



Report to Council

Meeting Date – 06 March 2024

Key Decision – No

Public/Private – Public

Portfolio – Councillor Markus Campbell Savours,
Executive Member for Governance and Thriving Communities

Directorate – Resources

Report Author – Clare Liddle, Chief Legal Officer and Monitoring Officer

Title – Temporary Appointment of Councillors to Parish Councils

Brief Summary:

To consider a procedure to appoint temporary Councillors to inquorate town or parish councils in accordance with Section 91 (1) of the Local Government Act 1972.

Tracking

Executive:	N/A
Scrutiny:	N/A
Council:	06 March 2024

1. Recommendations

- 1.1. That Council delegates to the monitoring officer, the responsibility to make temporary appointments to inquorate parish and town Councils in accordance with the procedure set out in Appendix A and;
- 1.2. Approves the amendment of the Constitution to include the recommended delegation above as a function of the Monitoring Officer at Part 2 – Section 6: Officer Scheme of Delegation.

2. Background

- 2.1. For town and parish Councils to operate, they must be quorate. Normally this is one third of the membership and no less than three members.
- 2.2. Due to resignations, and/or a lack of applications, town or parish councils can become inquorate and as such are unable to operate.
- 2.3. Section 91 of the Local Government Act 1972 provides the power for the principal council to appoint temporary councillors, 'where there are so many vacancies in the office of town/parish councillor that the town/parish council are unable to act'.
- 2.4. This report seeks recommendation from council to enable the monitoring officer to appoint person(s) to any town and parish council on a temporary basis, as per the procedure attached at Appendix A.
- 2.5. This procedure will be responsive and will only be used where the town or parish council approaches Cumberland Council. The council will not seek to impose appointments upon a town or parish council.

3. Town and Parish Councils

- 3.1. Cumberland currently has 123 town and parish councils. Elections to these councils take place every four years, with varying election cycles.
- 3.2. During the four-year period between elections, parish councillors may resign and vacancies are filled through either election or co-option.
- 3.3. Town and Parish councils are not always able to fill vacancies, and many councils operate with one or two vacancies, if however there a large number of vacancies they risk becoming inquorate.

3.4. Section 91 (1) of the Local Government Act 1972 provides that the principal authority, in this case Cumberland Council can make an order to appoint to town or parish councils until such vacancies have been filled by election.

3.5. Due to the considerable number of town and parish Councils there is a high likelihood that some may become inquorate and as such it is recommended that delegation be given to the monitoring officer to make such appointments, to reduce delay to the inquorate Council(s). Without delegation, each decision to make an appointment to an inquorate parish or town council would have to be made by full council.

4. Proposals

4.1. To provide stability and consistency a procedure is required to enable such appointments, and the proposed procedure is outlined in Appendix A.

4.2. The procedure is non-political and proposes that the ward member(s) for the area in which the parish is located will be offered the temporary appointment of parish councillor until such time as the vacancies are filled by election or co-option.

4.3. Each of the Cumberland Council wards are 'single member' wards, if relevant ward member(s) are unable to be appointed, adjacent ward members will be offered the temporary position.

4.4. If an appointment still cannot be made, the monitoring officer in consultation with group leaders is authorised to nominate any other person.

4.5. All appointments will end once sufficient members are elected to the town or parish council.

4.6. As such appointments are 'temporary' and to ensure quorum, the member would not be required to accept office at the relevant town or parish council.

5. Alternative options considered.

5.1. That all individual requests for temporary appointments to be made are referred to Full Council. This is not recommended due to the likely delay in making appointments.

5.2. It is not recommended that the council do not adopt a process and/or use the powers under Section 91 of the Local Government Act 1972. This however would hinder democracy as Town and Parish Councils would not be able to operate and achieve quorum.

6. Conclusion and reasons for recommendations

- 6.1. Council is recommended to approve the recommendations as set out in 1.1 and to approve the changes to the constitution outlined in paragraph 1.2.

Implications:

Contribution to the Cumberland Plan Priorities -

Local First. The Cumberland Council Plan states 'We want to meet local needs and have services shaped by local people. To do this effectively we need to work closely with our communities'. Ensuring town and parish councils can operate provides the communities they serve the facility to influence and shape local services.

Consultation / Engagement – There has been no consultation on this report.

Legal – Section 91 of the Local Government Act 1972 provides the power for the principal council to appoint temporary councillors.

Finance – There are no financial implications resulting from this report.

Information Governance – N/A

Impact Assessments – N/A

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Background papers: N/A

Appendices attached to report:

- Appendix A – Procedure for making temporary appointments to Town or Parish Councils

Procedure for making temporary appointments to town or parish councils.

Cumberland Council

This procedure enables Cumberland Council to make an order to appoint persons to town or parish councils in accordance with Section 91 of the Local Government Act 1972.

1. The town or parish clerk advises Cumberland Council that their town or parish council is unable to operate due to being inquorate.
2. The electoral services team verifies that the number of seats on that council and that it is inquorate. The electoral services team will also identify the number of appointments required for the authority to become quorate.
3. The ward member(s) for the area in which the parish is located will be offered the temporary appointment of parish councillor until such time as the vacancies are filled by election or co-option.
4. If relevant ward member(s) are unable to be appointed, adjacent ward members will be offered the temporary position.
5. If no member wishes to be appointed, the monitoring officer in consultation with group leaders is authorised to nominate any other person.
6. All appointments will end once sufficient members are elected to the town or parish council.
7. If a temporary appointment cannot be made, a report will be submitted to Cumberland Council.
8. All appointments must be made by Order under Section 91 (1) of the Local Government Act 1972.
9. In accordance with Section 91 (3) of the Local Government Act 1972, the monitoring officer will forward two copies of the Order to the Secretary of State. A copy will also be sent to the clerk of the town/parish Council.
10. The order will stipulate the names of the appointed person(s) and the latest date their appointment will expire.