

Report to Overview and Scrutiny Committee

Date of meeting: 31 January 2008



Report of: Constitution and Members' Services Standing Scrutiny Panel

Subject: Local Government and Public Involvement in Health Act 2007 - Provisions Relating to Elections

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Recommendations:

- (1) That the option of changing to whole Council district elections every four years be not pursued;**
- (2) That the following provisions in the Act be noted:**
 - (a) ability for the District Council to change the Parish/Town Council electoral cycle by negotiation;**
 - (b) ability to initiate electoral reviews to achieve only one Councillor for each district ward;**
 - (c) exercise of a new discretion to change the names of electoral wards without the consent of the Secretary of State; and**
 - (d) new procedures for creating, amalgamating and grouping parish councils.**
- (3) That consideration be given by the Committee as to whether any of the items listed under recommendation (2) above should be the subject of further reports from the Constitution and Members' Services Standing Scrutiny Panel.**

Report

1. Introduction

1.1 We were asked, as part of our work programme for the current year, to review the contents of the Local Government and Public Involvement in Health Act 2007. This is an important piece of legislation, which affects the Council's Constitution, its governance arrangements, and the role of Councillors including electoral matters, local authority executives, Overview and Scrutiny and other changes to constitutional arrangements.

1.2 This report deals with the electoral provisions in the Act and we will submit further reports on other aspects over the coming months.

2. 2007 Act - Electoral Provisions

2.1 The main electoral matters covered in the 2007 Act relate to the items set out under recommendations (1) and (2) of our report. This report deals mainly the District Council's own electoral cycle as we are aware that there was some interest in changing from elections by thirds to whole Council elections every four years. The remaining matters listed are referred to in this report but have not been examined in detail. The Committee will note from recommendation (2) that we are asking the Committee to indicate whether the Panel is to carry out further work on any of those topics, should so indicate at this meeting.

3. Changing the Electoral Cycle

3.1 Part 2 of the Act deals with new powers for district councils to change their electoral schemes. Ministerial approval is no longer required.

3.2 This Council currently operates a system of election by thirds so that District Councillors are re-elected in three years out of every four. This system has been in operation since 1976 and was reaffirmed in 2002 as part of the district electoral review at that time.

3.3 The procedure for changing to whole Council elections requires:

- (a) reasonable steps to be taken to consult such persons as the Authority thinks appropriate;
- (b) approval by means of a Council resolution to be passed at a meeting specially convened for the purpose with a majority of at least two thirds of the members voting;
- (c) the resolution being passed within the period prescribed in the Act (either the period ending on 31 December 2010 or the period starting with the Council's annual meeting in 2014 and ending on 31 December of that year or in any fourth year subsequently).

3.4 This resolution would mean that the Council would be subject to a new electoral scheme providing for election of all Councillors in 2011 and every four years thereafter. Under this arrangement all sitting Councillors would retire four days after election day on 2011 and those elected (or re-elected) would come into office for a four year term.

3.5 The Council is required by the Act to publicise this resolution and produce an explanatory document explaining the effect of the resolution and to give notice of the resolution to the Electoral Commission.

3.6 The Act also allows Councils to change back to election by thirds if they have previously operated that system in the period since 1974. Similar conditions regarding the passing of that resolution to that effect, consultation, and public notice apply. However changing back requires that a notice of the adoption of that resolution must be served on the Electoral Commission who then have to decide whether to ask the Boundary Committee for England to conduct an electoral review and to consider making an order for election by thirds whether the Boundary Committee for England has conducted a review.

4 Investigation of Arguments For and Against Changing to Whole Council Elections

4.1 Now that the Council has more freedom to make this change, we have considered the arguments for and against adopting a whole Council election cycle. These arguments can be grouped together under the following headings:

- (a) Local Democracy;
- (b) Political Management of the Council; and

(c) Resources and Costs.

4.2 Our first step was to obtain details of other local authorities that had made the change to whole Council elections so that we could examine their reports arguing the advantages and disadvantages of that policy. Three local authorities: Broadlands District Council (Norfolk), Eastbourne Borough Council (Hampshire), and Castle Point District Council (Essex).

4.3 Castle Point District Council was of interest to us because it was an authority which had changed in the reverse direction (i.e., from whole Council elections to election by thirds).

4.4 The two Councils (Eastbourne and Broadlands) who changed to whole Council elections were clearly strongly influenced by research documents produced by the Electoral Commission and the Government in 2004/5 on this subject. Extracts from these two reports are set out in Appendices 1 and 2 to this report.

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Electoral Commission Findings

4.5 We think it is worth quoting a section of the Electoral Commission report from 2004 in relation to electoral cycles:

"The Commission recommends that each local authority in England should hold whole Council elections with all Councillors elected simultaneously every four years.

The Commission recommends that all local government electors in England should elect members of their District, Metropolitan Borough, London Borough or Unitary Council simultaneously once every four years. Two years later, in the mid point of the electoral cycle, electors in areas with county councils, citywide authorities or any future sub national government should elect representatives to those bodies."

4.6 Other points which arise from the Electoral Commission study are as follows:

(a) Understanding among the Electorate - the Commission points out that a mixed pattern of electoral cycles is "unclear and inconsistent" and may explain the number of electors who appear in the Commission's Public Consultation Exercise to be unaware of when the elections will be held in their area;

(b) Equity between Electors - the Commission concludes that it is unfair that, in systems of election by thirds, some electors "may have fewer opportunities to vote and influence the political composition of the same local authority than their neighbours in a different ward". Greater equity, it is concluded, would be achieved by all electors voting every four years;

(c) Leadership Stability - the Commission explores the arguments for elections by thirds or whole Council elections to establish which can provide a more stable political environment. The Commission points out that election by thirds may mean "less potential for abrupt changes of political control and switches in policy" but could imply that "important but controversial decisions may be postponed for political reasons until after an election". Other views are expressed about the ability of the electorate to change political control under the two systems. The Commission concludes that "whole Council elections do provide a degree of inherent stability providing an administration with a clear, four year mandate to implement its policies". It does acknowledge however that the election by thirds system does provide an annual opportunity by which political management of the Authority could be changed.

(d) Voter Participation and Turnout - the Commission's view was that on the basis of its research, more frequent elections dilute public interest and reduce turnout. London Borough elections are put forward as an example of how the four year cycle results in higher turnout.

"Vibrant Local Leadership" - ODPM Policy Paper (February 2005)

4.7 This Government document picks up many of the points raised in the Electoral Commission report indicated above. In summary, the Government saw a higher level of public understanding about the system of elections through whole Council cycles. It supports the argument that equity between electors is better achieved through whole Council elections and endorses the arguments of the Electoral Commission regarding stability of political management. On participation and turnout the Government accepted that "less frequent elections do reduce the number of separate opportunities for people to stand as local representatives or become involved in the local political process". However, the Government also commented that frequent elections may dilute public interest in the Council especially in the case of election by thirds which are "often unlikely to offer a clear opportunity for a locality-wide judgement on the overall performance of a Council and the prospect of a clear shift in control where local people felt that this was merited".

Experience within the three other Councils

4.8 We feel it may be useful to outline in brief terms the information we have obtained about the experience of the other three authorities mentioned above.

Broadlands District Council

4.9 The report of Broadlands Council refers to cost savings as a result of economies of scale which arise from all seats being elected at the same time. The Council had clearly consulted the public on making this change but the matter had stalled pending the Government's response to the Electoral Commission report. What can be seen now is that the 2007 Act is the Government's response to the Electoral Commission's proposal. Other than tying the change in electoral cycle to the previous Electoral Commission and Government Policy Papers, there is not a great deal of argument about the pros and cons of making the change.

4.10 It would be fair to say that cost arguments seemed to be a high priority for Broadlands District Council at the time. For the information of the Committee, Broadlands District Council has 47 members and has had a majority party for many years.

Eastbourne Borough Council

4.11 The reports we have seen from Eastbourne Borough Council are also clearly tied to the Electoral Commission report to which we have referred. Statistics were produced showing the electoral cycles operated by Borough and District Councils in England at the time. 82 held elections by thirds and 149 by whole Council cycles. Seven other councils held elections by halves. The Council had convened a Members' Seminar which had resulted in the following summary of arguments for and against this change:

"Advantages of Whole Council Elections

- (a) long term stability and enhanced stability to plan long-term;
- (b) reduction in the occasions when normal Council activities have to be curtailed because of an election period;
- (c) likely to improve electoral turnout;
- (d) reduction in confusion in the minds of voters and greater clarity in the election process;
- (e) cost savings;

Disadvantages of whole Council Elections

- (f) Council could be perceived as being less accountable when not subject to annual

elections;

(g) potential for reduction in local political activity in non election years and loss of contact between Councillors and residents;

(h) voter confusion in the face of a ballot paper offering up to three votes instead of the more familiar one;

(i) potential for loss of cross-party co-operation when elections are seen as being "all or nothing".

4.12 Eastbourne Borough Council is a relatively compact authority and has 28 Councillors. The political make-up of the Council involves only two parties with a small majority.

Castle Point District Council

4.13 This Authority changed from whole Council elections to election by thirds. Relevant reports and discussions with electoral staff did not reveal any clear arguments being put forward for this change of policy. The impression is that the controlling political group of the time were convinced of the need for this change and went ahead with that proposal.

Review of Evidence

4.14 We decided to obtain further information on cost comparisons between whole Council and election by thirds and also recent turnout figures for Epping Forest District in order to test the arguments put forward by the Electoral Commission and the Government about whole Council elections improving turnouts.

4.15 The main elements of the cost of elections are as follows:

(a) staffing costs;

(b) printing costs;

(c) cost of hiring polling stations and count centre; and

(d) travel and other miscellaneous costs.

Cost Comparison

4.16 The Returning Officer has prepared the financial appraisal set out at Appendix 3 to this report. We would like to draw attention to two specific items:

4.17 Training for members which in the first year of the new electoral cycle (2011/12) is set at £10,000. This is to reflect the fact that a larger than normal intake of new members might be experienced at that time. The Committee should note that for the remaining three years of the electoral cycle the figure reverts to the current level.

Public Consultation

4.18 It was clear from Eastbourne Borough Council, that public consultation had been undertaken on this change. The Returning Officer has included in the financial appraisal a sum of £10,000 for consultation with the public on electoral cycles. However, it now seems that the Council has some discretion about the extent of the consultation to be carried out. The Returning Officer has told us that the figure of £10,000 should be regarded as an upper limit, sufficient to carry out a sophisticated public consultation exercise if that was the Council's preference. Any more limited consultation would reduce that cost but it should be borne in mind that some funding might still be required as there is no other available budget at the present time. Thus, the less sophisticated the public consultation, the greater is the

cost advantage of pursuing whole Council elections.

Electoral Turnout

4.19 In 1999 a review of the electoral cycle was undertaken by the Council. This was as part of the periodic electoral review which came into operation in 2002 with a whole Council election on new electoral boundary. As part of that review, the Council could have opted for whole Council elections but in a report by the Executive Committee in December 2007 the conclusion was: "That the existing arrangements served the District well and should therefore be continued".

4.20 We asked the Returning Officer to produce for this report some information on turnout figures for District Council elections since 2002. These are summarised below:

Year	Type of Election	Percentage turnout
2002	Whole District Council Election	32.7%
2003	One Third District Council	29.3%
2004	District/Parish/European Parliament Election	37.6%
2005	County Council	N/A
2006	District and Parish Council	42%
2007	District and Parish Council	34%

4.21 We would ask the Committee to review those turnout figures in relation to the comments by the Electoral Commission and the ODPM in relation to higher turnouts for whole Council elections.

The Electoral Cycle

... 4.22 Appendix 4 to this report sets out an electoral cycle over the period 2007-2014. The Committee will note that the change to whole Council election would take place in 2011 with Parish, European and County Council elections continuing on the same timetable. The only uncertainty is the date for Parliamentary elections.

5. Summary of Arguments

5.1 We have referred to a number of the arguments for and against change to whole Council elections. It may be helpful to summarise these and others which we have been discussing.

(a) Political Management

5.2 It is clear to us that a majority party with a four year mandate may find it easier to plan and deliver its policy programme than if the majority is "at risk" as a result of annual elections. However, by the same token, whole Council elections could perpetuate a "balanced" Council for a period of four years. If the majority party maintains its position throughout the four year period on elections by thirds, it could be argued that it would still be in a position to deliver its policy programme.

(b) Voter Engagement - Electoral "Overload"

5.3 We have carefully considered the argument that whole Council elections would reduce electoral overload for the voters and result in higher turnout. Although we can see merit of this in

some situations (e.g. inner cities), it seems to us that in a County area with Parish and Town Councils the number of different elections is still considerable and, in our view, undermines the case for change. In the case cited by the Electoral Commission's report (London Boroughs) the only elections held are whole Council London Boroughs. There are now Mayoral and London Assembly elections which have a high public profile.

(c) Voter Engagement - Turnout Figures

5.4 Our assessment of turnout figures since 2002 seems to indicate that in this area at least election by thirds has not adversely affected voter turnout. It is possible that turnouts are not as high as might be wished but if a comparison is made between 2002 and 2006, the argument may not be as strong as implied by the Electoral Commission and by the Government in 2004/5.

(d) Electoral Costs

5.5 We have reviewed the cost comparison prepared by the Returning Officer. It is clear that there would be a saving on the whole Council option which would be approximately £10,000 per annum and could be increased if the estimate of consultation is reduced. There would be economies of scale in mounting elections on a whole Council basis. For instance, polling stations would only need to be hired on one occasion and similarly staff will be required in that Ward only once in the four-year period.

5.6 On the other hand, we noted that it will be necessary to take account of four years' inflation with whole Council elections. Similarly if the predictions about the number of bye-elections is correct, some of the "whole Council" economies of scale may be lost over the four-year period.

(e) Staffing

5.7 The Returning Officer has commented that staffing a whole Council election is a major undertaking. It will be necessary for him to engage approximately 70 Presiding Officers, compared with approximately the 40 necessary for each election by thirds. The four-year cycle, in his view, will place greater emphasis on succession planning and the maintenance of the skills and knowledge of Presiding Officers. The process of maintaining a pool of experienced staff will become more difficult and greater training will be necessary to avoid "rustiness".

5.8 This needs to be balanced against the cost arguments for whole Council elections. The Returning Officer has said to us that it will be easier to refresh the skills of Presiding Officers and secure replacements if the system of election by thirds continues.

(f) Political Implications

5.9 We have also discussed the implications for political parties arising from whole Council elections. Some political groups will find it easier to secure candidates if they are contesting a restricted number of wards. However, it may be more difficult for parties committed to field candidates in all or a large number of wards to find a number of candidates required every four years. Our discussions indicated that it can sometimes be difficult to find candidates for District Council seats and we took this as being an important negative factor in this argument.

(g) The Demand for Change

5.10 In our discussions, we asked ourselves the question whether there was a strong desire within the Council to make the change to whole Council elections. There has been consultation with Members through the Members' Information Bulletin and this attracted very little support for the idea. We accept that there has been no consultation with the public on this idea and it may be that the community at large will be more persuaded to change to whole Council elections having heard some of the arguments which are in this report.

5.11 We had considered convening a Member Seminar, possibly involving an external facilitator and representatives of the local authorities we have mentioned, in order to explore these matters more informally. However, we have concluded that before the Council can launch into an internal debate or indeed public consultation, there needs to be some clarity as to whether there is clear support for the idea. The purpose of this report therefore is to ask the Committee (and the Council) to explore the principle of whether further work should be undertaken on whole Council elections. There will be a cost to this process which will need to be met and we are anxious as a Panel to avoid unnecessary expenditure if there is no deep conviction about making the change. We recommend accordingly.

6. OTHER ELECTORAL MATTERS

6.1 The other provisions in the 2007 Act relating to elections are as follows:

(a) Changing the Parish/Town Council Electoral Cycle

There is now an opportunity for the Council to make an Order to change the electoral cycle for Parish and Town Councils. This can only be done where it achieves a situation where Parish and Town Council elections are held in the years which coincide with the year of ordinary elections in a Ward situated in any part of the Parish. This provision is designed to ensure that Parish and Town Council elections are synchronised with the District election. However, it will be necessary to consult with all the Parish and Town Councils about whether they wish to change from the current regime to a regime where all were re-elected in the same year.

6.2 As part of this process the District Council would have to make transitional provisions regarding the retirement date for existing Parish Councillors. We have not explored this option in detail although in discussion the point has been made to us that this change might achieve greater economies of scale and reduce costs for mounting elections.

(b) Single Member Wards

6.3 Councillors may ask the Electoral Commission to direct the Boundary Commission to review the District and for the Boundary Committee for England to make recommendations on single member wards for each electoral area. This procedure only applies where:

- (i) not all Wards have a single Councillor;
- (ii) the Council is subject to a scheme of whole Council elections.

6.4 Furthermore, the Electoral Commission is not obliged to grant such a request and it would be for the Boundary Committee to make proposals for how those single member wards were to be established.

(c) Names of Electoral Areas

6.5 Under the Act, Councils are now able to change the name of electoral areas by passing a resolution at a meeting convened for the purpose with notice of the subject matter. This no longer requires prior consent from the Secretary of State.

(d) Community Governance Reviews

6.6 This Council may initiate a Community Governance Review of its District or any part thereof. By petition, local communities can also request that such a review be carried out. Such reviews can result in the creation of new Parish Councils, the disbandment of Parish Councils, the grouping of Parish Councils and the creation of individual Parish Councils currently grouped together. There is reference in the Act to further guidance on this process which has not as yet been received.

6.7 We have not discussed any of these matters in detail. Our purpose in raising them as part of this report is to establish whether the Committee wishes us to look further into these matters and report back.

6.8 We recommend as set out at the commencement of this report.