

Whole Council Elections

For General Purposes Committee on Thursday 22 July 2021

Summary

Lead Member: Cllr Barrington-King – Chairman of General Purposes Committee

Lead Director: Lee Colyer – Director of Finance, Policy and Development

Head of Service: Jane Clarke – Head of Policy and Governance

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Wards Affected: All

Approval Timetable	Date
Management Board	7 July 2021
Chairman	9 July 2021
General Purposes Committee	22 July 2021

Recommendations

Officer / Committee recommendations:

1. That the General Purposes Committee agrees to launch a consultation with stakeholders as set out at Appendix A, on whether to move to a whole council (all-out) electoral cycle or continue with an election by thirds electoral cycle.

1. Introduction and Background

- 1.1 The legislation governing the move to whole council (all out) elections is contained within the Local Government and Public Involvement in Health Act 2007 and the Localism Act 2011. The Acts give councils the power to decide whether to move to whole council elections, or back to elections by halves or elections by thirds (if they have elected this way at some point since 1 April 1974). The Council cannot move to a 'halves' electoral cycle as it has not elected this way in the past.
- 1.2 The most recent Local Government Boundary Commission for England (LGBCE) data shows that seven authorities elect by halves, 112 by thirds, and 223 on a whole-council basis. Within Kent, ten of the 12 districts operate on a whole-Council basis with Tunbridge Wells and Maidstone borough councils electing by thirds. Medway Unitary and Kent County councils also operate on a whole-Council basis.
- 1.3 Within the county of Kent 10 out of the 12 district councils hold all out elections as does Medway Unitary, County and PCC. Maidstone Brough Council are the only other authority not to hold all out elections.

2. Whole Council Elections

- 2.1 The Council currently elects 'by thirds', which means that one third of Councillors (16 seats) are elected each year, with the final year in a term being a 'fallow' year where County Council elections must take place. Borough council elections and county council elections cannot normally be combined.
- 2.2 Whole-council elections (or all-out elections) are where all the seats on a council are up for election at the same time. These elections occur once every four years and can be combined with other elections that are not county elections, such as the elections for the Police and Crime Commissioner, or for Parliament (should it fall in the same year as a Borough election). Borough elections can, and are, also combined with parish and town council elections.

Benefits of Whole-Council Elections

- 2.3 There is a limited amount of research on the subject of different electoral cycles and their benefits, however the Electoral Commission conducted research in

2003 on the subject of local government electoral cycles, which is attached at **Appendix A**, and which concluded that whole council elections would provide a clearer and more equitable system of voting for electors in the area.

- 2.4 The research focusses primarily on promoting a consistent national pattern of local elections, which it claimed would help to focus national attention on local government issues. Tunbridge Wells Borough Council is considering a move to whole-council elections independently of any future government programme to regularise local council elections however, so this point is not necessarily valid.
- 2.5 The report goes on to discuss issues around clarity and understanding for electors, which it claims is reduced by a system that elects by thirds. Research conducted by MORI that forms part of the report highlights the level of misunderstanding amongst electors regarding who they are voting for, or how often they are expected to vote. This confusion increases amongst younger voters or those from black or minority ethnic groups which suggests there are equalities issues to consider when considering an appropriate electoral system.
- 2.6 More recently, a Best Value Report on Liverpool City Council by the Government Appointed Lead Inspector, Max Caller CBE, recommended that the City Council move from a thirds electoral system to a whole-council electoral system, noting that *“LCC being in election mode every year provides less opportunity to scrutinise the Mayor’s actions...”* and that a whole-council electoral system would provide LCC a better ability to have a “longer-term focus”.¹
- 2.7 This report has prompted a recent statement from Robert Jenrick, Secretary of State for the Ministry of Housing, Communities and Local Government, to say that:

“I of course recognise that there are many excellent councillors up and down the country performing their duties effectively with elections by thirds or other patterns. But holding elections three years out of four, or every other year, risks creating a culture of perpetual electioneering in a council where there is little focus on the strategic, an inability to address longer term challenges and leadership which can lack the stability needed for a high performing authority.

“In contrast, holding whole council elections every fourth year can facilitate stable, strategic local leadership, delivering a clear programme for which it can be held to account by the electorate, and having the time to tackle some of the longer term issues its communities might face. Whole council elections can thus add a higher degree of accountability, and the stability they can bring can help effective partnership working and give greater confidence to the business community in their dealings with the council. Whole council elections are also more cost effective than holding elections say three years out of four, and hence I am clear they represent better value for money for local taxpayers.

¹ Liverpool City Council: Best Value Inspection Report; Max Caller CBE, Lead Inspector; April 2021
<https://www.gov.uk/government/publications/liverpool-city-council-best-value-inspection-report>

“Accordingly, for all these reasons I would like to take this opportunity strongly to urge all those councils still not holding whole council elections to consider using the powers which Parliament has given them to switch to such elections. I believe this could lead to councils providing stronger, more accountable local leadership better able to serve their communities, promote local economic growth, and drive forward the levelling up of opportunity and prosperity across the country”.²

- 2.8 Whilst the situation in Tunbridge Wells Borough Council is very different to the situation at Liverpool City Council, the arguments in favour of whole-council elections are still relevant and the view of the Government should be taken into account by the Committee when considering the issue.

Benefits of Elections by Thirds

- 2.9 The current system of electing by thirds means that 16 seats are elected every year for three years, with a County Council election taking place in the fourth year.
- 2.10 The benefits of this system have in past been stated as providing greater stability for the Council in terms of its membership. Electing by thirds reduces the risk of wholesale change within the Council (although for some this may be desirable and so not a risk but an opportunity) and allows for succession planning because there is always a mixture of new and experienced councillors on the Council.
- 2.11 Additionally, electing by thirds provides the electorate a greater opportunity to be involved in decision-making at the Council, and arguments have been put forward that this makes councillors more democratically accountable.
- 2.12 Lastly, it has been stated that some smaller political parties would find it difficult to field enough candidates to contest all seats at an all-out election. However, electing by thirds does not, in and of itself, create a greater availability of candidates for any party, but those candidates who are willing to stand have more frequent opportunities to do so.
- 2.13 It has been suggested that electing by thirds ensures that knowledge on delivering elections is retained and maintained within the Electoral Services team. However, as there are a wide variety of electoral events that take place across the cycle (which use similar procedures and legislation) this would not have a significant impact on the training and/or expertise of the team.

Previous Debates on the Issue

- 2.14 The Council has debated the issue of whole Council elections in the past, with each Group on the Council expressing their views at the time. Debates were held

² Statement to the House from Robert Jenrick, Secretary of State for the Ministry of Housing, Communities and Local Government; 10 June 2021; <https://questions-statements.parliament.uk/written-statements/detail/2021-06-10/hcws84>

on 1 November 2011 at the [Economy & Governance Overview and Scrutiny Select Committee](#) and on 20 February 2013 at [Full Council](#).

- 2.15 The last time the issue was significantly debated was at Full Council in December 2015, following an Overview and Scrutiny review. The minutes of this debate are available at **Appendix B**.

3. Costs and Savings

- 3.1 Whilst the costs of holding elections may not be an issue that Councillors feel is persuasive, as a Best Value authority, Members are required to consider the costs of services, and from time to time review those costs to ensure that the taxpayer is receiving best value for money.
- 3.2 It is the case that whole Council elections cost less to run than electing by thirds, in particular where those whole Council elections can be combined with other significant elections such as the Police and Crime Commissioner elections (as the costs for fixed entities such as polling stations, staff on polling stations, and sundries, are shared).
- 3.3 An example of the savings that could be achieved over a four-year period is set out at **Appendix C**. This shows that over the four-year cycle from 2024 to 2027 the authority would save over £200,000 by not holding Borough elections in 2026 or 2027.

4. Previous Public Consultation

- 4.1 Formal public consultation has not previously taken place on this issue within the Borough, although the annual budget consultation does include a question on where members of the public think the council should save money.
- 4.2 It should be noted that the area where members of the public think the most money should be saved is Committee, Mayoral and Democratic Services (see previous budget consultation responses in 2020 https://democracy.tunbridgewells.gov.uk/documents/s53262/7%20Appendix%20C%20Budget%20Consultation%202021_22.pdf) which suggests there may be some public support for saving money through moving to whole-Council elections.

5. Process for Whole Council Elections

- 5.1 If the General Purposes Committee wishes to consider moving to whole-Council elections there are certain steps that must be taken, which are required by the legislation.

Consultation

- 5.2 The Council must take reasonable steps to consult with those it thinks appropriate on the proposed change. For TWBC, this would certainly mean with members themselves, political parties, town and parish councils who would be consequentially affected by the change, the Members of Parliament for the area, the public, KCC and potentially nearby authorities.
- 5.3 There may be other stakeholders the Committee feels it is appropriate to consult with. Whilst the consultation period is not prescribed, it would need to be of a reasonable period, which has commonly been deemed as six weeks by this Council, although it could be shorter for this process if necessary.

Decision-Making Process

- 5.4 Following the consultation the results would need to be reported back to the General Purposes Committee for consideration, and, should the Committee be minded at that stage to proceed with whole Council elections, a formal recommendation would need to be made to Full Council.
- 5.5 The Full Council must then vote with a two thirds majority (32 or more in favour), to resolve to move the whole-Council elections. Should this happen, the resolution would establish whole Council elections from 2024, with members being elected in 2022 for a two-year term, and members being elected in 2023 for a one-year term.
- 5.6 The resolution must be made at a special meeting of Full Council and state the year in which the first ordinary elections at which all councillors are elected will be held.
- 5.7 The benefit of starting the new whole council elections in May 2024 is that it synchronises the Council elections going forwards with PCC elections, thus always combining and sharing the cost of running the election with the PCC. This will increase the savings that can be achieved through running the elections combined with another authority.

6. Parish and Town Councils

- 6.1 The Council has the power to determine the electoral cycle for Parish and Town Councils in its area, and any move to whole council elections for the Borough would have an impact on parish and town councils, as in some years the Borough would not hold elections where parish and town elections were taking

place. This would increase the costs for these councils as they would not be able to share the cost with the Borough.

- 6.2 Any changes to Parish and Town Council electoral areas or election cycles must take place through a Community Governance Review. However, as the Local Government Boundary Commission for England is currently undertaking an Electoral Review of the Borough, Community Governance Reviews for parish and town Councils cannot take place until this has been completed.
- 6.3 The Electoral Review is expected to take until the end of 2022, so any Community Governance Reviews would need to be scheduled to take place in 2023.

7. Next Steps

- 7.1 If the General Purposes Committee is minded to proceed with the investigating the potential for whole-Council elections, the next step would be to approve a public consultation on the terms set out at **appendix D** with stakeholders as identified within this report, plus any other stakeholders the Committee feels are appropriate through discussion.
- 7.2 Proceeding with a public consultation does not in any way bind the Committee in terms of the recommendation it may make to Full Council following the consultation, and the results of the consultation would be submitted to the Committee in September for further discussion and consideration.
- 7.3 If the Committee chooses not to proceed with whole Council elections at this stage, no further action needs to be taken.

8. Appendices and Background Documents

Appendices:

- Appendix A: The Cycle of Local Government Elections in England (Electoral Commission 2004)
- Appendix B:
- Appendix C:
- Appendix D:

Background Papers:

- <https://www.gov.uk/government/publications/liverpool-city-council-best-value-inspection-report>

- <https://questions-statements.parliament.uk/written-statements/detail/2021-06-10/hcws84>
- <https://democracy.tunbridgewells.gov.uk/ieListDocuments.aspx?CId=166&MID=1575>
- <https://democracy.tunbridgewells.gov.uk/mgAi.aspx?ID=6205>

9. Cross Cutting Issues

A. Legal (including the Human Rights Act)

The legislation governing the move to whole-council (all out) elections is the Local Government and Public Involvement in Health Act 2007 and the Localism Act 2011. The Acts give councils the power to decide whether to move to whole-council elections, or back to elections by halves or elections by thirds (if they have elected this way at some point since 1 April 1974). The Council cannot move to a 'halves' electoral cycle as it has not elected this way in the past.

The decision must be made by a special meeting of the Full Council with a two-thirds majority in favour of the recommendation to move to all out elections.

Gina Clarke, Lawyer, 25 June 2021

B. Finance and Other Resources

The move to all-out elections would save the avoid costs of two elections within a four-year cycle. An example of the savings that could be made in 2026 and 2027 is detailed in the report at section 3.

The Borough Council is a Best Value authority defined in the Local Government Act 1999. Best Value authorities are under a general Duty of Best Value to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

The consideration of moving to whole council elections by the General Purposes Committee, and consulting with the public and stakeholders on this issue fulfils this duty.

Jane Fineman, Head of Finance, Parking and Procurement, 25 June 2021

C. Staffing

Elections, referendums, Neighbourhood Planning referendums, Business Improvement District Polls and Parish Polls are organised, managed and run by the Electoral Services team within the Council. This team also administers the Register of Electoral and the annual canvass of electors. Reducing the number of Borough elections within the cycle would not

significantly reduce the amount of work required to be done by the Electoral Services team, and so this report would not affect the internal resources of the Council in a substantial way.

Nicky Carter, Head of HR, Communities and Customer Services

D. Risk Management

There are no risk management issues as part of this report.

Jane Clarke, Head of Policy and Governance, 25 June 2021

E. Environment and Sustainability

There are no environment or sustainability issues to consider as part of this report.

Section 40, National Environment and Rural Communities Act 2006

40(1) Every public authority must, in exercising its functions have regard so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.

Section 85, Countryside and Rights of Way Act 2000

85(1) In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

[Name, title and date of Sustainability Officer who signed off the report.]

F. Community Safety

There are no community safety issues to consider as part of this report.

Section 17, Crime and Disorder Act 1998

17(1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

[Name, title and date of Community Safety Officer who signed off the report.]

G. Equalities

The Electoral Commission report from 2002 references research which suggests that both younger age groups and those with an ethnicity other than white were less likely to know when local elections were taking place, and that moving to a nationwide pattern of all out elections would improve enfranchisement for these groups compared with those who do not share their characteristics.

The Council is under a duty to advance equality of opportunity between persons who share a relevant protected characteristic (in this case age and ethnicity) and persons who do not share it. Moving to all out elections may provide an opportunity for the Council to positively impact on the opportunities of these groups to participate and vote in elections.

Section 149, Equality Act 2010

149(1) A public authority must, in the exercise of its functions, have due regard to the need to –

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Jane Clarke, Head of Policy and Governance, 25 June 2021

H. Data Protection

Should the Council decide to launch a public consultation the personal details of respondents will be kept private unless the respondent gives specific consent for their details to be made public. Councillors may request the personal details of respondents for confidential use in the roles as Members of the Council

Article 5, General Data Protection Regulation 2016

1. Personal data shall be:

(a) processed lawfully, fairly and in a transparent manner in relation to the data subject;

(b) collected for specific, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;

(c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;

(d) accurate and, where necessary, kept up to date;

(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed;

(f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

Jane Clarke, Data Protection Officer, 25 June 2021

I. Health and Safety

There are no health and safety considerations as part of this report.

Jane Clarke, Head of Policy and Governance, 25 June 2021

J. Health and Wellbeing

There are no health and wellbeing considerations as part of this report.

- 1. Areas of deprivation: Will the proposal have an impact (positive or negative) on those living in areas of deprivation within the borough (40% most deprived in the country). These are Sherwood, Southborough and High Brooms, Broadwater and Rusthall.*
- 2. Healthier lifestyle opportunities: Will residents be more or less able to make healthier lifestyle choices such as physical activity (e.g. active travel, access to green spaces or access to leisure facilities), healthy eating (e.g. proximity or access to take away shops, allotments, food stores) and being smokefree*
- 3. Social and Community networks: Will the proposal make it easier for people to interact with one another e.g. encouraging community engagement*
- 4. Living and Working Conditions: does to proposal improve work or home environments, increase job, education or training opportunities, improve access to health services or housing*
- 5. General Socioeconomic, cultural and environmental conditions: Are there any other factors that may impact the above*

Jane Clarke, Head of Policy and Governance, 25 June 2021