

EXPLANATORY MEMORANDUM TO
THE CITY OF STOKE-ON-TRENT (SCHEME OF ELECTIONS) ORDER 2009

2009 No. 2734

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

Stoke-on-Trent City Council currently operates a scheme of partial council elections by thirds (i.e. with one third of its councillors being elected each year in three years out of four). The purpose of this instrument is to specify a scheme of elections of Stoke-on-Trent City Council from 2011 (and every 4 years thereafter) whereby the whole council would be elected once every four years.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Context

4.1 Section 85 of the Local Government Act 2000 (“the 2000 Act”) prescribes three options for the scheme for the ordinary elections of councillors of a principal council. For all three options the term of office of councillors is four years. The essential characteristics of the three schemes can be summarised as:

a) a scheme under which elections are held in a given year and every fourth year afterwards, and all councillors are elected and retire together (“whole council elections”),

b) a scheme under which elections are held in a given year and every second year after it, and one half of the councillors are elected in each year in which elections are held (“election by halves”), or

c) a scheme under which elections are held in a given year and every year after it other than every third year after it, and one third of the councillors are elected in each year in which the elections are held (“election by thirds”).

4.2 Stoke-on-Trent City Council (“the Council”) currently operates election by thirds.

4.3 Section 54(3) of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) inserted new subsection (A1) into section 86 of the 2000 Act to provide that the Secretary of State may only make an Order (in England) to secure that a council operate a scheme of whole council elections.

- 4.4 This Order provides that, from 2011, Stoke-on-Trent City Council shall change from election by thirds to whole council elections. All councillors, irrespective of the year in which they were elected, who hold office immediately before the fourth day after the ordinary day of election of councillors in 2011, shall retire on that day.
- 4.5 The Council was the only council to adopt executive arrangements with a mayor and council manager executive, which section 11(4) of the 2000 Act specified as one of the permitted forms of executive. That particular form of executive ceased to be a permitted form of executive for English local authorities as a result of amendments made to section 11 by section 62 of the 2007 Act. The Council then had the choice of moving to one of the remaining permitted forms of executive – the mayor and cabinet executive (section 11(2) of the 2000 Act) or the leader and cabinet executive (section 11(3) of that Act).

5. Territorial Extent and Application

This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 As stated in paragraph 4.5, the Council was the only council to adopt executive arrangements with a mayor and council manager executive. A referendum was held in October 2008 at which the people of Stoke-on-Trent voted to move to a leader and cabinet executive. The Council moved to that form of executive following the expiry of the Mayor's term of office in June 2009 in accordance with the implementation timetable provided for in Part 2 of, and Schedule 4 to, the 2007 Act.
- 7.2 Earlier, in January 2007, Ministers had become aware that for some time there had been significant concern that the then local governance arrangements in Stoke-on-Trent were not best serving the people of that city. Accordingly, at that time, the then Minister for Local Government announced he was minded to establish an independent Governance Commission to consider the governance arrangements in Stoke-on-Trent and would be talking to the Council about this. Following discussions an independent Governance Commission was established by the Government in October 2007.
- 7.3 In its report the Commission concluded that there had been widespread weakness in city leadership, poor political governance, and a lack of effective community engagement. To address these failings it made 14 recommendations, including a move to whole council elections. The report was

presented to the Council and to Ministers in May 2008 and is published on the Council's website at:

http://www.stoke.gov.uk/ccm/cms-service/stream/asset/?asset_id=1745707

- 7.4 The Government recognised that the cornerstone of those recommendations was for the City to have a fresh start and clearer, more stable political leadership with whole council elections. However, despite accepting the Commission's recommendations in November 2007, the council have failed to progress the Commission's key recommendation for whole council elections.
- 7.5 On 8 May 2009 the Minister for Local Government, John Healey, made a written statement to Parliament setting out a programme of action to restore good governance to the City of Stoke-on-Trent which he proposed should be centred around a move to whole council elections from 2011, providing a much-needed fresh start. The Minister also indicated that he was minded to include in an Order provision to cancel the elections, due to be held in 2010, of one third of the City's councillors. In that statement, he also explained that before taking a final decision on the Order he was allowing a short 'soundings' period until 18 June to provide an opportunity for interested parties to make representations to Ministers.

The full text of the statement is available at

<http://www.publications.parliament.uk/pa/cm200809/cmhansrd/cm090508/wmstext/90508m0001.htm#09050834000008>

- 7.6 In that statement the Minister also referred to the Governance Commission's recommendation for reducing the size of the council before 2011; he announced that he was asking the Electoral Commission to respond to the Governance Commission's recommendation and direct the Boundary Committee to undertake an electoral review in Stoke-on-Trent the results of which would be implemented at the 2011 elections. The Electoral Commission has now directed the Boundary Committee to undertake this review. The Department understands that the Electoral Commission aims to put in place revised electoral arrangements in time for the whole council election in 2011.

8. Consultation outcome

- 8.1 During the "soundings" period referred to in paragraph 7.5 eleven representations were received. The Electoral Commission, the Governance and Performance Transition Board¹, MPs, North Staffordshire Chamber of

¹ The Governance and Performance Transition Board was established by Ministers as the 'Transition Board' in October 2008 under the chairmanship of Professor Michael Clarke to act as critical friend and pressure group to Stoke-on-Trent City Council as it works to implement the recommendations of the Governance Commission. (The establishment of such a body was itself a recommendation of the Governance Commission.) The role of the Transition Board was expanded in May 2009 to support both the good governance of the City and the continued improvement in the Council's delivery of local services. The original Board of 12 members representing a range of community and business groups

Commerce and one Stoke-on-Trent resident all supported the move to whole council elections. There was some opposition to whole council elections (from local campaigning group Democracy 4 Stoke, which considers that a reduction in the frequency of elections removes democracy from local people, and another Stoke-on-Trent resident) but overall, the representations reinforce the case for whole council elections.

8.2 A number of concerns were raised about cancelling the 2010 elections, including from the Electoral Commission which considered that, on the evidence available to them, a clear case for cancelling those elections had not been made. Having considered all of the concerns expressed, the Government has concluded that there is not a sufficiently strong case for cancelling the 2010 elections, and hence the Order does not include provision to cancel those elections.

9. Guidance

The Department does not intend to issue any guidance alongside this instrument. However, the Department will maintain its continuing dialogue with the Council.

10. Impact

10.1 This instrument has no impact on business, charities or voluntary bodies.

10.2 There will be no additional impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

As stated in paragraph 9 the Department will maintain its continuing dialogue with the Council.

13. Contact

Victoria Jones at the Department for Communities and Local Government Tel: 0303 444 2585 or email: victoria.jones@communities.gsi.gov.uk can answer any queries regarding the instrument.