

Somerset County Council

County Council
18 November 2020

Item No.7

Report of the Leader of the Council – request to the Secretary of State to defer the 2021 county council elections

Cabinet Member: Cllr David Fothergill - Leader of the Council

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1. Summary

- 1.1.** On July 29 2020 Somerset County Council approved the One Somerset business case at its Full Council meeting. The Council resolved to:
- a) Approve the One Somerset Business Case
 - b) Authorise the Leader of the Council to submit the Business Case to the Secretary of State, MHCLG, for a decision on the future of local government in Somerset.
 - c) Authorise the Leader of the Council to submit further supporting evidence arising from ongoing engagement, and future consultation; and any requests included in the pending invitation from the Secretary of State, MHCLG, relating to the One Somerset Business Case
 - d) Agree to support the Leader of the Council continuing to seek consensus with the district and local councils across Somerset.

The business case was submitted to the Secretary of State on July 30.

The Secretary of State for Housing, Communities and Local Government (MHCLG) then wrote to all Somerset council leaders on October 8, along with North Somerset and Bath & North East Somerset, inviting them to submit their proposals for Local Government Reorganisation (LGR) - see appendix A. This letter and invite have been shared with all county councillors.

The letter specifically invites any interim proposals to be submitted by November 9, and detailed proposals by no later than December 9, 2020.

- 1.2.** Subsequent to the letter, the Government's process over the coming months was discussed with MHCLG representatives and is summarised below:
- 1.2.1 Final proposals must be received by the Secretary of State (MHCLG) no later than December 9.
 - 1.2.2 The Secretary of State will consult on all proposals meeting the criteria specified in the invite (appendix A) and the MHCLG formal consultation is envisaged to take place between February and March 2021 (subject to the capacity of MHCLG).
 - 1.2.3 That consultation starts the unitary implementation process and **as such usually triggers the process for a decision by the Secretary of State to defer a scheduled election ahead of the vesting of a new authority.** The Local Government and Public Involvement in Health Act 2007 requires that before a proposal for local government reorganisation can be implemented, the Secretary of State must first consult any council

affected that has not submitted the proposal, as well as any other persons that he considers appropriate. To inform the Secretary of State's decision, representations would likely be sought from any persons interested, public sector organisations, local residents, businesses and those in the voluntary sector in Somerset and neighbouring councils.

- 1.2.4 The Secretary of State is expected to make a decision on their preferred proposal between June and July 2021. Implementation will begin at that point, including the necessary legislation (a Structural Change Order being laid before Parliament) to permit the creation of any new local government structure for Somerset.

It should also be noted that these timescales are defined by MHCLG, and reflect their process of evaluation and subsequently the Secretary of State's decision on their preferred option. Local councils are consultees and can only therefore seek to influence the decision of the Secretary of State.

- 1.3.** The power of the Secretary of State to defer (but not cancel) elections is provided by Section 87 (Part 4) of the Local Government Act 2000:

“The Secretary of State may by order make provision which changes the years in which the ordinary elections of councillors of any specified local authority are to be held but which does not change the scheme which prevails... for the ordinary elections of those councillors.”

- 1.4.** In order to inform the decision of the Secretary of State this paper proposes that the Council consider its position on formally requesting the Secretary of State to use their powers to defer the scheduled 2021 County Council elections in May 2021 due to the transition towards the creation of a new local government structure in Somerset.

- 1.5.** The reasons for requesting a deferral of a scheduled election may vary. With reference to One Somerset proposals, reasons are threefold:

- Consultation will be under way during part of the pre-election period (“purdah”) for the 2021 County Council elections.
- Should the Secretary of State decide to implement local government reorganisation, and Parliament approve legislation establishing a new unitary council with elections to the new council in the year it is created, then County Councillors elected in May 2021 would serve for only one or two years, depending on implementation timescales, before the role is abolished. Elections in such circumstances risk confusing voters and would involve significant costs (in excess of £1m) that would be hard to justify and could be better used to meet Somerset's priorities.
- The importance of there being certainty with the Secretary of State as soon as possible in order to allow effective planning if the elections are to go ahead, and effective communications with the public and stakeholders if they are to be deferred.

Deferral is consistent with previous decisions made to defer elections in other areas where the Secretary of State has undertaken consultations on proposed reorganisation, such as in Northamptonshire and Buckinghamshire, where scheduled district elections were deferred.

It should be stressed that the decision to defer an election lies with the Secretary of State and the Council can only inform them of its view. Furthermore, the

Secretary of State's powers are limited to deferring elections, not cancelling them.

2. Recommendations

- 2.1. To request that the Secretary of State defers the County Council elections scheduled for May 2021, the following motion is requested to be debated and approved:

“Council supports the Leader to make a request to the Secretary of State to defer the scheduled 2021 county council elections until such time as the Secretary of State determines to hold a County Council election as part of the transition towards a new local government structure for Somerset”.

3. Background

- 3.1. In January 2020, the Leader of Somerset County Council announced his intention for the County Council to focus on the option of developing a business case for a single unitary council for Somerset, known as ‘One Somerset’.
- 3.2. The One Somerset business case sets out why a new single unitary authority, based on the boundary of the current two-tier Somerset county, will deliver better local government and local community leadership. The case articulates how it satisfies the criteria set by the Government for proposals for establishing new unitary authorities:
- a) Proposals are likely to improve local government and service delivery across the area of the proposal, giving greater value for money, generating savings, providing stronger strategic and local leadership, and which are more sustainable structures.
 - b) Proposals command a good deal of local support as assessed in the round overall across the whole area of the proposal.
 - c) The area of each unitary authority has a credible geography consisting of one or more existing local government areas with an aggregate population which is either within the range 300,000 to 600,000, or such other figure that, having regard to the circumstances of the authority, including local identity and geography, could be considered substantial.
- 3.3. The current two-tier structure is not considered fit for purpose for the opportunities and challenges we face, nor is it sustainable in terms of delivering the future needs of residents or businesses. In Somerset, the opportunity is not just to support our communities and invest in our county, but also champion the opportunities and therefore aims to delegate more decision making and power at a local level to Somerset's communities.
- 3.4. Somerset's district councils have developed an alternative business case, Stronger Somerset, which proposes the formation of a different unitary governance structure for Somerset: two unitary authorities, a children's trust, a combined authority with a mayor and a shared services company. Each district council agreed that business case during September and it was submitted to the Secretary of State on October 1, 2020.
- 3.5. Bath and North East Somerset Council, and North Somerset Council response to the Secretary of State have not chosen to develop a business case for a new

local government structure beyond their current boundaries.

- 3.6. By creating a single tier unitary model council, Somerset County Council believes that this approach is needed to deliver higher quality services, whilst reducing demand and creating a greater sense of community. A unitary model that enables engagement with all people and groups, including those usually excluded, will support and maximise community resilience and prosperity.
- 3.7. Currently, work is under way to prepare the final business case to submit to the Secretary of State no later than December 9, as requested in the Secretary of State's letter dated October 8 (appendix A).

4. Consultations undertaken

- 4.1. Consultations have been undertaken with Democratic Services, Legal Services, the Equalities Manager, Senior Leadership Team, Cabinet and MHCLG.
- 4.2. Responses and advice have been incorporated into this report.

5. Implications

5.1. Finance

It is estimated that deferring the 2021 county council elections will avoid an expenditure in excess of £1m by holding elections only once in preparation for the new Unitary authority/ies. However, it must be stressed that deferring this cost does not therefore represent a saving and is not a consideration in making this proposal.

5.2. Equalities

Regarding equalities impact, the decision to defer the election will be made by the Secretary of State therefore the duty to have due regard resides with them. Therefore, no equalities impact assessment is required. However, the Equalities Manager has noted the potential for confusion if residents are not aware of or understand the reasons for a deferral. The mitigation for this will be to ensure clear communications with residents and voters.

5.3. Risk

Risks are associated with the Secretary of State not choosing to defer the 2021 council elections in Somerset. There is a significant lead-in time to prepare for an election and costs associated with that preparation, including officer time. These would be abortive should a late decision be taken to defer the elections.

Receiving a decision from the Secretary of State at the earliest opportunity will allow effective planning if the elections are to go ahead, and effective communications with residents and stakeholders if they do not go ahead.

Further risks include the Secretary of State selecting an alternative business case for a new local government structure or delays to any Structural Change Order being agreed which would affect the planned timetable for transition. It should be highlighted that the timetable for any new local government structure is determined by the Secretary of State.

Whilst the Secretary of State has issued a letter and invite to local councils, there

is of course a risk that the Secretary of State does not agree to change the current local government structure in Somerset following review of proposals and any formal consultation that MHCLG undertakes. In this instance the scheduled County Council elections in May 2021 would still proceed.

6. Background papers

6.1. Appendix B – Secretary of State letter inviting proposals for local government reform in Somerset



SoS MHCLG to
Somerset council lead

Note: For sight of individual background papers please contact the report author