

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**COUNCIL**

**20 May 2019**

**Report of the Director of Central Services & Deputy Chief Executive**

**Part 1- Public**

**Matters for decision**

**1 TEMPORARY APPOINTMENT TO HILDENBOROUGH PARISH COUNCIL**

**Summary**

**The report recommends that temporary appointments are made to Hildenborough Parish Council to ensure that the Parish Council is able to lawfully function until such time as the requisite number of vacancies are filled.**

**This report also proposes that the Council agrees a process to make temporary Member appointments to Parish and Town Councils which may become inquorate in the future, and that delegated authority is granted to the Monitoring Officer to ensure that appointments can be made in accordance with an approved process.**

**1.1 Background**

1.1.1 Ordinary elections to Town and Parish Councils within the Borough take place every 4 years at the same time as elections to the Borough Council.

1.1.2 A Town or Parish Council needs to be quorate in order to discharge any business at a meeting. A quorum is defined in legislation as being one third of the total number of members of the relevant Town/ Parish Council subject to a minimum of three Councillors.

1.1.3 Hildenborough Parish Council is at present unable to function as only 3 Councillors stood for election in the recent Parish Council elections (May 2019). This was an insufficient number to require an election and there is a shortfall of nominations for automatic appointment to the office of parish councillor such that the parish council will not be quorate. There are a total of 11 seats on the Parish Council, so it needs a minimum of 4 Councillors in order to be quorate and transact any business.

1.1.4 The Borough Council may make an order to appoint to the Parish Council until such time as the vacancy is filled by election or co-option (s91 Local Government Act 1972).

- 1.1.5 The Clerk to Hildenborough Parish Council has indicated the Parish Council will be able to co-opt a sufficient number of persons in order to be able to meet their legal obligations, but the immediate issue is that they need to be quorate for at least one meeting in order to pass the resolution to co-opt.

## **1.2 Proposed appointment & process**

- 1.2.1 The offer to be appointed to the Parish Council was made to both Hildenborough ward members. Cllrs Rhodes & Foyle have agreed to be appointed on a temporary basis, until such time as sufficient persons are elected or co-opted on to the Parish Council.
- 1.2.2 Whilst it is very rare indeed for a Town or Parish Council within Tonbridge & Malling to become inquorate, it is suggested that the adoption of an approved process would allow for any future such instances to be dealt with swiftly, thus allowing the Town or Parish Council to function without having to wait until a meeting of the full Council at the Borough Council can be convened.
- 1.2.3 A proposed process is set out at **Annex 1** to this report. This would only be used where a Town or Parish Council advises the Borough Council that it cannot discharge its functions because it is inquorate.

## **1.3 Legal Implications**

- 1.3.1 Paragraph 12 of Schedule 12, Part II to the Local Government Act 1972 provides that no business shall be transacted at a meeting of a parish council unless at least one-third of the whole number of members of the council are present at the meeting; but, notwithstanding anything in that paragraph, in no case shall the quorum be less than three.
- 1.3.2 The number of parish Councillors for a parish council shall not be less than 5 (s16 Local Government Act 1972).
- 1.3.3 Section 91(1) of the Local Government Act 1972 provides that the principal authority, in this case Tonbridge & Malling Borough Council, may make an order to appoint persons to fill all or any vacancies on a town or parish council until such time as other councillors are elected and take up office.
- 1.3.4 Two copies of any order made under s91(1) shall be sent to the Secretary of State.
- 1.3.5 In the event that Hildenborough Parish Council are unable to fill the required number of vacancies through co-option, section 39(4) of the Representation of the People Act 1983 enables the Borough Council to 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. This includes the power to direct the holding of an election or meeting and fix the date for it.

## **1.4 Financial and Value for Money Considerations**

- 1.4.1 The costs associated with the proposals set out in this report are negligible.
- 1.4.2 It is proposed that any appointed Members claim any allowance from the relevant Parish Council in line with their approved scheme.

## **1.5 Risk Assessment**

- 1.5.1 The Borough Council could choose not to appoint anyone to Hildenborough Parish Council. However, without an appointment from the Borough Council, the Parish Council would remain inquorate until the next regular election in 2023.

## **1.6 Equality Impact Assessment**

- 1.6.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act.

## **1.7 Policy Considerations**

- 1.7.1 Not applicable.

## **1.8 Recommendations**

- 1.8.1 It is **RECOMMENDED** that

- (1) The Council agrees to the appointment of Councillors Rhodes and Foyle as temporary members of Hildenborough Parish Council until such time as an election or co-option can be held and those elected or co-opted have taken up office;
- (2) The Monitoring Officer be authorised to make the necessary order to give effect to the temporary appointments;
- (3) The Council delegates the authority to make temporary appointments of Members to Town and Parish Councils under Section 91 of the Local Government Act 1972 to the Monitoring Officer, in accordance with the process set out in **Annex 1**, and to report any such appointments to the next meeting of the Council.

Background papers:

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Nil

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