

NORTH YORKSHIRE COUNTY COUNCIL

EXECUTIVE

19 July 2022

Decision on whether to proceed with Community Governance Reviews relating to the unparished town centres in Harrogate and Scarborough

Report of the Assistant Chief Executive (Legal & Democratic Services)

1.0 Purpose of Report

- 1.1 To obtain a decision on whether to proceed with Community Governance Reviews (CGRs) for the unparished areas in the centre of Harrogate and Scarborough that will in the interim have Charter Trustees in place.

2.0 Executive Summary

- 2.1 This report gives background on the potential for creating new Town Councils for the centres of Harrogate and Scarborough. It outlines the process to be followed including the requirement to consult with key stakeholders and the public. It also explains the current planned arrangements for these areas being Charter Trustees.
- 2.2 The report asks the executive to agree to the Terms of Reference for the CGRs which will form the basis of public and stakeholder consultations.

3.0 Background

- 3.1 As part of the 'Case for Change' for local government produced by NYCC setting out proposals for a single unitary authority for North Yorkshire, a commitment was made in relation to 'double devolution', which would see greater powers and funding passed to parish and town councils. Whilst the majority of rural areas and all the smaller towns within North Yorkshire are covered by town or parish councils, the two largest towns being Harrogate and Scarborough remain unparished. The Case for Change stated that the new council would seek to develop parish or town councils where they don't currently exist and people wanted them, including Harrogate and Scarborough.
- 3.2 The process for creating a new town or parish council is known as a community governance review (CGR), and this is set out in The Local Government and Public Involvement in Health Act 2007 (LGPIHA 2007). CGRs are reviews of the whole or part of a district/borough area to consider creating, merging, altering or abolishing parishes, including the electoral arrangements for parishes. This means making sure that those living in the area, and other interested groups, have a say in how their local communities are represented. Section 93 of LGPIHA 2007 allows principal councils to decide how to undertake a CGR, provided that it complies with certain duties in that Act including details set out relating to consultation, the need to ensure any proposals reflect the identities and interests of the community in that area and is effective and convenient. The Council has to publish its recommendations but the manner in which the Council consults with its residents is not prescribed.
- 3.3 Harrogate Borough Council considered the matter at its Council meeting held on 7 July 2021, where it was unanimously resolved that any successor unitary authority undertake a

community governance review for the unparished parts of Harrogate town and consider the creation of a town council.

- 3.4 Scarborough Borough Council also considered the matter at its Council meeting held on 6 September 2021, where a motion to hold a referendum to ascertain the views of residents on the matter was proposed. It was resolved that more information on options, processes and timescales was needed before agreeing to a referendum and a Member Steering Group was formed to look at this in more detail.
- 3.5 This matter is now being brought to the executive in line with its powers granted by the North Yorkshire Structural Changes Order to determine whether it wishes officers to proceed with a CGR in the areas of Harrogate and Scarborough as detailed in this report and to approve, with or without amendments, the Terms of Reference for the reviews for public consultation.
- 3.6 Details of the divisions covering the unparished areas of Harrogate and Scarborough are set out at Appendices 1, together with maps of the towns at Appendices 2 and 3.

4.0 Outline of the Issue that a Decision is being sought on

- 4.1 Section 82 of the Local Government and Public Involvement in Health Act 2007 gives the principal council the authority to undertake a CGR. The North Yorkshire Structural Changes Order (SCO) 2022 sets out at Article 7 a list of transitional functions which can be undertaken during the second transitional period, which begins on the fourth day after the 2022 election day and ending on 1 April 2023. These include the powers to undertake a community governance review, to make recommendations as to whether or not a parish should be constituted and whether or not that parish should have a parish council, and to give effect to any recommendations made. The SCO at 11(2) says the discharge of the main transitional function and the article 7 functions in the second transitional period shall be an executive function of the North Yorkshire Council (falling to be discharged by that council’s executive in accordance with executive arrangements under the 2000 Act).
- 4.2 There are provisions in the SCO that provide for co-operation by all district councils with the transition process and an ability for the new council to delegate functions to the district council officers as well as NYCC officers, which means if a CGR was instigated and led by NYCC the process could be supported by District Council officers.

5.0 Overview of the Process

- 5.1 The main steps that surround a CGR are set out below.

Stage	Approx. Duration	Description
1	Month 1	<p>TERMS OF REFERENCE The Terms of Reference set out the extent and framework of the review. These must be approved by the Council and then published. Once published, the CGR can then formally start.</p>

2	Month 1-3	INITIAL CONSULTATION Following publication of the Terms of Reference, the Council undertakes a consultation. Residents in the affected areas, along with elected representatives at all levels, are invited to respond and give their views of community governance in the affected area. This is a 'blank sheet' consultation, with no possible proposals being set by the Council at that time. This allows respondents to give their views with reasons.
3	Month 4-6	DEVELOPMENT OF DRAFT RECOMMENDATIONS Following the consultation, Officers will develop draft recommendations and present these to Council for approval. These will take the consultation responses into account, along with the statutory criteria, government guidance and best practice.
4	Month 7-9	CONSULTATION ON DRAFT RECOMMENDATIONS Once approved by Council, the Draft Recommendations are published and a second public consultation commences. This sets out the specific recommendations, and invites responses to support or disagree with them. Respondents are invited to give additional evidence to support their views where relevant
5	Month 9-11	FORMULATION OF FINAL RECOMMENDATIONS Taking responses to the consultation into account, the Final Recommendations are developed by Officers.
6	Month 11-12	FINAL RECOMMENDATIONS APPROVED The Final Recommendations must be considered by Full Council
7	Month 12-13	REORGANISATION ORDER MADE This legal Order puts any changes into place
8	Month 12-15	CONSEQUENTIAL MATTERS <ul style="list-style-type: none"> • Polling district review - must follow before any elections (can run concurrent to above step) • Establish an implementation steering group <i>(if a new parish is to be created an Implementation Steering Group should be established for each Town Council to determine a budget requirement figure, appoint an interim parish clerk, and develop draft constitution etc)</i>
9	?	ELECTIONS date to be agreed as per CGR and Order

- 5.2 Attached at Appendices 4 and 5 are the draft Terms of Reference for Harrogate and Scarborough, under which the CGR is to be undertaken. The terms of reference specify the area under review and set out the matters on which the review is to focus. A reviews begins when a council approves and publishes the terms of reference.
- 5.3 A portion of the Scarborough unparished area is within the Eastfield division; the remainder of the Eastfield division is covered by Eastfield Town Council. The CGR will seek to ascertain the views of residents on whether the unparished portion of Eastfield ward should be included

as part of Eastfield Town Council, rather than being included with the larger portion of the unparished area covering Scarborough Town. Further details and maps are included in the Terms of Reference for Scarborough unparished areas and Eastfield Town Council at Appendix 5.

5.4 The Act requires the council to take account of certain criteria when conducting a review, namely:

- the identities and interests of the community in an area; and
- the effective and convenient governance of the area.

They are also advised to consider factors such as:

- what impact proposed community governance arrangements might have on community cohesion; and
- whether the size (area), population and boundaries proposed for local governance make sense on the ground and contribute to the above criteria.

5.5 The council must consider a number of questions when deciding whether to recommend that a parish should be formed including:

- whether the number, or distribution, of the local government electors for the parish would make a single election of councillors impracticable or inconvenient;
- whether it is desirable that any area or areas of the parish should be separately represented on the council i.e. warded
- If the principal council decides to recommend that a parish should be divided into wards, then (a) the size and boundaries of the wards, and (b) the number of councillors to be elected for each ward

6.0 Charter Trustees

6.1 Both Harrogate and Scarborough currently have Borough status, which means they are entitled to have a Mayor. In the absence of parish councils in their town centre areas that status was considered to be at risk. In order to preserve the historic property, privileges, rights and traditions presently enjoyed by the residents of those towns the SCO established charter trustees for the unparished parts of the two towns with effect from 1 April 2023.

6.2 Charter trustees comprise of councillors representing the electoral divisions covering the unparished area. The Charter Trustees will have no power in respect of general functions or services, but will be responsible for ensuring the continuance of any ceremonial elements of the town, including a Mayor. Regulation 3 of the Charter Trustees Order 2009 specifies that historic property which relates to the charter trustee area vests in the charter trustees on the date on which a relevant structural change comes into effect, rather than transferring to the single tier council under provisions in the Local Government (Structural Changes) (Transfer of Functions, Property, Rights and Liabilities) Regulations 2008. Charter Trustees were established following the local government reorganisations in the early 1970s to preserve the historic identity of former boroughs or cities, most with relatively large populations and were not intended to act as administrative units.

6.3 Proposals to create a parish or parish council covering all or part of a charter trustee area need to be judged in particular against the following considerations:

- a) the effect on the historic cohesiveness of the area
- b) what are the other community interests in the area? Is there a demonstrable sense of community identity encompassing the area or are there smaller areas within it which have a demonstrable community identity which would be viable as administrative units

6.4 Consultation for the Charter Trustee areas of Harrogate and Scarborough would need to refer to the existence of charter trustees and ask respondents if they would prefer to retain Charter Trustees, for which they will pay a precept, or if they would prefer a parish council, for which they would also pay a precept, and which would also be able to deliver local services. Should a community governance review conclude that parish councils be established and an Order subsequently be made to create one, the charter trustees would cease to exist. If the outcome of the community governance review is that parish councils are not created, the charter trustees will continue, and will only cease to exist on a decision to parish all of the area they cover.

7.0 Conclusions

7.1 This report sets out the higher level principles governing the decision to undertake CGRs and the proposed Terms of Reference for those reviews.

8.0 Financial Implications

8.1 Costs for running CGRs are dependent upon the methods used to communicate and engage with residents and stakeholders and whether any consultancy is required to assist with process and ensure there is adequate capacity for this project.

8.2 A budget of £100k has been allocated to include the costs of undertaking the consultation and costs of engaging an AEA consultant. Once a consultation plan has been agreed, final costs can be determined.

8.3 Consultancy costs could amount to around £30k. This is based on the AEA's indicative consultancy costs

9.0 Legal Implications

9.1 In order to create town councils for the unparished parts of Harrogate and Scarborough a community governance review must take place, including consultation with the public and other stakeholders.

10.0 Climate Change Implications

10.1 None

11.0 Equalities Implications

11.1 The public consultation will be undertaken in such a way as to ensure that a broad range of responses are obtained and no groups are excluded. The initial Equality Impact Assessment screening form is attached at Appendix 6 and will be kept under review at each stage of consultation.

12.0 Reasons for Recommendations

12.1 Currently the towns of Harrogate and Scarborough do not have a parish council, the process for establishing new parish councils is known as a community governance review. A key part of undertaking a community governance review is consultation with the public and stakeholders and the council will need to take into account any representations received in connection with the review. The council will also need to have regard to the need to secure that community governance reflects the identities and interests of the community in the area and the need to secure that community governance is effective and convenient. Should

consideration of the representations received and consideration of the criteria detailed at 5.2 above lead to a recommendation that a parish council be created the principal council can then go on to develop draft proposals in relation to the formation of a parish council.

12.2 Creation of parish councils in Harrogate and Scarborough will enable the ambitions of the new unitary council in relation to double devolution to be implemented.

13.0 Options

13.1 The Executive could choose not to approve the Terms of Reference and could instead look at how the new authority could work with the Charter Trustees for these areas. However, that option would not align with the vision set out in the 'Case for Change' and does not recognise the more limited role of Charter Trustees organisations which relates to historical and ceremonial activities.

14.0 Recommendations

14.1 That community governance reviews are undertaken for the unparished parts of Harrogate and Scarborough, incorporating Eastfield Town Council.

14.2 The Assistant Chief Executive (Legal and Democratic Services) in consultation with the relevant Cabinet Member be given delegated authority to approve the Terms of Reference once final typographical changes have been completed and to take any necessary action to progress the Community Governance Review.

Barry Khan
Assistant Chief Executive (Legal and Democratic Services)
County Hall, Northallerton

11 July 2022

Authors of Report:

Elizabeth Jackson, Democratic Services Manager, Harrogate Borough Council
Kerry Russett, Head of Democratic Services and Corporate Modernisation, Scarborough Borough Council

Background Documents: None

Appendix 1 – Harrogate town and Scarborough town unparished divisions

Appendix 2 – Harrogate town map

Appendix 3 – Scarborough town map

Appendix 4 – Terms of Reference – Harrogate

Appendix 5 – Terms of Reference – Scarborough

Appendix 1 – Harrogate town and Scarborough town unparished divisions

Harrogate

	Division	Electorate (1 May 2022)	Households (1 May 22)
1	Bilton and Nidd Gorge	5,959	3663
2	Bilton Grange and New Park	5,943	3747
3	Coppice Valley and Duchy (PART)	5,576	3776
4	Fairfax and Starbeck	6,036	3806
5	Harlow and St Georges	6,524	3863
6	High Harrogate and Kingsley	6,466	4356
7	Killinghall, Hampsthwaite and Saltergate (PART)	1,686	1191
8	Oatlands and Pannal (PART)	4,224	2436
9	The Stray and Hookstone	6,155	3530
10	Valley Gardens and Central Harrogate	6,300	5154
	Total electorate	54,869	35,522

Scarborough

	Division	Electorate (1 June 2022)	Households (1 June 2022)
1	Castle	5,404	4,989
2	Eastfield - unparished part	84	44
3	Falsgrave & Stepney	6,202	4,213
4	Northstead	5,542	4,160
5	Weaponness & Ramshill	5,762	5,215
6	Woodlands	5,244	3,445
	Total electorate	28,238	22,066