

# Report to Governance Committee

Wednesday 27 September 2023

By the Monitoring Officer

**DECISION REQUIRED**

Not Exempt



**Horsham  
District  
Council**

## Temporary Appointments to Parish Councils

### Executive Summary

This report recommends that the power to make temporary appointments to parish councils under section 91 of the Local Government Act 1972 be delegated to the Council's Returning Officer.

### Recommendations

That the Committee is recommended:

- i) To ask Council to delegate authority to the Returning Officer to make temporary appointments to parish councils under section 91 of the Local Government Act 1972; and
- ii) To note that the Monitoring Officer will reflect the delegation in the Constitution (pursuant to her authority to do so, per Article 13, paragraph 13.3 b) 3 of the Constitution) should the recommendation be approved.

### Reasons for Recommendations

Granting the Returning Officer authority to make temporary appointments to parish councils should (i) minimise the period within which a parish council is inquorate and so unable to carry out any business, as Council would otherwise be required to meet and approve the temporary appointment, and, (ii) negate the requirement to convene council meetings to consider and make such appointments.

### Background Papers

Report of the June 2022 meeting of Full Council, 'Temporary Appointment of Councillors to Parish Councils'

Minutes of the June 2022 meeting of Full Council

Horsham District Council Constitution

**Wards affected:** All

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## **Background Information**

### **1 Introduction and Background**

- 1.1 This report recommends that the power to make temporary appointments to parish councils under section 91 of the Local Government Act 1972 be delegated to the Council's Returning Officer. This should ensure that the period within which a parish council is inquorate and so unable to carry out any business is kept to a minimum. In addition, it will negate the requirement to convene council meetings to consider such matters.
- 1.2 The Council's Returning Officer is currently Jane Eaton.

### **2 Relevant Council policy**

- 2.1 The Council is duty bound to ensure that parish councils can properly function.
- 2.2 A great place to live: continue creating well balanced communities that meet residents' needs per the Corporate Plan.

### **3 Details**

- 3.1 Earlier this year, due to the resignation of a number of parish councillors, Nuthurst Parish Council became 'inquorate' i.e. the Parish Council had an insufficient number of councillors to hold a legally valid meeting. This meant that, not only was the Parish Council unable to carry out its usual business at meetings, it was also unable to co-opt anyone onto the Parish Council in order to make itself quorate.

In order to resolve this situation, the Council approved the temporary appointment of one of its councillors, Councillor Dennis Livingstone, to Nuthurst Parish Council, pursuant to section 91 of the Local Government Act 1972, to make the Parish Council quorate to enable it to hold a meeting where it could co-opt further parish councillors to the said parish.

- 3.2 Part Three in the Council's Constitution contains a list of its functions and responsibilities. Specifically, paragraph 3.1 (4) thereof provides that Council will delegate responsibility "for other matters relating to elections set out in Part D of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) (Regulations) 2000 to the Returning Officer."
- 3.3 One of the "other matters" referred to extends to the power to make temporary appointments to parish councils under section 91 of the Local Government Act 1972. Therefore, Council has the authority to make the delegation that is the subject of this report.
- 3.4 If Council approves the recommendation stated in this report, it will serve as confirmation that it has delegated this power to the Returning Officer, not merely that it will do so.
- 3.5 The advantage of delegating this power to the Returning Officer is that, should it be necessary to make a temporary appointment to a parish council in the Horsham

district in future, the appointment could be made at the earliest possible opportunity, in order to put the parish council back into a position where it is able to carry out its business and serve its residents.

#### **4 Next Steps**

- 4.1 If the recommendation is approved by the Governance Committee, Council will be asked to consider the same at its next meeting.

#### **5 Views of the Policy Development Advisory Group and Outcome of Consultations**

- 5.1 This report does not relate to policy development and, as such, the views of Policy Development Advisory Groups have not been sought.
- 5.2 The Returning Officer, the Monitoring Officer and the Director of Resources have been consulted on the content of this report.

#### **6 Other Courses of Action Considered but Rejected**

- 6.1 The alternative course of action is not to grant the delegation. This is not considered appropriate as granting the delegation will achieve the same outcome but will have less of an impact on resources generally and will mean that any necessary parish council appointments can be made in a timely manner.

#### **7 Resource Consequences**

- 7.1 Granting the delegation referred to in this report will have a positive impact on resources if it avoids the need for Council approval each time the power under section 91 of the Local Government Act 1972 is required to be exercised. This is because Council meetings are resource intensive.

#### **8 Legal Considerations and Implications**

- 8.1 The Council can arrange for the discharge of any of its functions by an officer of the authority pursuant to section 101(1) of the Local Government Act 1972.
- 8.2 Council has the authority to make the subject delegation pursuant to paragraph 3.1 (4) of Part Three in the Council's Constitution.
- 8.3 The Council is required under section 37 of the Local Government Act 2000 to have a constitution and to keep it up to date.

#### **9 Risk Assessment**

- 9.1 The risk is that the longer a parish council is inquorate, the longer it is unable to hold meetings and take decisions for the benefit of its residents.

#### **10 Procurement implications**

- 10.1 There are no procurement implications.

## **11 Equalities and Human Rights implications / Public Sector Equality Duty**

11.1 There are no equalities or human rights implications.

## **12 Environmental implications**

12.1 There are no environmental implications.

## **13 Other considerations**

13.1 There are no apparent GDPR, data protection or crime and disorder consequences.