

Somerset West and Taunton Council

Annual Council – 24 May 2022

Temporary Appointment of Members to Town and Parish Councils

This matter is the responsibility of Executive Councillor Ross Henley, Portfolio Holder for Corporate Resources

Report Authors: Mr Kevin Williams – Deputy Monitoring Officer (SWT) & Mrs Lesley Dolan – Principal Lawyer, SHAPE Legal and Deputy Monitoring Officer (SWT) – Marcus Prouse – SWT Governance Specialist

1 Executive Summary / Purpose of the Report

- 1.1 Ordinary Town and Parish Council Elections were recently conducted in Somerset on 5th May 2022. There are occasions where due to resignations or lack of applications for vacancies at an election, a Parish or Town Council is unable to operate because it is inquorate. Under section 91 of the Local Government Act 1972 the Council has power to make an Order appointing temporary members to a parish council where due to the number of vacancies the council cannot function.
- 1.2 The appointees will usually be the local district ward or county division members and it is good administrative practice to adopt a procedure for delegating these appointments and the making of the necessary Order to a senior officer, so they can be made promptly where necessary rather than waiting for the next scheduled meeting of Full Council.
- 1.3 Before moving to temporary appointments, The Representation of the People Act 1983 Section 39 (1b) requires the District Council to conduct an additional poll after a void election. A void election is one where no, or an insufficient number, of persons are or remain validly nominated to fill a vacancy or vacancies, and so the returning officer must then order an election, which is to be within the period of 35 days of the first mentioned election. It is proposed that any required re-run of polls will take place on 23rd June 2022, which aligns with other District Councils intentions across Somerset.
- 1.4 Accordingly, the procedure set out at Appendix A authorising the Chief Executive to make an Order in consultation with Group Leaders, is recommended for approval.

2 Recommendations

- 2.1 Full Council is requested to approve the following:
 - a) Delegate the responsibility for the calling of any additional polls required after a Void Election where a Parish is inquorate to the Chief Executive as Returning Officer in line with the requirements of The Representation of the People Act 1983.
 - b) Delegate the responsibility for making temporary appointments to inquorate Parish

and Town Councils along with the making of the necessary Order to the Chief Executive in consultation with Group Leaders in line with the procedure set out in Appendix A.

- c) Approve the amendment of the Constitution to include the recommended delegations above at a) and b) as a function of the Chief Executive at 4.2 on Page 44 of the SWT Constitution under Responsibility for Functions.

3 Risk Assessment

- 3.1 No adverse impacts have been identified as a result of this report. The proposed procedure will help to support local Councils to continue to operate and provide services to their local communities.

4 Background and Full details of the Report

- 4.1 Ordinary elections to Parish Councils take place every four years at the same time as the District Council election. During the four-year period between the ordinary elections, Parish Councillor casual vacancies arise on a regular basis and can be filled either by election or co-option in accordance with relevant legislation.
- 4.2 A Parish Council must be quorate in order to operate. A quorum is defined as being one third of the total number of members of the relevant Council subject to a minimum of three.
- 4.3 There may be occasions when a Parish Council is unable to operate due to resignations or insufficient candidates for election. While a Parish Council can operate with one or two vacancies, if a number of vacancies arise at the same time there is a risk that the Council could become inquorate.
- 4.4 Under section 91 of the Local Government Act 1972 the Council has power to make an Order appointing temporary members to a Parish Council where due to the number of vacancies the council cannot function.
- 4.5 The appointees will usually be the local district ward or county division members and it is good administrative practise to adopt a procedure for delegating these appointments and the making of the necessary Order to a senior officer, so they can be made promptly where necessary rather than waiting for the next scheduled meeting of Full Council.
- 4.6 Section 39(1b) of the Representation of the People Act 1983 on void Local Elections outlines the following;
- 4.7 *(b)no person is or remains, or an insufficient number of persons are or remain, validly nominated to fill the vacancy or vacancies in respect of which the election is held, the returning officer shall order an election to fill any vacancy which remains unfilled to be held on a day appointed by him. That day shall be within the period of 35 days (computed according to section 40 below) beginning with the day fixed as the day of election for the first mentioned election.*
- 4.8 In practical terms the effect of this is to bind the District Council to conducting an additional poll before it can move to make any temporary appointments. Further additional polls would be at the discretion of the Returning Officer. A proposed process is set out at Appendix A to this report. The procedure would only be used where the

Parish Council advises that it cannot continue its business because it is inquorate. It is proposed that the authority to appoint temporary Members be delegated to the Chief Executive in consultation with Group Leaders and to update the Constitution accordingly.

5 Links to Corporate Strategy

- 5.1 This report links to a key theme of the Corporate Strategy – A transparent and customer focused Council, as the proposed procedure will help to support local Councils to continue to operate and provide services to their local communities.

6 Finance / Resource Implications

- 6.1 There would be minor implications relating to this report. Travel costs would be payable to any member appointed on a temporary basis to a Parish or Town Council as this is a role, they are undertaking on behalf of the District Council. However, the overall impact is likely to be minimal.

7 Legal Implications

- 7.1 Section 91(1) of the Local Government Act 1972 authorises the District Council to make an Order to appoint Members to a Town or Parish Council to ensure it is quorate and can progress business and operate lawfully. Such appointments can be made on a temporary basis until the vacancies on the relevant Council have been filled.
- 7.2 S.101 of the Local Government Act 1972 sets out the arrangements for the discharge of functions by local authorities. It confirms that a local authority may arrange for the discharge of any of its functions by a committee, sub-committee or an officer of the authority.

8 Equality and Diversity Implications

- 8.1 None as a result of this report.

9 Partnership Implications

- 9.1 This report necessarily involves partnership working with any affected Parish or Town Councils.

Democratic Path:

- **Full Council – Yes**

Reporting Frequency: Once only

List of Appendices (background papers to the report)

Appendix A	Draft Procedure Note for making temporary appointments to Town and Parish Councils in the SWT area
------------	--

Contact Officers

Name	Kevin Williams
Email	k.williams@somersetwestandtaunton.gov.uk
Name	Lesley Dolan
Email	Lesley.Dolan@mendip.gov.uk
Name	Marcus Prouse
Direct Dial	01823 219570
Email	m.prouse@somersetwestandtaunton.gov.uk