

# North Yorkshire Council

## Standards and Governance Committee

17 January 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 invoke the power to temporarily appoint named 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. Following Councillor Duncan's resignation on 31 March 2023, the casual vacancy procedures were followed which recognise that when a casual vacancy occurs at a parish council, a request for an election must be made within 14 working days of the publication of a notice of vacancy by 10 electors from within the parish area. No request for an election was made by 10 electors within the required timeframe. On 3 November 2023 Councillor Smith resigned, and again the casual vacancy procedure was followed and again no call for an election was received. On 14 November 2023 Councillors Symington and Ryan resigned and again the casual vacancy procedure was followed and again no call for an election was received. On 5 December 2023 Councillor Stansfield resigned and again the casual vacancy procedure was followed and again no call for an election was received. The Parish Council can proceed to fill the vacant seats via co-option but as there is only 1 remaining councillor the Parish Council is not quorate and therefore cannot make the decision to co-opt.
- 3.2 As the Parish Council is now no longer quorate, the council cannot meet or conduct any business. The only option left is to invoke the power to make an appointment so that business can continue. Once appointed, the parish will be quorate, and the vacant seats can be filled via co-option.
- 3.3 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 appointee can resign from the Parish once the other seats are filled if they wish to do so.

## **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. By placing a division member and member of the public on the Parish Council, it will be quorate and can co-opt the vacant seats and business can continue.

10.2 Whilst legislation does not specify who may be appointed as temporary parish councillors, it is common practice for the elected member of the relevant division of the principal council to fulfil this role.

## **11.0 RECOMMENDATIONS**

i) That the Council appoints the division member for Sheriff Hutton and Derwent, Councillor Goodrick, and Andrea Lumb 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  
*5 December 2023*

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.