

North Yorkshire Council

Standards and Governance Committee

15 March 2024

Temporary Appointments to Kirby Grindalythe and Duggleby 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 Kirby Grindalythe and Duggleby Parish Council and to seek approval to invoke the power to temporarily appoint 3 North Yorkshire Council division members 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 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 MEMBERS TO KIRBY GRINDALYTHE AND DUGGLEBY PARISH COUNCIL

- 3.1 Kirby Grindalythe and Duggleby Parish Council (KGDPC) comprises of 7 seats and requires a minimum of 3 seats to be filled to be considered quorate.
- 3.2 There are currently 3 parish councillors on the parish council, who were re-elected at an uncontested election in May 2022. The last meeting of the parish council took place in 2021, and no meetings have been arranged since then. The parish council has been without a parish clerk since September 2020.
- 3.3 Section 85 (1) of the Local Government Act 1972 provides that if a member of a local authority fails throughout a period of 6 consecutive months to attend a meeting of the authority, then they cease to be a member. As the parish council was quorate meetings could have been convened. The parish councillors have not been following the legislation and should be disqualified for non-attendance.
- 3.4 Section 86 of the Local Government Act 1972 makes clear that where a member of a parish council ceases to be a member by reason of failure to attend meetings, the parish council shall declare their office to be vacant. A casual vacancy will only occur after the office has been declared to be vacant.
- 3.5 Where a council's constitution has granted the proper officer of the council, which would be the parish clerk, the power to declare the office of councillor vacant, they can do so once the six month deadline has passed and the person has ceased to be a member. Where no such powers have been granted to the parish clerk, the vacancy must be declared at a parish council meeting.

- 3.6 As there is currently no proper officer for KGDP, the vacancies arising through non-attendance of the parish councillors must be declared at a council meeting.
- 3.7 As the three parish councillors are no longer members of the parish council, the only option left is to invoke the power to make 3 appointments to enable the business of declaring the 3 vacancies to take place. Once declared vacant a notice of vacancy can be posted inviting requests for an election. If no election is requested then the appointees would then be able to co-opt new parish councillors to the remaining vacant seats.
- 3.8 Once the vacant seats have been filled by election (contested or non-contested) or by co-option, the appointees 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 consider options for merging the Parish Council with a neighbouring parish council. This Council covers an electorate of 253 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 disqualifying members and appointing temporary members 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, Kirby Grindalythe and Duggleby Parish Council can declare the seats vacant leading to notices of casual vacancies. There will then either be an election called or the appointees 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.

10.0 REASONS FOR RECOMMENDATIONS

- 10.1 Kirby Grindalythe and Duggleby Parish Council comprises of 7 seats and requires a minimum of 3 seats to be filled to be considered quorate. Due to non-attendance at parish meetings for a period of 6 months, the 3 remaining parish councillors have ceased to be members. Provision needs to be made to enable the vacancies to be declared and also to enable the parish council to conduct business. By placing 3 division member appointees on the Parish Council, it will be quorate and can declare the vacancies and co-opt to the vacant seats so that 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. As more than one appointee is required, neighbouring division members were considered.

11.0 RECOMMENDATIONS

i) That the Council appoints the division member for Easingwold, Councillor Nigel Knapton, the division member for Thornton Dale and Wolds, Councillor Janet Sanderson and a further division member to be confirmed at the meeting under Section 91 (1) of the Local Government Act 1972 to Kirby Grindalythe Parish Council in order to make it quorate, unless or until either sufficient vacancies on Kirby Grindalythe 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
7 March 2024

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