



Report of:  
Councillor Kelham Cooke, The Deputy Leader of the Council and  
Councillor Jacky Smith, Cabinet Member for Communities, Health,  
Wellbeing and Skills

Report to:	<b>Council</b>
Date:	<b>26 July 2018</b>
Subject:	<b>Temporary Appointment of Members to Town and Parish Councils (LDS295)</b>

<b>Decision Proposal:</b>	Council Decision
<b>Relevant Cabinet Members:</b>	Councillor Kelham Cooke, The Deputy Leader of the Council Councillor Jacky Smith, Cabinet Member for Communities, Health, Wellbeing and Skills
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<b>Approved for publication:</b>	Councillor Kelham Cooke Date: 27 June 2018 Councillor Jacky Smith Date: 20 June 2018

## SUMMARY

Parish and Town Councils need to be quorate in order to operate and conduct business.  
There may be occasions when, due to resignations or insufficient candidates being

nominated at the whole Council elections, a Parish or Town Council is unable to operate because it is inquorate.

This report 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 Chief Executive to ensure that appointments can be made in accordance with an approved process. Having such a process in place would enable a Parish or Town Council to continue to operate until vacancies are filled.

## **RECOMMENDATIONS**

It is recommended that:

1. 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 Chief Executive, in accordance with the process set out in Appendix A to report LDS295, and to report any such appointments to the next meeting of the Council.
2. The Council approves the amendment of the Constitution to include the recommended delegation as a function of the Chief Executive at Article 16 of the Constitution.

## **1. BACKGROUND TO REPORT**

- 1.1** Ordinary elections to Town and Parish Councils take place every four years at the same time as elections to South Kesteven District Council. The next scheduled elections will be held on 2 May 2019. During the four year period between the ordinary elections, Parish and Town Councillor casual vacancies arise on a regular basis and can be filled either by election or co-option in accordance with relevant legislation.
- 1.2** A Town or 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.
- 1.3** There may be occasions when a Parish Council is unable to operate due to resignations or insufficient candidates at the full elections to Town and Parish Councils. While a Parish / Town 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.
- 1.4** There have been two occasions recently where, following a number of resignations, a Parish Council has been inquorate and unable to operate. In these instances an election was called to fill the vacancies and sufficient nominations were received to enable an election to take place. During the election process to fill these vacancies, the Parish Councils concerned were

unable to operate or continue with their lawful functions and provide local residents with representation at a parish level until the vacant seats were filled.

- 1.5** The Local Government Act 1972 allows the District Council to make an Order to make temporary appointments to Parish or Town Councils until such time as the vacancies can be filled either by election or co-option.
- 1.6** Given the frequency of full District Council meetings which would agree to an Order being made to appoint temporary members to an inquorate Town or Parish Council, it is proposed that a process be put in place to enable such appointments to be made more quickly in the future.
- 1.7** A proposed process is set out at Appendix A to this report. The proposed procedure would only be used where the Town or Parish Council advises that it cannot continue its business because it is inquorate.
- 1.8** The benefit of doing this now is that if any Town or Parish Councils become inquorate, either following the full Parish/Town Council elections in 2019 or as a result of casual vacancies caused by resignations, there is a clear and approved mechanism in place to deal with this.
- 1.9** It is proposed that the authority to appoint temporary Members be delegated to the Chief Executive.
- 1.10** The process proposes that members are offered the temporary position of Town/Parish Councillor in the following order until sufficient Members have been elected or co-opted to achieve a quorum:
  - a) District Councillor(s) for the ward in which the Parish/Town is located;
  - b) District Councillor(s) for adjacent wards to which the Parish/Town is located;
  - c) County Councillor for the division in which the Parish/Town is located;
  - d) In consultation with Group Leaders, other Councillors will be considered and may include Town/Parish Councillors from adjacent Parishes.
- 1.11** Any Councillor may decline the appointment, in which case the offer of appointment to other Councillors will continue in the order listed in Appendix A until a quorum has been achieved.
- 1.12** Lincolnshire County Council has been informed because of the potential impact of the proposed process on County Councillors. Any comments received from the County Council will be reported at the meeting.
- 1.13** All temporary appointments should end when sufficient permanent Town/Parish Councillors have been elected or co-opted to make the Town or Parish Council quorate and they have taken up office. A sealed Order will be sent to the Secretary of State and a copy sent to the Parish Council in accordance with the legislation.

- 1.14** A report detailing the action taken would be presented to the next available meeting of the District Council. If it is not possible to appoint sufficient temporary members using the process identified at Appendix A, a report would be submitted to the next meeting of the District Council for Members to consider the way forward for the Parish.

## **2. OTHER OPTIONS CONSIDERED**

- 2.1** The District Council may decide not to delegate its powers under Section 91 of the Local Government Act 1972 to appoint temporary Parish/Town Councillors and make any such appointments at the next available meeting of the Council. With the frequency of full District Council meetings, this option may result in a delay in the necessary temporary appointments being made and the Parish or Town Council being unable to operate for a longer period.

## **3. RESOURCE IMPLICATIONS**

- 3.1** There are no resource implications applicable to this report.

## **4. RISK AND MITIGATION**

- 4.1** Risk has been considered as part of this report and no specific high risks were identified.

## **5. ISSUES ARISING FROM IMPACT ANALYSIS (EQUALITY, SAFEGUARDING etc.)**

- 5.1** An equality analysis is not applicable to this report.

## **6. CRIME AND DISORDER IMPLICATIONS**

- 6.1** There are no crime and disorder implications relating to this report.

## **7. COMMENTS OF FINANCIAL SERVICES**

- 7.1** 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. Provision for payment of members travel expenses should be able to be contained within the budget for 2018/19 (although this proposal was not considered at the time of the budget being approved and therefore not included).

## **8. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES**

- 8.1** S.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.

**8.2** 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.

**9. COMMENTS OF OTHER RELEVANT SERVICES**

**9.1** None

**10. APPENDICES**

**10.1** Appendix A – Process for making temporary appointments to Parish and Town Councils

**11. BACKGROUND PAPERS**

**11.1** Section 91 of the Local Government Act 1972

## **Process for Making Temporary Appointments to Town and Parish Councils**

This process enables South Kesteven District Council to make an Order to appoint persons to Town/Parish Councils in accordance with Section 91 of the Local Government Act 1972.

1. The Town/Parish Clerk advises the Monitoring Officer that the Council is unable to operate due to being inquorate.
2. The Monitoring Officer verifies the number of seats on the Town/Parish Council and that it is inquorate. The number of appointments required for it to become quorate is identified.
3. The Chief Executive will offer the temporary position of Town/Parish Councillor in the following order. Any Councillor may decline the appointment, in which case the offer of appointment will continue in order until a quorum has been achieved.
  - e) District Councillor(s) for the ward in which the Parish/Town is located;
  - f) District Councillor(s) for adjacent wards to which the Parish/Town is located;
  - g) County Councillor for the division in which the Parish/Town is located;
  - h) In consultation with Group Leaders, other Councillors will be considered and may include Town/Parish Councillors from adjacent Parishes.
4. All appointments must be made by Order under Section 91(1) of the Local Government Act 1972.
5. A report detailing the action taken will be submitted to the next full meeting of the District Council for information.
6. In the event that appointments cannot be made a report will be submitted to the next meeting of the District Council for Members to consider the way forward for the Parish/Town.
7. In accordance with Section 91(3) of the Local Government Act 1972 the Monitoring Officer will forward two copies of the Order to the Secretary of State. A copy will also be sent to the Clerk of the Town/Parish Council for information.
8. The Order is to stipulate the names of the appointed persons and the latest date their appointment will expire.