



Communities in control: Real people, real power
**Changing Council Governance Arrangements –
Mayors and Indirectly Elected Leaders.
A Consultation**



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Mayors and Indirectly Elected Leaders.
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Chapter 1

The consultation and how to respond

Communities in Control consultation papers

- 1.1 The white paper, *Communities in Control: Real people, real power*, is about passing power into the hands of citizens and communities. It sets out a range of policies to achieve this, building on work in progress from the 2006 Local Government white paper, *Strong and Prosperous Communities*.
- 1.2 This is part of the Government's wider agenda to modernise our democratic system, to strengthen participatory democracy and, through the *Communities in Control* white paper, to deliver genuine empowerment to local people and local communities – passing more power to more people through every practical means. Central to this is a vibrant local democracy, at the heart of which are councils – providing strategic leadership, delivering services and empowering communities.

About this consultation paper

- 1.3 We now need to consult further about a number of policy commitments and are doing this through a series of *Communities in Control* consultation papers. This consultation is the next in the series and invites views about reducing the threshold for a petition to trigger a governance referendum on a council's governance model to below five per cent of local electors, and permitting e-petitioning for mayors. It also considers the commitment in the *Communities in Control* white paper that where a governance referendum is lost, a further governance referendum may be held after 4 years, rather than after 10 years as is currently the case.
- 1.4 Councils need governance models that readily deliver strategic leadership, sharp accountability, and effective and efficient decision taking. The Government recognises that the directly elected mayoral model can readily deliver this. It also recognises that governance models where there is an indirectly elected council leader can equally deliver these outcomes. It is for this reason that the Government has legislated in the Local Government and Public Involvement in Health Act 2007 to give councils a choice between directly elected mayors and indirectly elected leaders. This should be a choice that the local community can make.

- 1.5 Accordingly this consultation paper focuses on proposals to make it easier for people in England to demand that their local leaders hold a governance referendum on moving to a new form of governance arrangements. It includes proposals to make it easier for local people to decide to have a directly elected mayor. Equally the consultation includes a process whereby a decision to have a directly elected mayor can be reversed by a governance referendum or vote of the council.
- 1.6 Chapter 2 provides background on both governance models, and sets out the legislative provisions and processes for changing governance models. It seeks views on whether we should remove existing statutory requirements so that in future there would be a level playing field for moves between the two governance models.
- 1.7 Chapter 3 seeks views on proposals to reduce the threshold for a petition to trigger a governance referendum from the existing requirement, which is five per cent of local government electors.
- 1.8 Chapter 4 seeks views on permitting the use of e-petitioning to demonstrate support for a governance referendum.

Who we are consulting

- 1.9 This is a public consultation and it is open to anyone to respond to the questions which are summarised at annex A. We would particularly welcome responses from councils in England, national representative bodies, and electoral registration officers and returning officers.

How to respond

- 1.10 Your response must be received by **13 March 2009** and may be sent by email or by post to:

Changing Council Governance Arrangements Consultation
Communities and Local Government
Zone 5/A2
Eland House
Bressenden Place
London
SW1E 5DU

email: governance@communities.gsi.gov.uk

- 1.11 It would be helpful if you could make clear in your response whether you represent an organisation or group, and in what capacity you are responding.

What will happen to the responses?

- 1.12 We will analyse the responses to the consultation and produce a summary of them within three months of the close of the consultation. This summary will be published on the consultation page of the Department's website at:
www.communities.gov.uk/corporate/publications/consultations/
- 1.13 The Government will take account of the responses received to this consultation before introducing primary and secondary legislation on the particular topics discussed in this paper.

Publication of responses – confidentiality and data protection

- 1.14 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
- 1.15 If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply, and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential.
- 1.16 If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
- 1.17 The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.



The consultation criteria

1.18 The UK Government has adopted a code of practice on consultations. The criteria that apply under this code, and advice about who you should contact if you have any comments or complaints about the consultation process are included in annex B.

Additional copies

1.19 You may make copies of this document without seeking permission. Printed and alternative format (eg Braille or audio) copies of this consultation paper can also be obtained from the contact details at paragraph 1.10 above. An electronic version of this document can be found in the consultation section of the Departments website at: www.communities.gov.uk

Chapter 2

Governance arrangements

Executive governance models

- 2.1 All councils serving a population of above 85,000 electors are required to adopt one of two executive governance models – the directly elected mayoral model (“a mayor and cabinet executive”), or indirectly elected council leader model (“a leader and cabinet executive”). In the mayor and cabinet executive, the mayor is directly elected by local government electors in a council’s area, whereas in the leader and cabinet executive, the leader of the council is a councillor elected by his/her fellow councillors. In both models, the directly elected mayor or indirectly elected leader will have a range of policies to implement while in office with the help of their cabinet.
- 2.2 Under both models, the mayor or leader will lead the council and can be in charge of local services. However in addition, many councils have a ceremonial mayor who normally chairs council meetings. Where a directly elected mayor leads the council, he or she may carry out ceremonial functions or the council may decide to keep the ceremonial mayor as well. If they do, he or she will normally have a new title. The directly elected mayor will hold the formal title of ‘mayor’.
- 2.3 Most councils in England operate with the leader and cabinet executive. To date, twelve council areas have a directly-elected mayor: Bedford, Doncaster, Hackney, Hartlepool, Lewisham, Mansfield, Middlesbrough, Newham, North Tyneside, Stoke-on-Trent¹, Torbay and Watford. Of the 12 current mayors some are from political parties, and others are independent.

Changing governance models

- 2.4 In the *Communities in Control* white paper we undertook to consult on making it easier for local people to petition for a governance referendum on moving to a mayoral form of governance. This consultation seeks your views on two proposals for achieving this, as well as on making it as easy to move to a leader and cabinet executive. The first proposal is whether there should be a reduction in the petition threshold, i.e. the number of local government electors required to sign a petition, in order to trigger a governance referendum for a change in a council’s governance model, and the second proposal is whether e-petitioning for such a

¹ Following a governance referendum, Stoke-on-Trent will adopt a leader and cabinet executive from June 2009.

governance referendum should be permitted. The consultation also invites views on the proposal to facilitate change that a reduced moratorium period between governance referendums should apply in every case where a governance referendum results in no change of governance model. Subject to the outcome of this consultation, it is the Government's intention to seek the necessary primary legislation for any such reduction at the next convenient opportunity.

- 2.5 This is in the context where a local community should be able to decide a change in its council's governance model. Where there is demonstrable evidence that there is significant interest locally for such a change, then the local community should have the opportunity through a governance referendum to decide whether or not the change is to be made.
- 2.6 Equally, the democratically elected representatives of a local community should be able to decide if they wish to change their council's governance model. In such a case, just as where change is made through a governance referendum, it should be as easy to move to a leader and cabinet executive as to a mayor and cabinet executive. Accordingly, this consultation invites views on whether where a change in governance models is decided by a vote of the council without a governance referendum, the current special procedural requirements for a move from a mayor and cabinet executive should be removed. Subject to this consultation, it is the Government's intention to seek the necessary primary legislation for removing such requirements at the next convenient opportunity.

The legislative framework for changing a council's governance model

- 2.7 The Local Government Act 2000 introduced reforms in order to make council decision making more efficient, transparent and accountable. As part of these reforms, local people were able to choose which form of executive governance arrangements their councils should adopt. Where a council receives a valid petition it must hold a governance referendum the results of which are binding. Such petitions and duties on councils to hold a governance referendum are separate to local petitions and the new duty on councils to respond to them as set out in the Local Democracy Economic Development and Construction Bill.

Moving to a Mayor and cabinet model

2.8 The Local Government and Public Involvement in Health Act 2007 made amendments to the 2000 Act which relaxed the procedure for changing governance arrangements². The requirement to hold a governance referendum in relation to a council proposing to move to the mayor and cabinet executive was removed; where the council wishes to move to the mayor and cabinet executive it can now take one of the following approaches:

- Following consultation and the drawing up of proposals for the change in its governance arrangements, the council can simply resolve to move to those arrangements
- The council can make its proposals subject to approval in a governance referendum

Moving from a Mayor and cabinet model to a leader and cabinet model

2.9 A council currently operating the mayor and cabinet executive model which wishes to move to the leader and cabinet executive can likewise take one of those approaches. In this case, where the council is seeking simply to resolve to make the change, special additional requirements apply. These are that it must also include in its proposal a statement setting out the arguments for and against the change and its reasons for wanting to make that change.

Consultation Question 1: Should we remove the special requirements that a proposal to move from a mayor and cabinet executive must include a statement setting out the arguments for and against the change and the council's reasons for wanting to make that change?

Moratorium period between governance referendums

2.10 Where a council has adopted an executive governance model following a governance referendum, it can move from that model only following a further governance referendum approving that change. A council may also be required to hold a governance referendum on proposals for a move to a mayor and cabinet executive by virtue of being petitioned by local people or directed or ordered by the Secretary of State to do so. Regulations made under the Local Government Act 2000 provide that in order to trigger a governance referendum petitions must be supported by a number of electors that is greater than or equal to five per cent

² The provisions for local people to trigger a governance referendum by submitting a valid petition remain unchanged.

(known as the threshold) of the number of local government electors for the council's area shown in the electoral register.

- 2.11 Legislation also provides that where a governance referendum has been held, a further governance referendum may not be held for a defined period – informally known as the 'moratorium period'. The moratorium period was extended by the Local Government and Public Involvement in Health Act 2007 from 5 to 10 years to provide a period of stability where governance arrangements had changed to ensure time for the new arrangements to bed in.
- 2.12 The Government considers that this should remain the case where a governance referendum has resulted in a change of governance arrangements. It is right that there is a period of stability in which the new arrangements can be fully tried and tested. However, the Government considers that where a governance referendum results in no change, local people should not be denied the opportunity to seek a change in local governance arrangements for a further 10 years should they wish to do so. As suggested in the *Communities in Control* white paper, the Government considers a moratorium period of four years would strike the right balance between allowing local communities to change their councils' governance models with relative ease whilst avoiding unnecessary and damaging instability.
- 2.13 We therefore seeks views on whether to refine the 'moratorium period' arrangements, namely to remove the stipulation that no governance referendum may be held for 10 years where a governance referendum does not result in a change in governance arrangements, and permit a further governance referendum after four years in these circumstances.

Consultation Question 2: Do you agree with the proposal that the moratorium period should be reduced from ten years to four years where a governance referendum does not result in a change?

Chapter 3

Petition threshold

- 3.1 The purpose of a petition threshold is to provide the basis for recognising that there is demonstrable significant interest locally for a change in governance arrangements. The level of the threshold needs to be such that it ensures that on the one hand governance referendums are not triggered unless there is significant interest, but equally that there are no barriers or impediments to such interests being demonstrated where they exist. E-petitioning might also facilitate the demonstration of such interests and the use of e-petitioning is examined in chapter 4.
- 3.2 We know in practice that it can be a substantial undertaking for petition organisers to collect the number of signatures required to meet the current five per cent threshold to trigger a governance referendum. This is particularly the case in those council areas covering larger populations. We are therefore seeking views on whether to reduce the threshold, thereby making the task more achievable. Any new threshold should however continue to be at such a level as to demonstrate significant interest locally for a change.
- 3.3 This chapter explores options for changing the petition arrangements for triggering a governance referendum to make them both practical and reasonable, thereby encouraging local people to get involved, and stimulate debate about the leadership arrangements for their area. We are seeking views on the threshold of signatures required, and set out below three broad proposals which are:
1. **reduce the single five per cent threshold to either four per cent, three per cent or two per cent of local government electors for the council area concerned**
 - or
 2. **introduce a range of numerical thresholds**
 - or
 3. **apply a percentage threshold as set out in option 1, but subject to set minimum and maximum numerical thresholds**

Reduce the five per cent threshold

- 3.4 There are large differences in the number of local government electors for councils across England. By way of example, table 1 shows that petition organisers in council areas serving a large electorate – say 500,000 local government electors for example, would need to collect over 25,000 signatures within the space of a year (since any signatures over a year old are invalid) to trigger a governance referendum, which would be a substantial undertaking.
- 3.5 Our view is that the current threshold of five per cent may pose a barrier to local people petitioning for a governance referendum, particularly in larger council areas. One option for altering the current arrangements would be to reduce the petition threshold to below five per cent. Table 1 below provides an indicative illustration of the effect of reducing the threshold to four per cent, three per cent or two per cent across a range of electorate sizes.

Local Government Electors	5%	4%	3%	2%
700,000	35,000	28,000	21,000	14,000
500,000	25,000	20,000	15,000	10,000
300,000	15,000	12,000	9,000	6,000
150,000	7,500	6,000	4,500	3,000
100,000	5,000	4,000	3,000	2,000
50,000	2,500	2,000	1,500	1,000

- 3.6 Reducing the percentage threshold has the advantage of retaining simplicity in the arrangements for petition thresholds. However, lowering the threshold generally may not address the wider practical issues faced by petition organisers in council areas serving a large number of local government electors. It is possible that, in order to make the practical task achievable for petition organisers in such areas, the threshold would need to be set at such a level as to be inappropriately low for the purposes of demonstrating significant support for change.
- 3.7 The Government is therefore interested in your views on whether the threshold should be reduced from the current five per cent and if so to what level.

Consultation Question 3: Should the threshold for a petition to trigger a governance referendum be reduced across the board? If yes, to what level should the threshold be reduced, bearing in mind the considerations about the balance between the practicalities of collecting signatures and the demonstration of a significant level of interest in change.

Introduce a range of numerical thresholds

- 3.8 An alternative option would be to introduce numerical thresholds to be set for various electorate ranges. The size of the numerical threshold could then be set so as to ensure a petition carries sufficient weight but is not a barrier to the demonstration of local support for a change.
- 3.9 Table 2 provides an illustration of how such numerical thresholds might be set in practice. For the purposes of the illustration, the numerical thresholds are based upon the median of five per cent of local government electors for each council in England within the corresponding electorate band on the left. The result is an achievable, yet significant level of signatures across all electorate bands.³

Number of local government electors	Threshold Figure
50,000 – 100,000	3,750
100,000 – 200,000	6,500
200,000 – 300,000	11,500
Above 300,000	18,000

Consultation Question 4: Should numerical thresholds be set? If so, what should the basis and bands for these thresholds be?

Apply a percentage threshold as set out in option 1, but subject to set minimum and maximum numerical thresholds,

- 3.10 Finally, a further option for change to the existing arrangements would be to retain the existing percentage threshold, but making that threshold subject to a minimum and maximum numerical threshold for signatures. Petition organisers would be required to obtain the percentage threshold in all cases except where the percentage threshold would be above or below the set maximum or minimum numerical thresholds. In such cases, the maximum or minimum numerical threshold would apply as appropriate.

³ The figures in table 2 were calculated using Office of National Statistics figures for local government electors in England (December 2007)

3.11 We are therefore seeking views on whether to introduce a numerical threshold as to the minimum and maximum number of signatures that would be required to meet the petition threshold to trigger a governance referendum in councils across England, to work in combination with a simple percentage threshold.

Introducing a minimum figure

3.12 Introducing a minimum figure for a petition threshold, would mean that there would need to be sufficient support in small council areas to meet the required level of signatures. An example would be to set the minimum level of signatures at 1,000. In areas where fewer than 1,000 signatures are required to trigger a governance referendum using the percentage system, the minimum figure would apply. This would mean that the petition would need to meet the threshold of 1,000 signatures in order to trigger a governance referendum. 1,000 signatures would show that there is significant support for a change in governance in that area, rather than a set percentage that is below 1,000.

Introducing a maximum figure

3.13 Introducing a maximum figure would mean that in council areas with a large amount of local government electors, petition organisers would be able to meet the threshold with less signatures than using a simple percentage threshold. An example would be to set the maximum level of signatures at 10,000, a significant undertaking for petition organisers. In areas where the percentage system alone would require more than 10,000 signatures, petition organisers would need to meet this maximum level to trigger a governance referendum.

Consultation Question 5: Should the threshold be a percentage, but subject to certain minimum and maximum numerical thresholds? What should those percentage and numerical thresholds be?

Chapter 4

The use of e-petitioning

- 4.1 The Government proposes to introduce electronic petitioning (e-petitions) alongside paper petitions, to trigger a governance referendum on governance arrangements. This will make it easier for people to become involved in local democracy, and provide another means for communities to add their support to a petition.
- 4.2 We realise that some members of the public may not have access to computers, and some will have no experience of using a computer. We therefore propose that e-petitioning should be an addition, where a petition organiser so wishes, to the current paper petitioning system. Local government electors that do not have access to, or do not want to use a computer, would still be able to sign a paper petition to show their support. Signatures from both types of petition could be combined for the purposes of meeting the petition threshold.

Consultation Question 6: Do you agree that a traditional paper based petition calling for a governance referendum may be supplemented, if the petition organiser so wishes, by e-petitioning?

Key current requirements for a governance petition

- 4.3. Currently petitions are only permitted in paper format. A valid petition must include the signatures of at least five per cent of the local electorate. Each signature must be accompanied by:
1. the person's first name and surname
 2. the person's address and
 3. date of the signature
- 4.4 A signature is not valid if it is dated more than 12 months before the petition date (usually the date the petition is received by the council), or the signatory is not registered to vote in the area of the council on the day the petition is submitted.

- 4.5 We propose that all of the requirements that are currently in place with regard to paper petitions would remain and apply to e-petitions. E-petitioning would give local people another convenient means in which they can register their support for a governance referendum. Some councils are already using e-petitioning for broader issues that are of interest to local people.

Receiving e-petitions

- 4.6 The process for submitting an e-petition will differ from submitting a paper petition. We want to make verification of signatures as easy as possible, to minimise the administrative costs to councils. The system that is used to register the details of those supporting the petition will also need to be secure.
- 4.7 We therefore propose that a request to start an e-petition should be submitted to the council before any signatures are gathered. The council would check the petition meets the requirements, and upload all qualifying petitions on an e-petitions facility for local people to sign electronically.
- 4.8 Councils will be required to provide a facility for e-petitions as part of the proposed duty to respond to petitions set out in the *Government Response to the Petitions and Calls for Action Consultation*, and we envisage this facility incorporating governance petitions. The Government will support councils to share best practice and develop processes to respond to electronic petitions.

Consultation Question 7: Do you agree that e-petitioning for a governance referendum must be through a secure e-petitioning facility provided by the council concerned?

Verification of petitions

- 4.9 The 'petition date' is usually the date that the council receives the petition. As soon as reasonably practicable after receiving a petition the council must notify the petition organiser of the petition date. The person who does this is known as the 'proper officer' – usually the officer of the council who is responsible for electoral matters. As soon as reasonably practicable after the petition date, and within one month of that date, the proper officer must confirm whether the petition is valid or not.

- 4.10 If the council adds two or more petitions together then the petition date is the date on which it received the last petition. The petition date dictates the timetable within which the council must check if the petition is valid, and the timeframe for holding the governance referendum. For electronic petitions, the petition date will be the date the petition closes on the e-petitions facility. There are rules governing when a petition is submitted after a previous governance referendum. The petition date and more information can be found in the 'petitioning for an elected mayor' information pack at:
<http://www.communities.gov.uk/publications/localgovernment/petitioning>.
- 4.11 The petition will be verified against the electoral register that is current when the petition is received by the council. The number of signatures required to reach the petition threshold is called the verification number. Each year in the second half of February councils publish a figure that is equal to the petition threshold (currently set at five per cent of the number of local electors in the area). The verification requirements for paper petitions and electronic petitions would be the same.

Issues that might arise from permitting e-petitions

- 4.12 As with paper petitions, signatures on an e-petition will need to be verified. The e-petition facility provided by the council could recognise large scale duplicate signatures, or whether there is any interference in the process from hackers. For instance, existing council e-petition systems recognise duplicate signatures and compare the Internet Protocol (IP) addresses of those that have signed. An IP address is the address which identifies your computer on the Internet. If there is a lot of support for a petition emanating from one IP address, council staff are alerted that there may be a case of invalid signatures being registered.

Annex A

List of consultation questions

- Question 1** Should we remove the special requirements that a proposal to move from a mayor and cabinet executive must include a statement setting out the arguments for and against the change and the council's reasons for wanting to make that change?
- Question 2** Do you agree with the proposal that the moratorium period should be reduced from ten years to four years where a governance referendum does not result in a change?
- Question 3** Should the threshold for a petition to trigger a governance referendum be reduced across the board? If yes, to what level should the threshold be reduced, bearing in mind the considerations about the balance between the practicalities of collecting signatures and the demonstration of a significant level of interest in change.
- Question 4** Should numerical thresholds be set? If so, what should the basis and bands for these thresholds be?
- Question 5** Should the threshold be a percentage, but subject to certain minimum and maximum numerical thresholds? What should those percentage and numerical thresholds be?
- Question 6** Do you agree that a traditional paper based petition calling for a governance referendum may be supplemented, if the petition organiser so wishes, by e-petitioning?
- Question 7** Do you agree that e-petitioning for a governance referendum must be through a secure e-petitioning facility provided by the council concerned?

Annex B

Consultation Code of Practice

About this consultation

This consultation document and consultation process have been planned to adhere to the Code of Practice on Consultation issued by the Department for Business Enterprise and Regulatory Reform and is in line with the seven consultation criteria, which are:

1. Formal consultation should take place at a stage when there is scope to influence the policy outcome;
2. Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible;
3. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals;
4. Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach;
5. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained;
6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation; and
7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please contact:

Communities and Local Government Consultation Co-ordinator
Zone 6/H10
Eland House
London SW1E 5 DU

or by e-mail to: consultationcoordinator@communities.gsi.gov.uk

Are you satisfied that this consultation has followed these criteria? If not, or you have any other observations about ways of improving the consultation process please contact:

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