

REPORT



REPORT OF	MEETING	DATE
RESOURCES	COUNCIL	24 FEBRUARY 2014

GOVERNANCE REFERENDUM

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The council has received a valid petition calling for it to adopt a committee system instead of the current executive arrangements with a Leader and Cabinet. This means that a referendum will need to be held on 22nd May 2014.

The Council is required to draw up proposals for the operation of a committee system in the event that the referendum votes in favour of the change. The proposals should be capable of being translated into a detailed working arrangement without revisiting points of principle. If the referendum favoured no change, the current executive arrangements of Leader and Cabinet would remain in place.

RECOMMENDATIONS

Adopt the suggested broad principles set out in this report as the council's proposals for the operation of a committee system in the event of the forthcoming governance referendum voting in favour of a governance change.

CABINET PORTFOLIO

This item falls within the following cabinet portfolio(s):

Finance & Resources:

Councillor Karen Buckley

SUMMARY OF PREVIOUS DECISIONS

None.

REPORT

PETITION AND REFERENDUM

1. The Council has received a valid petition under the Local Authorities (Referendums) (Petitions) Regulations 2011. The petition seeks to replace the council's present executive arrangements, Leader and Cabinet, with a committee system.
2. The petition was received on 29th October 2013. The Council is required hold a referendum on the governance change proposed by the petition. The referendum will be held on 22nd May 2014, alongside the European Parliamentary election. The referendum question is prescribed by regulations and will be:

How would you like Fylde Borough Council to be run?

By a leader who is an elected councillor chosen by a vote of the other elected councillors. This is how the council is run now.

Or

By one or more committees made up of elected councillors. This would be a change from how the council is run now

3. The result of the referendum will be binding.

CHARACTERISTICS OF A COMMITTEE SYSTEM

4. All local authorities operated under a committee system until the Local Government Act 2000 came into force. Under a committee system, decision-making authority flows from the Council meeting as a body. The Council can delegate its functions to committees or officers¹. Committees can appoint and delegate to sub-committees, and a committee or a sub-committee can delegate further to an officer.
5. There is no legal maximum or minimum number of committees. Each committee must have at least three members. In appointing members to ordinary committees,² the council must comply with the rules of political balance, including the requirement for any majority group to have the majority of seats.
6. Authorities operating a committee system may have overview and scrutiny committees, but are not required to³.

PROPOSALS FOR A COMMITTEE SYSTEM

7. The Council is required to "draw up proposals for the operation of" a committee system⁴. It must publish a notice, containing (among other things) a "statement of the main features of its proposals"⁵, by 28th February 2014. There is no government guidance or case law that clarifies the amount of detail that the Council's proposals should contain. However, if the majority of

¹ Subject to certain matters, prescribed by regulation, which may not be delegated.

² This would not include the Licensing Committee, which is set up under the Licensing Act 2003 rather than the Local Government Act 1972.

³ Certain statutory functions which would otherwise have to be fulfilled by an overview and scrutiny committee must be assigned to another committee.

⁴ Local Authorities (Referendums) (Petitions) (England) Regulations 2011, regulation 17(2)

⁵ Local Authorities (Conduct of Referendums) Regulations 2012, regulation 4(1)

votes in the referendum are for a change to a committee system, the Council must “*implement the proposals that were the subject of the referendum*”⁶. This suggests that the proposals should be sufficiently coherent to be able to be translated into a working model of governance without needing to revisit any points of principle.

8. Officers suggest that the council’s proposals should include:
 - a. The number of committees, with their broad areas of responsibility
 - b. Whether, and to what extent, each committee will have power to make decisions on matters within their areas of responsibility
 - c. Whether there will be a mechanism for matters decided by a committee to be referred to the full council or any other committee for reconsideration, with an overview of any such mechanism
 - d. Whether there will be overview and scrutiny committees
9. If the referendum votes in favour of a committee system, the Council is required to pass a resolution to implement the proposals and to implement them from the next annual meeting following the passing of that resolution, or a later annual meeting specified in that resolution⁷. The Secretary of State has default powers to implement a change if the authority does not do so⁸.
10. The resolution to implement the proposals would include the adoption of the new constitutional arrangements that would formalise the governance arrangements. The necessary detail of a new committee system would be contained in those arrangements. However, the details would need to be within the parameters set by the proposals which this report invites the council to draw up.
11. If the referendum favours the current Leader and Executive model there will be no change to the Council’s governance system and for clarification the current arrangements are shown below:.

Council

Cabinet

Policy Development Scrutiny Committee

Community Focus Scrutiny Committee

Audit Committee

Development Management Committee

Licensing Committee

Public Protection Committee

Standards Committee

Chief Officer Employment Committee

⁶ Local Authorities (Referendums) (Petitions) (England) Regulations 2011, regulation 18

⁷ Local Government Act 2000, section 9L

⁸ Local Authorities (Referendums) (Petitions) Regulations, regulation 20.

A scheme of delegation exists within the Council's constitution which delegates responsibility for various functions to members and officers.

12. The following is presented as a suggestion for the proposals for the operation of a committee system that the council is obliged to draw up. The proposals would only be required to be implemented in the event that the forthcoming governance referendum favours a governance change.

Full council would have power to set policy parameters within which each committees is to operate

Within such parameters, functions (except planning policy) that are now executive functions would be divided between four committees whose broad remits would be defined around: (1) Tourism and Leisure, (2) Operational Management, (3) Health and Housing and (4) Finance.

The following existing committees would continue with the same remits as now, except as noted below: (1) Audit Committee, (2) Chief Officers Employment Committee, (3) Development Management, (4) Licensing and (5) Public Protection.

Matters presently within the terms of reference of the Standards Committee would fall within the remit of the Audit Committee. Formulation of planning policy would fall within the remit of the Development Management Committee. Final adoption of the local plan would remain, as required by law, a matter for full council.

There would be no arrangements for scrutiny within the governance framework⁹.

Each committee would have full delegated authority to make decisions within the parameters set by full council.

There would be a mechanism under which a committee would be barred from exercising delegated authority in a particular matter (i.e. would only be permitted to make a recommendation to council, rather than take a decision) under procedure rules to be developed. There would be a separate mechanism within the same procedure rules under which decisions made by committees could be referred to the council for reconsideration.

There will be the ability for full council to take any function it has delegated to a Committee, in place of that Committee: and a Committee may refer or recommend a decision in respect of a delegated function to be taken by full Council.

Delegations to officers would be the same as in current constitution.

There would continue to be a Leader of the Council, appointed and removable by a vote of the full council

Full procedures and rules to embody these principles would be developed if the referendum voted for a move to a committee system.

RESOURCING AND COST IMPLICATIONS

13. The Council currently has sufficient staffing resource in place to service the current arrangements. Members should be mindful that if an option is chosen that requires more

⁹ Certain statutory functions that, where overview and scrutiny committees exist, must be discharged by such a committee, would be assigned to the most appropriate committee.

committees than the existing arrangements, it is more likely that the costs of operating the new arrangements would be higher than the existing costs.

14. The Council currently has recurring annual budget provision of £61,838 for special responsibility allowances for various roles within the existing governance arrangements. If other governance arrangements are implemented, then the cost of special responsibility allowances may be more or less than the existing budget provision. The Independent Remuneration Panel would consider the matter in the first instance and make recommendations to the Council to consider.

15. Potential cost implications are difficult to estimate at this stage and will only be fully known if after a period of time in operating differing arrangements has elapsed.

IMPLICATIONS	
Finance	<p>The Authority currently has sufficient staffing resource in place to service the existing governance arrangements as set out in paragraph 11 of the report, and budget resource of £61,838 for special responsibility allowances for the existing governance arrangements. The cost implications of operating an alternative governance system would only be fully known after a period of time in operating differing arrangements had elapsed. The higher the number of committees, the more likely it is that the costs of operation would be higher.</p> <p>The timing of the submission of the petition ensures that the cost of holding the referendum will be mitigated by its staging to coincide with the European Election scheduled on 22nd May 2014. The updated financial forecast included within the Medium Term Financial Strategy to be considered by Council at its meeting on 3rd March 2014 has been updated to reflect an estimate of the cost of the referendum to FBC in the sum of £54,000 based upon the current understanding of the statutory position. This estimate may need to be revised should further guidance or direction be received on the treatment of joint costs.</p>
Legal	
Community Safety	
Human Rights and Equalities	
Sustainability and Environmental Impact	
Health & Safety and Risk Management	

REPORT AUTHOR	TEL	DATE	DOC ID
Tracy Morrison/Ian Curtis	01253 658521	14 February 2014	

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Governance referendum briefing note	November 2013	Town Hall, Lytham St Annes