

## TIMELINE OF THE KEY REQUIREMENTS FOR A CHANGE IN GOVERNANCE ARRANGEMENTS

The legal arrangements for Councils to follow when changing their governance arrangements can be found in Chapter 4 of the Local Government Act 2000.

A change can be made either by a resolution of full Council or by a referendum. In the case of the latter the referendum can be called directly by the Council or can be precipitated by a valid petition presented to the Council.

If the Council decides to follow the resolution route it will be governed by the requirements in section 9KC of the 2000 Act. This section provides that a resolution of a local authority will be required to make a change in governance requirements. Such a resolution can be laid at any time by any Councillor and requires a simple majority to be passed. The wording of the resolution does not need to be too detailed at this stage. It merely needs to set out the main features of the new governance arrangements.

If the Council was looking to change the governance arrangements in 2023 it should be looking to hold a vote on the resolution no later than October 2022 as, ideally, the resolution should precede the Council's Annual General Meeting at which the change would be made by approximately six months. This is so as to provide sufficient time for Officers and Members to work together on the detailed design of the new system.

If the Council resolves to change its governance arrangements in October 2022 the Council will then be locked in for a period of five years from that date to the new arrangement. However, the actual change can take place only on one specific date in the municipal year and that is the day of the Annual General Meeting. So for a resolution passed in October 2022 the effective date of the change would be May 2023 unless the resolution specifically stated that the change would be effective from the Annual General Meeting to be held in May 2024.

As soon as practicable after passing the resolution the Council is under a statutory duty to publicise the change in arrangements. This duty comprises:

- Securing that copies of a document setting out the arrangements that are to have effect following the resolution are available at its principal office for inspection by members of the public;
- Publishing in one or more newspapers circulating in its area a notice which states that the Council has resolved to make a change to its governance arrangements, states the date on which the change is to have effect, describes the main features of the change, states that copies of a document setting out the provision of the arrangements that are to have effect are available at the Council's principal office for inspection by members of the public and specifies the address of the Council's principal office.

Although there is no formal legal requirement to publish the information online the need to do this nowadays in addition to the requirements outlined above is taken as read.

As stated above if change happens by way of a Council resolution the Council will effectively be locked into that new arrangement for a period of five years from the date of the resolution. So if the Council resolved in October 2022 to make the change the lock in period will not expire until October 2027.

The only way in which the Council could “unlock” the period would be for the Council to hold a referendum. However, it should be made clear that any change of governance by way of a referendum would lock the Council into a new governance arrangement for a period of ten years and any subsequent change would have to be by way of referendum also.

Some thought should be given to the situation whereby the Council may decide to change its governance between the date of the resolution and the Annual General Meeting because there has been a change in political control during that period. The 2000 Act does not make it clear if a resolution, once passed, could then be reversed. There is no case law currently and the wording of the Act suggests maybe not although it is not explicit.

So, to summarise:

Change by resolution

October 2022 – resolution ( five year time limit runs from this date)

May 2023 at AGM – relevant change time is implemented

Change by referendum

October 2022 – Council resolves to hold a referendum on governance change

May 2023 – referendum is held and the public vote for a change in governance

June 2023 – within 28 days the Council would have to pass a resolution to change the governance arrangements ( 10 year time limit is counted from the date of this resolution )

May 2024 – relevant change is at the Council’s AGM