effective mechanisms in place to ensure that savings are delivered and that the Council are fully committed to sustainable transformation".
- 3.2 A key finding in the Governance report, published with the Minister of State's letter to the Council on 2<sup>nd</sup> November 2021, was that
  - 'Elections in thirds, changes in political control, and changes in political Group leadership have, since the first election to the Council in 1973, worked against the stability needed to make and carry through long term strategies'
- 3.3 This finding is supported in a number of references to a weakness of election by thirds in the running of the Council, but in particular that:
  - 'There is no evidence of work from the Political Groups to build political consensus on medium term financial strategies that could cushion the impacts of the electoral cycle; and

- ‘The electoral cycle and the particularly volatile politics of some Council seats in Wirral is a barrier to continued improvement. While Members interviewed have expressed total support for the model, the advantages of securing a four year window to undertake the sort of radical remodelling of services and finances needed should be reconsidered.’
- 3.4 A recommendation of the Review is, therefore, that the Council should move to implement a four year, “all out” electoral cycle at the earliest opportunity.’
- 3.5 In her letter of 2<sup>nd</sup> November 2021, the Minister has asked that the Council set out in writing, within the next month, the steps it is taking in the immediate and longer term to respond to the Review and implement the recommendations’. The Minister goes on to state that she is ‘keen to understand the Council’s plans relating to the implementation of a four year “all out” electoral cycle’.
- 3.6 The power of the Council to change electoral schemes is contained in Part 2 (Electoral Arrangements) of the Local Government and Public Involvement in Health Act 2007, as amended by the Localism Act 2011. This allows the Council itself to decide whether to move to whole council elections, or back to elections by thirds (The Council cannot move to a ‘halves’ electoral cycle as it has not elected this way in the past).
- 3.7 There are a number steps a council must take when considering changing its electoral system. The Council cannot pass a resolution on whole council elections unless first:
- (i) It has taken reasonable steps to consult with such persons as it thinks appropriate on the proposed change;
  - (ii) It holds a meeting which is specially convened for the purpose of deciding the resolution;
  - (iii) The resolution is supported by a majority of at least two thirds of the members voting on it; and
  - (iv) The resolution must specify the year for the first ordinary elections of the council at which all councillors are to be elected.
- 3.8 After passing a resolution there is required publication of notices.
- 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 If the reasoning and principle of moving to whole council elections is accepted there are a number of considerations to be taken into account in setting the proposed year to hold the first whole council election.
- 3.11 The Council is due to have a Boundary Review in the coming period. In undertaking that review, the Commission will need to understand what electoral scheme the Council is to operate under and, therefore, what sort of review it is asked to undertake. It is consequently preferable that any new

scheme is adopted and in place for when that review starts, which as requested of the Boundary Commission is to commence in 2023/24. Holding the whole council elections before work is undertaken by the Boundary Commission would then allow a clear understanding of the ask and consequences of any changes. If the Council also then wished the Boundary Commission to consider a change in the number of councillors per ward, for example, then that may also then be undertaken. It would then allow for the resulting ward boundary changes to be implemented by Parliament in good time for the following election in 2027.

- 3.12 Under the current electoral scheme there is no election planned for 2025, otherwise known as a fallow year. Moving to a scheme of whole council elections in 2026 is therefore attractive because it will follow the fallow year and allow that time to be dedicated to organising the changes. Changing to whole council election in either 2026 or 2025, however, would be likely to conflict with the Boundary Commission's timetable for review of the Council's electoral wards and numbers, as explained above. It would also introduce a legal risk that would need to be explored because of the large gap between the date of resolution to change system and the year that that change is to be introduced. Most pertinently, it is not changing the electoral cycle from 'by-thirds' to 'all-outs' at the earliest opportunity as the Review recommends.
- 3.13 Conversely, a change in the electoral scheme to a whole council election in 2022, next year, it is possible but not without risk. An adequate consultation must be run with time to respond to then implement the change. In order for the first whole council election to be organised and run to a satisfactory standard for 2022, it would mean needing to re-prioritise staff and project planning from elsewhere which, at this time, may not be considered the best focus of the time and resources available to the Returning Officer.
- 3.14 2023 would allow for a full period for consultation and for the necessary legal and sensible administrative preparations to be made. Whilst considered to be the earliest date for any change with the minimum of risk, it would not strictly speaking be the earliest possible date for the changing the electoral scheme to whole council elections.
- 3.15 The elections to be held in 2024 are the intended date for the introduction of the provisions contained in the Election Bill currently going through Parliament, which will introduce Voter ID in polling stations and other new additional administrative burdens. These new requirements are to be overlaid on what is already felt will be a challenging prospect of combined Parliamentary (on new Constituency Boundaries), Police and Crime Commissioner and LCR Combined Authority Mayoral elections to deliver in that year. Whilst whole council elections in 2023 would assist by removing the combining of these elections with the local elections, holding whole council elections in 2024 will introduce an undue administrative burden.
- 3.16 These three years of 2022, 2023 and 2024 are, therefore, put to the Committee to choose as the year to add to the recommended consultation and then any resolution to change the Council's electoral scheme.

## **4.0 FINANCIAL IMPLICATIONS**

- 4.1 A change to the Council's current electoral scheme from election by thirds to whole council elections would save an estimated £125,000 per year, averaged over the four year cycle.

## **5.0 LEGAL IMPLICATIONS**

- 5.1 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 conscientiously taken into account in finalising the decision.
- 5.2 A resolution for whole-council 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 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.
- 5.3 Section 31A was later introduced into this 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 a safeguard of time between changes in electoral schemes.

## **6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

- 6.1 A change to the scheme of elections will require a reorganisation of electoral staffing and resourcing, including communications. This will require some months to put into place.

## **7.0 RELEVANT RISKS**

- 7.1 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 Govt Act 2000 as amended. As it requires governmental 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 to require whole council elections. The draft Liverpool Order has just been laid in Parliament, with rationale, to cancel their scheduled elections for Council in 2022 and mayor in 2024 and to introduce whole council elections as of 2023.
- 7.2 Not changing the scheme of elections will require the Council to carefully consider how the disadvantages of a scheme of elections by thirds, including

those set out in the Review and such matters as regular pre-election periods, might be mitigated.

- 7.3 Conversely, those matters that are considered an advantage in the current scheme would need to have consideration given as to how any advantages may be kept and how any disadvantages brought about, including the considerable increase in electoral administration required in an irregular cycle, might be overcome.

## **8.0 ENGAGEMENT/CONSULTATION**

- 8.1 The council must not pass the resolution unless it has taken reasonable steps to consult such persons as it thinks appropriate on the proposed change.

## **9.0 EQUALITY IMPLICATIONS**

- 9.1 An equality impact assessment in respect of the consultation process will be completed as part of the project and implementation plan.

## **10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS**

- 10.1 The individual considerations arising out of this report will have due regard to the Council's Environment and Climate Change Action Plan and the 'Sustainability' working principle.

## **11.0 COMMUNITY WEALTH IMPLICATIONS**

- 11.1 There are no community wealth implications arising out of this report.

REPORT AUTHOR: Philip McCourt  
Director of Law & Governance

## **BACKGROUND PAPERS**

External Assurance Review DLUHC 2<sup>nd</sup> November 2021

## **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
Policy & Resources Committee	7 <sup>th</sup> Oct 2021