

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S
REPORT TO**

Council
23 September 2020

Report Title: Temporary Appointments to Chapel Chorlton & Hill Chorlton Parish Council

Submitted by: Head of Legal & Governance

Portfolios: Corporate & Service Improvement, People & Partnerships

Ward(s) affected: Maer & Whitmore

Purpose of the Report

To consider whether the Council should use its powers under s.91 Local Government Act 1972 to enable Chapel Chorlton & Hill Chorlton Parish Council to function until an election is held.

Recommendation

That Council:-

- 1) Delegates authority to the Monitoring Officer to make an Order under section 91 Local Government Act 1972, in respect of Chapel Chorlton & Hill Chorlton Parish Council, in the form of the draft order in the APPENDIX.**
- 2) Instructs the Head of Legal and Governance to procure that an election be held for all Chapel Chorlton & Hill Chorlton Parish Council seats on 6 May 2021.**

Reasons

Chapel Chorlton & Hill Chorlton Parish Council consists of seven councillors. All seven councillors have recently resigned from office. The Parish Council needs to have at least three councillors in order to make decisions. It is therefore currently unable to function.

Where a Parish Council is unable to act, the Borough Council has a discretionary power, under s.91 of the Local Government Act 1972, enabling it to make temporary appointments to any Parish Council vacancies until other councillors are elected.

It is proposed that Borough Councillors Graham Hutton, Paul Northcott and Barry Panter are appointed as temporary parish councillors and that an election for all seven seats is held on 6 May 2020.

1. Background

- 1.1 All seven serving councillors at Chapel Chorlton & Hill Chorlton Parish Council recently resigned from office. The Council needs at least three councillors to be able to act (i.e. to be "quorate"). The Council is, therefore, currently unable to make any decisions and may not co-opt councillors to make itself quorate.
- 1.2 Section 91 of the Local Government Act 1972 allows the Borough Council to make temporary appointments to a Parish Council where there are so many vacancies in the office of parish

councillor that the Parish Council are unable to act. Such appointments would last until other Councillors are elected to take up office.

- 1.3 In addition, section 39(4)(i) of the Representation of the People Act 1983 enables the Borough Council to “by order make any appointment or do anything which appears to them necessary or expedient for the proper holding of such an election or meeting and properly constituting the council, and may, if it appears necessary, direct the holding of an election or meeting and fix the date for it”.
- 1.4 The people to be appointed must satisfy the usual rules as to standing for any parish council vacancy.
- 1.5 The Council would need to appoint at least three persons to enable the Parish Council to be quorate. It is proposed that Borough Councillors Hutton, Northcott and Panter are appointed. All three councillors confirm that they meet the eligibility criteria referred to in paragraph 1.4 above.
- 1.6 It is also proposed that an election for all five parish council seats be held on 6 May 2020, to coincide with the already scheduled Police & Crime Commissioner and County Council elections, and that the appointments last until sufficient candidates become elected following that election.

2. **Issues**

- 2.1 Without making the appointments as proposed, the Parish Council would cease to function until such time as successful elections were held. That would represent a void in democratic representation at the most local level, and would present logistical difficulties for the Parish Council in terms of operational transactions that require sign-off from duly elected/appointed members of the Parish Council.

3. **Proposal**

- 3.1 That Council delegates authority to the Monitoring Officer to make an Order under section 91 Local Government Act 1972, in respect of Chapel Chorlton & Hill Chorlton Parish Council, in the form of the draft order in the APPENDIX.
- 3.2 That an election be held for all Chapel Chorlton & Hill Chorlton Parish Council seats on 6 May 2021.

4. **Reasons for Proposed Solution**

- 4.1 To enable the Parish Council to function until replacement councillors are duly elected.

5. **Options Considered**

- 5.1 N/A

6. **Legal and Statutory Implications**

- 6.1 N/A

7. **Equality Impact Assessment**

- 7.1 N/A

8. **Financial and Resource Implications**

8.1 There are no financial implications or resource implications for this Council. Appointments are made by the Borough Council, but any decisions made by the appointees would be as Parish Councillors acting on behalf of the Parish Council. The costs of the election would be recharged to the Parish Council in the usual way, but these costs are mitigated by scheduling the election along-side the other two polls programmed for 6 May 2021.

9. **Major Risks**

9.1 See paragraph 2.1 above.

10. **Sustainability and Climate Change Implications**

10.1 N/A

11. **Key Decision Information**

11.1 N/A

12. **Earlier Cabinet/Committee Resolutions**

12.1 N/A

13. **List of Appendices**

13.1 Draft Appointment Order

14. **Background Papers**

14.1 N/A

COUNCIL

23rd September 2020

Temporary Appointments to Chapel Chorlton & Hill Chorlton Parish Council

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Section 91 Local Government Act 1972

This Order is made on the _____ day of _____ two thousand and twenty by THE BOROUGH COUNCIL OF NEWCASTLE-UNDER-LYME (HEREINAFTER CALLED "The Council")

1. WHEREAS following resignation of Parish Councillors from Chapel Chorlton & Hill Chorlton Parish Council, three Councillors are required to ensure the Parish Council remains quorate.
2. Under section 91 of the Local Government Act 1972, where there are so many vacancies in the Office of Parish Councillors that the Parish Council are unable to act, the Council may, by order, appoint persons to fill all or any of the vacancies until other councillors are elected to take up office.

Now, in pursuance of the power confirmed upon it by section 91 of the Local Government Act 1972, the Council hereby appoints the following persons to act as Members of Chapel Chorlton & Hill Chorlton Parish Council until an election has been held to fill such vacancies as shall constitute and re-establish a quorum in the respective Parish Council whereupon such appointment shall cease.

Names:

Graham Hutton, Borough Councillor for Maer & Whitmore
Paul Northcott, Borough Councillor for Loggerheads
Barry Panter, Borough Councillor for Loggerheads

Executed as a DEED by)
affixing THE COMMON SEAL)
of the BOROUGH COUNCIL OF)
NEWCASTLE-UNDER-LYME)
in the presence of:)

Councillor

Authorised Signatory