



Agenda Item No:

Report To: Selection & Constitutional Review Committee

Date of Meeting: 5th December 2023

Report Title: Term of office of Leader of the Council

Report Author: Terry Mortimer Solicitor to the Council
& Monitoring Officer

Portfolio Holder Leader of the Council:
Cllr.N.Ovenden

Summary: to ask the Committee to consider and recommend to the Council whether the current constitutional provision for election of the Leader of the Council for a four year term should be amended to an annual election at the Annual Meeting.

Key decision: No

Recommendations:

(i) that the Committee consider and recommend to Council whether the current 4 year term for which the Leader of the Council is elected should be amended to an annual election at the Annual Meeting.

(ii) If such an amendment is recommended then it should be on the terms set out at paragraph 11 of this report.

(iii) The Solicitor to the Council & Monitoring Officer be authorised to make any necessary amendments to the Constitution.

Contact: terry.mortimer@ashford.gov.uk

TERM OF OFFICE OF LEADER OF THE COUNCIL

Introduction

1. At its meeting on 13 June 2023 the Overview & Scrutiny Committee recommended that this Committee should receive a report regarding the term of office of the Leader of the Council (currently a four year term) and whether this should be recommended for amendment to provide for an annual election of the Leader of the Council.

At its meeting on 19 July 2023 the Council agreed that a report should be presented to this Committee.

Legal & Constitutional Position

2. The Council's Constitution provides in Article 7.02 that the Leader of the Council will be elected by the Council and the term of office begins on the day of election to the office and ends on the day of the next post Local Election Annual Meeting which follows his/her election as Leader. This is normally a four year period. The current Leader of the Council was so elected in May 2023.
3. In an election year the Leader holds over pending election of a new Leader even if not re-elected at the local elections.
4. Article 7.02 further provides that the Leader holds office for that term unless he/she resigns, is no longer a councillor (other than by expiration of office) or is removed from office by resolution of the Council on the basis of a motion process set out in Article 7.02.
5. The statutory background to the Council's constitutional provisions on the Leader of the Council is as follows.
The Local Government Act 2000 allowed the Council to choose the term of office of the Leader. The Local Government & Public Involvement in Health Act 2007 inserted new provisions at s.44 A-D of the 2000 Act prescribing that the Leader's term of office end on the post –election Annual Meeting following his/her election as Leader ie effectively a 4 year term of office. The Council's Constitution currently reflects this 4 year term provision.
6. The Localism Act 2011 inserted further provisions regarding the Leader of the Council into the Local Government Act 2000 which re-introduced a discretion in place of the mandatory four year term. It also required provisions to be included in Constitution regarding removal of the Leader by resolution of the Council and their continuation in office until replaced even at the end of an electoral term.
7. The Council was and is under no obligation to amend the current provisions on the Leader's term of office. However it does have a discretion to do so.

Key Considerations

8. The principle of a 4 year term of office for the Leader was introduced by the 2007 Act as part of the promotion of the “strong leadership” Model by Government at the time. The intention was to promote stability and continuity and allow a Leader and an administration to implement medium and longer term strategies and policies with less difficulty.
9. Although a 4 year term does not make allowances for changes within an administration or changes to the overall political landscape during the term, there are provisions which allow the Council to remove the Leader by resolution at any time.
10. Nonetheless members will wish to consider whether the annual election of the Leader of the Council (who would hold office until the day of the next Annual Meeting) is preferred to the current 4 year term. This would provide a process for regular planned consideration of potential change as an alternative to the removal by resolution of the council at any time. However the latter process must also by law still be available within the Constitution.

Conclusions

11. If this Committee wishes to recommend a change from the current 4 year term for the Leader to provide for annual election of the Leader at the Annual Meeting then it is recommended it does so on the following terms. This would mean the next election of Leader takes place at the Annual Meeting in May 2024:
 - (i) the Constitution be amended with immediate effect to state that the term of office of the Leader is one year (although the Leader may serve consecutive one year terms up to a maximum of four years following each local election if so elected at each Annual Meeting)
 - (ii) the other existing provisions in the Constitution in respect of resignation of the Leader and the removal and replacement of the Leader and the term of office in an election year remain in place.
 - (iii) the Monitoring Officer be authorised to amend any other relevant references in the Constitution to reflect the change in term of office.

Terry Mortimer
Solicitor to the Council and Monitoring Officer
November 2023