

## REPORT TO CABINET

|  |  |  |  |   |   |
|--|--|--|--|---|---|
| <b>Open/Exempt</b>   |  | Would any decisions proposed:  |  |   |   |
| <b>Any especially affected Wards</b>   | <del>Mandatory/ Discretionary/ Operational</del> | Be entirely within Cabinet's powers to decide                                  |  | <del>YES/NO</del>                                 |   |
|  |  | Need to be recommendations to Council  |  | <del>YES/NO</del>                                 |   |
|  |  | Is it a Key Decision   |  | <del>YES/NO</del>                                 |   |
| Lead Member: Cllr Terry Parish, Leader<br>E-mail: <a href="mailto:cllr.terry.parish@west-norfolk.gov.uk">cllr.terry.parish@west-norfolk.gov.uk</a>                         |  | Other Cabinet Members consulted:   |  |   |   |
|  |  | Other Members consulted:   |  |   |   |
| Lead Officer: Alexa Baker, Monitoring Officer<br>E-mail: <a href="mailto:alexa.baker@west-norfolk.gov.uk">alexa.baker@west-norfolk.gov.uk</a><br>Direct Dial: 01553 616270 |  | Other Officers consulted: Lorraine Gore, Chief Executive and Returning Officer |  |   |   |
| Financial Implications<br>YES/NO   | Policy/ Personnel Implications<br>YES/NO         | Statutory Implications<br>YES/NO   | Equal Impact Assessment<br><del>YES/NO</del><br>If YES: Pre-screening/ Full Assessment | Risk Management Implications<br><del>YES/NO</del> | Environmental Considerations<br><del>YES/NO</del> |
| If not for publication, the paragraph(s) of Schedule 12A of the 1972 Local Government Act considered to justify that is (are) paragraph(s)                                 |  |  |  |   |   |

Date of meeting: 1 August 2023

**Subject: Temporary appointment of Borough Councillors to Parish Councils**

### Summary

The Borough has over 100 Parish Councils in its area (Town Councils are treated as Parishes for the purpose of this report). The vast majority of those Councils collect precepts as part of Council Tax. In the event of those Parish Councils becoming inquorate, for example due to mass resignations or because an insufficient number of candidates submitted nomination papers to stand for election, this will render the Parish Council unable to take any decisions, including around the public funds that it holds.

The Local Government Act 1972 contains a provision designed to address this issue, providing that district Councils (i.e. the Borough Council) may appoint its own Councillors temporarily to make the Parish council quorate until there are a sufficient number of Parish Councillors, which will enable business to continue in the interim.

### Recommendation

#### Recommendation to Full Council

Council delegates authority to the Returning Officer the power to issue Orders under Section 91 (1) of the Local Government Act 1972 appointing Borough Councillors temporarily to Parish Councils, when required, after consultation with the proposed Borough Councillor(s) and their Group Leader (where relevant).

## **Reason for Decision**

To protect public funds held by Parish Councils and to ensure ongoing governance of the Parish Council for the benefit of the residents of the Borough, if a Parish Council within the Borough becomes inquorate.

## **1 Background**

- 1.1 Section 91 of the Local Government Act 1972 allows the Borough Council to appoint a sufficient number of Borough Councillors to sit on Parish Councils on a temporary basis, to enable the work of the Parish Council to continue until it has co-opted or elected sufficient Parish Councillors to become quorate.
- 1.2 There have been instances in Norfolk of a series of resignations taking place in Parish Councils, resulting in the Parish Councils becoming inquorate, meaning they were unable to carry out its normal business or co-opt to become quorate.
- 1.3 Most recently after elections in May 2023 in this Borough, there were two Parish Councils left inquorate as a result of an insufficient number of candidates submitting nomination papers. A further election process resolved this issue, however had there still been insufficient candidates coming forward, under the legislation the Borough Council could appoint to the Parish Council temporarily to make it quorate, so that Parish Council business could be carried out.
- 1.4 The power of the Borough Council to make a Section 91 Order is a Full Council function. This Council does not currently have any delegation to an officer to exercise this power. It was highlighted after recent elections that this would create delay where this power is proposed to be used, because the Borough Council's first Full Council after elections (excluding Annual Council which has a fixed agenda) is usually scheduled for the July after elections.
- 1.4 Having an officer delegation from Full Council in place would mean that any undue delay could be avoided where the power to make a Section 91 Order needs to be used.
- 1.5 It is proposed that authority to exercise the Section 91 power be delegated to the appointed Returning Officer to avoid any delay in resolving situations where parishes become inquorate. If used, an Officer Delegated Decision would be published along with the publishing of the Section 91 Order.

## **2 Options Considered**

- 2.1 Cabinet may consider making the following recommendations to Full Council:
  - 2.1.1 Approve the delegation of authority to the Returning Officer to decide to make a Section 91 Order.
  - 2.1.2 Do not delegate the power and require individual authorisation from Full Council on each occasion it is proposed to use the Section 91 power.

#### **4 Policy Implications**

None

#### **5 Financial Implications**

Expenses from travelling to Parish Council meetings as the appointed Member.

#### **6 Personnel Implications**

There will likely be a temporary additional strain on Democratic Services, the section 151 officer, Monitoring Officer and the Chief Executive in supporting Borough Councillors who are appointed to carry out this role.

#### **7 Environmental Considerations**

None.

#### **8 Statutory Considerations**

Section 91 (1) of the Local Government Act 1972 provides this power to Borough Councils to make these appointments to Parish Councils to make them quorate, but this is discretionary, not a mandatory requirement.

#### **9 Equality Impact Assessment (EIA)** (Pre-screening report template attached)

No direct impact.

#### **10 Risk Management Implications**

This power will not directly affect risk management for the Borough Council but indirectly averts governance issues escalating at parish level which could ultimately impact on the Borough Council.

#### **11 Declarations of Interest / Dispensations Granted**

None

#### **12 Background Papers**

None