

Local Government Reorganisation – Potential Residents Poll Report

Addendum – Advice Note from S151 Officer

In view of the additional legal advice sought in relation to this item, further consideration has been given to the financial implications in respect of this proposal. Having considered this collectively with the S151 Officers of the other three districts, the S151 Officer provides further comments as follows:

Is the expenditure lawful?

Advice from the QC makes it clear that Districts can lawfully hold the Referendums as a reasonable and proper exercise of power in compliance with fiduciary and other duties. This supports the S151 Officers' understanding that the expenditure is lawful, provided the Poll is conducted in compliance with such legal powers and duties and the specific advice given by the QC in paragraph 31.

Are the costs reasonable?

Three options have been considered on how to conduct the Poll and the estimated costs of each are clearly set out in the report in 6.10, ranging from £233,000 to £933,000 (these exclude the costs of legal advice obtained). The rationale for proposing option 2 has been clearly presented. Whilst a direct contract award to Civica Electoral Services is necessary, given the time constraint and the specialist nature of the service, estimated costs have been presented by the supplier on a transparent basis. The S151 Officer therefore considers the costs to be reasonable for the service received. The option proposed in the report is towards the lower end of the total cost range, at £310,000, which equates to an average 72 pence per person eligible to vote across the four district areas.

Can the Council demonstrate value for money?

Based on our understanding of the advice from the QC, and that costs are considered to be reasonable, it is the S151 Officer's view that value for money can be demonstrated.

The QC advises that the results of the Poll would have value and would need to be taken account of in the Secretary of State (SoS) decision and in the subsequent House of Commons and House of Lord's debate.

The advice does not support a view that the SoS is bound to ignore evidence from a Poll conducted after the initial public consultation period has closed.

It is also the S151 Officer's view that in demonstrating value for money it is important that the Poll is conducted in compliance with legal powers, and in line with the QC advice, i.e. that it is conducted "on whether to have one or two unitaries, not in a way that might suggest that it is an exercise in salesmanship, slanted in favour of, and/or against, a particular outcome." If the poll is conducted in this way, which is being proposed in the report, then the results of the Poll are less likely to be challenged and to have a higher value in subsequent decision-making.

Risk

Members should note that a decision to proceed may face the risk of challenge. If this were to happen there is a risk of additional legal and associated costs: it is not possible at this stage to quantify this but such costs could be significant. Any such costs would impact on the General Fund budget and reserves balance.