

MEETING:	COUNCIL
DATE:	24 MAY 2013
TITLE OF REPORT:	TERM OF OFFICE OF LEADER OF THE COUNCIL
REPORT BY:	HEAD OF GOVERNANCE

1. Classification

Open.

2. Key Decision

This is not a key decision.

3. Wards Affected

County-wide.

4. Purpose

- On the recommendation of the Audit and Governance Committee to change the term of office of the Leader of the Council from the current term of four years to an annual election.
- To consider what provisions, are needed in the Constitution regarding the removal of the Leader of the Council during their term of office.

5. Recommendations

THAT:

- (a) The Constitution be amended to state that the term of office of the Leader is one year with an option that the Leader may serve consecutive one year terms up to and not exceeding a maximum of four years;**
- (b) The existing provisions in the Constitution in respect of the removal of the Leader remain in place;**
- (c) The Constitution be amended to state that the Leader may also be removed from office by simple resolution of a Motion Without Notice at a meeting of Council following a change in political control of the council, as signalled to the Head of Governance, a change in political control being a change in the composition of the various political groups such that a different group or combination of groups now comprise a majority of the membership of the Council; and**
- (d) Any other associated references in the Constitution be amended accordingly.**

6. Key Points Summary

- Under the provisions of the Localism Act, the Council has to include provisions in its Constitution dealing with the removal of the Leader of the Council during their term of office.
- The current Constitution at 2.5.1.4 e makes provision for removal of the Leader by resolution on notice at a Council Meeting. If the Council passes such a resolution, it will elect a new Leader at that meeting or a subsequent one.
- The Council also has to consider what length of office the Leader of the Council will be elected for.
- The Council is not obliged to alter the existing provisions which are that the Leader is elected for a term of four years at the annual meeting after a Council election.
- The Audit and Governance Committee has recommended that the Leader of the Council be appointed annually.

7. Alternative Options

- 7.1 That alternative criteria for the removal of the Leader during term of office be adopted.
- 7.2 That the term of office of the Leader remains at four years.

8. Reasons for Recommendations

- 8.1 Under Statutory Instrument 2012/1023, Local Authorities must make the provisions required by the new Section 9I of the Local Government Act 2000 as soon as reasonably practicable after the Instrument came into effect. This was 4 May 2012. Whilst the Council's annual meeting for 2012 took place after then, on 25 May, it was too short a lead in period to enable this question to be considered at that meeting. The Council's annual meeting for 2013 represents the earliest practicable opportunity to consider this question. The SI makes provision for the existing arrangements to continue until Council has considered the issues.
- 8.2 The issue of the length of term of office went before the Council's Audit and Governance Committee on 15 March 2013 and the Committee recommended that the term of office of Leader of the Council should be one year, with an option for the Leader to serve consecutive one year terms up to, and not exceeding, a maximum of four years.

9. Introduction and Background

- 9.1 The Local Government Act 2000 gave Local Authorities the ability to choose the term of office of the Leader. The Local Government and Public Involvement in Health Act 2007, however, inserted a new S 44A, 44C and 44D into the 2000 Act. S 44A prescribed that in all councils subject to whole council elections, the Leader is to be elected at the post-election annual meeting. S 44D prescribed that the Leader's term of office end on the post-election annual meeting which follows his election as Leader (i.e. effectively a four year term, of office). S 44C made provision for Local Authorities to include provisions for the removal of the Leader and election of a new leader.
- 9.2 The Council's Constitution at 2.5.1.1 and 2.5.1.4 reflects the provisions of S44D with a four year term of office for the Leader.
- 9.3 The Localism Act 2011 inserted additions to S9 of the Local Government Act 2000 as follows:

9I *Election and term of office of leader*

Executive arrangements by a local authority which provide for a leader and cabinet executive (England)—

- (a) must include provision with respect to the election of the executive leader, including provision for an election where there is a vacancy in the office of executive leader, and*
- (b) may include provision with respect to the term of office of the executive leader.*

9IA *Removal of leader*

- (1) Executive arrangements by a local authority which provide for a leader and cabinet executive (England) must include provision for the council to remove the executive leader by resolution.*
- (2) If a council passes a resolution to remove the executive leader, a new executive leader is to be elected—*
 - (a) at the meeting at which the leader is removed from office, or*
 - (b) at a subsequent meeting.*

9IB *Leader to continue to hold office as councillor*

- (1) A person who is the executive leader of a leader and cabinet executive (England) remains a member of the council during the period that the person is the executive leader.*
- (2) Accordingly, any enactment which provides for the person's earlier retirement as a councillor does not apply.*
- (3) This section does not affect anything by which the executive leader may cease to be a councillor otherwise than by retirement (including disqualification or resignation).*

9IC *No other means of removing leader*

- (1) This section applies to a local authority which operates a leader and cabinet executive (England).*
- (2) An executive leader may not be removed from office except in accordance with section 9IA or regulations under section 9ID.*

9.4 The Council is therefore obliged in law to have provisions in place with respect to the removal of the Leader and has discretion to make provisions with respect to the term of office of the Leader.

9.5 If no provisions are made in respect of the term of office, the existing provisions for the four year term will remain, but the Council must consider this issue.

10. Key Considerations

10.1 The principle of a four year term of office was pursued in the 2007 Act as promoting the “strong leadership” model under the last government.

- 10.2 The current government has chosen to move away from prescribing terms of office and leaving it at the discretion of individual councils as part of the localism agenda.
- 10.3 A four year term promotes stability within a majority administration and permits a Leader sufficient time to implement long and medium term policies with less difficulty.
- 10.4 A four year term does not however make allowances for changes within an administration throughout the term or changes to the overall political landscape, including reduction or loss of a majority, changes in political alliance or alignment.
- 10.5 Annual elections would give the ability to have a regular process of 'hand-over' in a more cohesive and planned manner.
- 10.6 Some Local Authorities have included provision that at the meeting at which the Leader is removed from office a new Leader must be elected to ensure continuity and the appointment of a new Cabinet seamlessly.

11. Community Impact

- 11.1 There is no community impact.

12. Equality and Human Rights

- 12.1 This decision pays due regard to our public sector equality duty.

13. Financial Implications

- 13.1 None.

14. Legal Implications

- 14.1 The Council is obliged to have in place provisions relating to the removal of the Leader. The Council may vary its position on term of office of the Leader, but is not obliged to do so.

15. Risk Management

- 15.1 No risks identified.

16. Consultees

- 16.1 Audit and Governance Committee.

17. Appendices

- 17.1 None.

18. Background Papers

- 18.1 None identified.