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Agenda

Meeting **Standards and Governance Committee**

Venue: **The Brierley Room, County Hall, Northallerton**

Date: **Wednesday, 26 June 2024**

Time: **3.00 pm**

Councillors: **Nick Brown, Sam Cross, Melanie Davis, Clive Pearson (Chairman), Heather Phillips, Monika Slater, David Ireton, Nigel Knapton, Andy Solloway and Peter Wilkinson.**

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Business

19. Urgent Business

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Barry Khan
Assistant Chief Executive
Legal and Democratic Services

County Hall
Northallerton

25.06.24

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North Yorkshire Council

Standards and Governance Committee

26 June 2024

Temporary Appointment to Welburn Parish Council

Report of the Assistant Chief Executive Legal and Democratic Services

1.0 PURPOSE OF REPORT

- 1.1 To inform the Committee of the situation of Welburn Parish Council and to seek approval to delegate the authority to the Assistant Chief Executive (Legal & Democratic Services) to invoke the power to temporarily appoint 2 persons to sit on the Parish Council.

2.0 BACKGROUND

- 2.1 In order for a town and parish council to operate, they need to be quorate. There are occasions where, due to resignations or a lack of nominations for vacancies at elections, a town or parish council is not able to operate for this reason.
- 2.2 Section 91 (1) of the Local Government Act 1972 provides that the principal authority (North Yorkshire Council) can make an order to appoint to a town or parish council until such time as the vacancies on the Parish Council have been filled by either election or co-option.

3.0 REQUIREMENT TO APPOINT A MEMBER TO WELBURN PARISH COUNCIL

- 3.1 Welburn Parish Council comprises of 6 seats and requires a minimum of 3 seats to be filled to be considered quorate. The Standards & Governance Committee received a report at its meeting on 17 January 2024 explaining that at that time there was only one member on the Parish Council and it therefore could not meet as it was inquorate.
- 3.2 The Committee therefore appointed the division member for Sheriff Hutton and Derwent, Councillor Goodrick, and a member of the public under Section 91 (1) of the Local Government Act 1972 to Welburn Parish Council in order to make it quorate, until either sufficient vacancies on Welburn Parish Council had been filled by way of co-option or election so that the Parish Council was able to act lawfully.
- 3.3 Since the January meeting Parish Councillor Carey has resigned and the member of the public has not taken up office. There was no request for an election following the notice of vacancy being issued in March this year. The position therefore remains that the Parish Council is not quorate, the council cannot meet or conduct any business with now only one councillor being in place being Cllr Goodrick following the Committee's decision in January this year.
- 3.4 As a smaller authority the Parish Council must submit an Annual Governance and Accountability Return (AGAR) form by the end of June each year. The Parish Council has however been unable to meet and approve the submission of its AGAR. Parish Councils are required to return a copy to the external auditor no later than 30 June 2024 and publish on the authority website/webpage a copy of the required declaration and Certificate of

Exemption before 1 July 2024. This is a requirement required by the Accounts and Audit Regulations 2015 and the Transparency Code for Smaller Authorities.

- 3.5 The remaining Parish Councillor contacted the Parish Council's auditor in May this year and explained that the Parish Council was inquorate. The Parish Council's auditors explained that they would in normal circumstances be required to issue a statutory recommendation to the Parish Council as a smaller authority that it has failed to meet statutory requirements by approving, publishing and submitting an AGAR (or certificate of exemption where appropriate). However, the auditors explained that with an authority that is inquorate and unable to function it does not issue a report as there is no functioning council to action such a recommendation. In this instance, the auditor explained that it would put the process "on hold" until the Parish resumes functioning.
- 3.6 Furthermore the auditor agreed to extend the submission deadline to the latest date its system allows being 31 July 2024. The Committee is therefore asked to delegate authority to the Assistant Chief Executive (Legal & Democratic Services) to appoint two North Yorkshire Councillors onto the Parish Council as soon as possible to enable it to be quorate, convene a meeting and approve, submit and publish its AGAR.
- 3.7 Once appointed, the parish will be quorate, and the vacant seats can be filled via co-option. Once the vacant seats have been filled, any appointee can then resign from the Parish Council if they wish to do so.

4.0 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 To conduct a Community Governance Review and dissolve the Parish Council. This Council covers an electorate of 410 and a Community Governance Review can take up to 12 months to complete.

5.0 FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications.

6.0 LEGAL IMPLICATIONS

- 6.1 This report has been prepared with the benefit of legal advice as to the process for appointing a temporary member to a parish council.

7.0 EQUALITIES IMPLICATIONS

- 7.1 There are none.

8.0 CLIMATE CHANGE IMPLICATIONS

- 8.1 There are none.

9.0 CONCLUSIONS

- 9.1 By invoking Section 91 of the Local Government Act 1972, Welburn Parish Council can co-opt the vacant seats and the appointees can resign from the Parish once the other seats are filled if they wish to do so. Making the appointments as a matter of urgency enables the Parish Council to meet its AGAR obligations

10.0 REASONS FOR RECOMMENDATIONS

10.1 Welburn Parish Council comprises of 6 seats and requires a minimum of 3 seats to be filled to be considered quorate. Following recent resignations, there is only one parish councillor left. The Parish Council is now inquorate and as such cannot meet or conduct business including its AGAR statement. By placing 2 North Yorkshire members on the Parish Council, it will be quorate and can co-opt the vacant seats and business can continue.

11.0 RECOMMENDATIONS

i) That the Council delegates authority to the Assistant Chief Executive (Legal & Democratic Services) the authority to appoint the 2 members under Section 91 (1) of the Local Government Act 1972 to Welburn Parish Council in order to make it quorate, unless or until either sufficient vacancies on Welburn Parish Council have been filled by way of co-option or election so that the Parish Council is able to act lawfully, or the Order made under Section 91 (1) is revoked.

ii) That the Assistant Chief Executive Legal and Democratic Services be authorised to make the required order as attached at Appendix A.

APPENDICES:

Appendix A – Order

Barry Khan
Assistant Chief Executive Legal and Democratic Services
County Hall
Northallerton
25 June 2024

Report Author – Jennifer Norton, Assistant Director Legal

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

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Order Made Under Section 91 (1) Of The Local Government Act 1972

Welburn Parish Council (Temporary Appointment of Members) Order 2023

THIS ORDER is made on the twenty sixth day of June two thousand and twenty four by

NORTH YORKSHIRE COUNCIL (“THE COUNCIL”).

1. WHEREAS following the recent resignation of a parish councillor to Welburn Parish Council, two councillors are required to give a minimum number required for a quorum.

2. Under Section 91 (1) of the Local Government Act 1972, where there are so many vacancies in the office of Parish Councillor that the Parish Council is no longer able to act, North Yorkshire Council may, by order, appoint persons to fill all or any of the vacancies until other Councillors are co-opted or elected to take office.

NOW in pursuance of the Power conferred upon it by Section 91 (1) of the Local Government Act 1972, the Council hereby appoints the following persons to act as a Member of Welburn Parish Council until an election has been held or new Councillors have been co-opted to fill such vacancies as shall constitute and re-establish a quorum on the Parish Council whereupon such appointments and this Order shall cease:

- [Name]
- [Name]

The COMMON SEAL of North Yorkshire Council was hereunto affixed in the presence of:

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Authorised Signatory

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